

**BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA**

Appeal of 1231 Morse Street, Inc.

BZA Appeal No. 17657  
ANC 5B  
Public Hearing: October 2, 2007

**APPELLANT'S PRE-HEARING STATEMENT AND  
MOTION FOR SUMMARY JUDGMENT**

The Appellant, 1231 Morse Street, Inc., by and through undersigned counsel, respectfully submits this Pre-Hearing Statement and Motion for Summary Judgment on its Appeal as amended, of the Zoning Administrator's March 6, 2007 decision to deny a building permit application for the revision of Building Permit B477039 [dated September 6, 2005 approving "Addition to SFD/Convert SFD to 11-Unit Apt."] ("Original Building Permit") requesting "To Reconstruct Collapsed Walls of Existing Structure" ("Revised Permit Application"). The Zoning Administrator alleges that the existing structure had been razed and as a result, the building permit application does not comply with the provisions of 11 DCMR § 330.5(c). Exhibit A. The Zoning Administrator's action constitutes a challenge to the underlying Original Building Permit, as well as the application to revise the Original Building Permit.

On August 9, 2007, Appellant filed an amendment to its pending Appeal to incorporate a directly related matter, the revocation of the Original Building Permit and Emergency Demolition Permit Number B478240 [dated February 14, 2006 approving "Emergency Demo."] ("Emergency Demolition Permit") by the Department of Regulatory Affairs ("DCRA") pursuant to a Notice To Revoke Building Permit Number B477039 and Emergency Demolition Permit Number B478240 ("Notice to Revoke Permits"), served to Appellant's undersigned counsel on July 20, 2007. Exhibit B.

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BOARD OF ZONING ADJUSTMENT  
District of Columbia

CASE NO. 17657  
Board of Zoning Adjustment  
District of Columbia  
CASE NO. 17657  
EXHIBIT NO. 17  
EXHIBIT NO. 17

In support of its Motion for Summary Judgment, Appellant states that there are no genuine issue as to any material fact and Appellant is entitled to judgment as a matter of law.

## **I. BASIS FOR APPEAL**

1. The Original Building Permit in all respects complies with the applicable Zoning Regulations. As authorized by the Original Building Permit, the single family dwelling with addition and conversion to an eleven unit apartment building is a conforming use and conforming structure in the R-4 zone district.

2. The single family dwelling portion of the project is independently a conforming use and conforming structure in the R-4 zone district. A conforming use and conforming structure destroyed by casualty or Act of God may be rebuilt as a matter-of-right. In this case, the structural failure and emergency demolition of a portion of the single family dwelling, and the final collapse of the remaining portion of the single family dwelling was an Act of God. Accordingly, the Appellant has the absolute right to reconstruct the collapsed walls of the single family dwelling as requested in the Revised Permit Application.

3. The Original Building Permit and Emergency Demolition Permit were valid and fully in compliance with the Zoning Regulations at all times and the Appellant is entitled to complete the work authorized by the Original Building permit as a matter-of-right.

4. Under the compelling and well documented circumstances of this case, the Zoning Administrator and/or DCRA are estopped from denying the Revised Permit Application and/or revoking the Original Building Permit and the Emergency Demolition Permit based on the doctrine of equitable estoppel and laches.

## II. STANDARD FOR GRANTING SUMMARY JUDGMENT

Summary judgment is appropriate if there is "no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." Super. Ct. Civ. R. 56 (2005); see also, Musa v. Continental Ins. Co., 644 A.2d 999, 1001-02 (D.C. 1994). Only disputes over facts, viewed in the light most favorable to the non-moving party, which might legitimately affect the outcome of a trial, are "material" under Rule 56. See, Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986) (There is no issue to be decided at trial unless there is sufficient evidence favoring the non-moving party for the jury to return a verdict for that party.); see also, Barnstead Broadcasting Corp. v. Offshore Broadcasting Corp., 886 F.Supp. 874, 878 (D.C. Cir. 1995) (Disputed material facts are those that might affect outcome of the suit under governing law.); Clayton v. Owens-Corning Fiberglass Corp., 662 A.2d 1374, 1381 (D.C. 1995).

The United States Supreme Court has articulated a policy favoring the granting of summary judgment motions. See, e.g., Celotex, supra, 477 U.S. 317; Anderson v. Liberty Lobby, Inc., supra, 477 U.S. 242 (1986); Matsushita Electric Industrial Co., Ltd., supra, 475 U.S. 574. In Celotex, the Supreme Court stated:

Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of [Court Rules] as a whole, which are designed to secure the just, speedy and inexpensive determination of every action.

Celotex, 477 U.S. at 327.

The District of Columbia Court of Appeals has also noted that summary judgment is a valuable tool, and that public policy favors disposing of issues summarily where possible. Hercules & Co., Ltd. v. Beltway Carpet Services, Inc., 592 A.2d 1069, 1075 (D.C. 1991); Vessels v. District of Columbia, 531 A.2d 1016, 1019 (D.C. 1987). In administrative

proceedings, summary judgment is also a well accepted practice. District of Columbia Department of Consumer and Regulatory Affairs v. Vu, CR-C-06-100009 (OAH, October 16, 2006) (granting summary judgment against DCRA); BZA Appeal No. 17591 of MLW, LLC (Board granted summary judgment in favor of Appellant and against DCRA on May 1, 2007).

As is undisputably demonstrated below, the resolution of this action is entirely a matter of resolving questions of law and, therefore, the Appellant is entitled to summary judgment as a matter of law.

### **III. MATERIAL FACTS NOT IN DISPUTE**

The following material facts are undisputed:

1. The Appellant is the owner of 1233 Morse Street, N.E. (Square 4069, Lot 130 (formerly Lots 810, 812 and 816)) ("Property"). Affidavit of Mr. Taiwo Demuren, Exhibit C and Deeds, Exhibit D.
2. The Property is zoned R-4 and has a lot area of 10,443 square feet. Exhibit C.
3. The Appellant acquired the Property in April and November 2004, which was at that time improved with a vacant single family dwelling constructed in 1940. Exhibit C. The acquisition of the Property was originally financed by a Mortgage with an interest rate of 18% which was to be replaced by construction financing at a lower interest rate.
4. On April 12, 2005, the Appellant applied for a Building Permit to construct an addition to the single family dwelling and convert the single family dwelling to an eleven (11) unit apartment building in accordance with the applicable Zoning Regulations. Original BZA Appeal, (April 20, 2007) ("BZA Appeal") Exhibit B, and Exhibit C. The building permit

application was accurate, submitted in good faith and did not misrepresent the Appellant's plans and/or true intentions for the Project. Exhibit C.

5. On September 6, 2005, DCRA issued the Original Building Permit authorizing the Appellant to "BUILD ADDITION TO SFD/CONVERT SFD TO 11-UNIT APT." BZA Appeal Exhibit C, and Exhibit C.
6. On or about September 7, 2005, the Appellant began construction of the addition to the single family dwelling at the rear of the Property. Until construction was halted, Appellant had spent approximately \$775,000.00 in construction costs in addition to the land acquisition financing. Exhibit C. Construction was at least thirty percent (30%) completed. November 2006 photos taken by DCRA show the addition closed in and under roof. Exhibit E.
7. On or about February 7, 2006, during the construction of the addition, the Appellant became concerned about the structural integrity of the single family dwelling, notified DCRA of the concern and requested an inspection of the Property. Exhibit C.
8. After inspection, DCRA inspectors confirmed that the existing single family dwelling was unsafe and instructed the Appellant to obtain an emergency demolition permit. Exhibit C.
9. On February 14, 2006 [a typographical error shows the permit dated December 14, 2006], DCRA issued Building Permit No. B478420 authorizing the emergency demolition. BZA Appeal Exhibit D, and Exhibit C. Appellant, in good faith, complied with the Demolition Permit and instructions from DCRA. Exhibit C.
10. On or about February 15, 2006, the Appellant began the authorized emergency demolition. Exhibit C.

11. On Saturday, February 18, 2006, the Appellant ceased demolition activities mistakenly believing that construction activities were limited to Monday through Saturday, from 7:00 am to 7:00 pm.<sup>1</sup> Exhibit C.
12. During the course of that weekend, heavy rains and wind caused the collapse of the remaining walls of the single-family dwelling. Exhibit C.
13. After the collapse, DCRA instructed the Appellant to stabilize the Property by placing block foundation walls to grade to prevent collapse of the excavated area of the single-family dwelling. Exhibit C.
14. On February 22, 2006, DCRA issued the Appellant a written notice of a Stop Work Order to be post dated to February 28, 2006 to allow Appellant to back fill and brace the ground in order to stabilize the Property and prevent damage to the adjoining property. BZA Appeal Exhibits E and F, and Exhibit C.
15. On February 24, 2006, DCRA inspection reported that the existing structure had been razed. BZA Appeal Exhibit E, and Exhibit C.
16. On February 28, 2006, DCRA posted the Property with a Stop Work Order ("First Stop Work Order"). BZA Appeal Exhibit F, and Exhibit C.
17. The Appellant appealed the First Stop Work Order to the Code/Reviewing Official and then the Director of DCRA pursuant to 12 DCMR § 112.1.2. Exhibit C.
18. The Code/Reviewing Official did not timely respond to the appeal of the First Stop Work Order, and the Director of DCRA never responded to the subsequent appeal of the First Stop Work Order. Exhibit C.

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<sup>1</sup> Emergency demolition activities are not subject to the standard construction hours of operation.

19. On October 17, 2006, the Appellant filed an appeal with the Office of Administrative Hearings (Case No. OAH-CR-C-06-100032). Exhibit C.
20. In an attempt to resolve the First Stop Work Order appeal, the Appellant and DCRA entered into discussions. Exhibit C.
21. On January 16, 2007, the Appellant filed the Revised Permit Application based on the settlement discussions Appellant had with DCRA. Exhibit C.
22. On January 18-19, 2007, the Revised Permit Application was processed as a “walk-through” permit. A Zoning Review Technician approved the Revised Permit Application on January 18, 2007. BZA Appeal Exhibit A, and Exhibit C.
23. On March 5, 2007 the former Zoning Administrator overruled the Zoning Technician’s January 18, 2007 approval of the Revised Permit Application. Then on March 6, 2007, the former Zoning Administrator, Bill Crews issued a denial letter for the Revised Permit Application. BZA Appeal Exhibit A, and Exhibit C.
24. On March 19, 2007, OAH conducted a hearing on the Appellant’s Motion to Dismiss the First Stop Work Order as invalid on its face for DCRA’s failure to comply with the clear and explicit requirements set forth in 12 DCMR § 114.1. BZA Appeal Exhibit G, and Exhibit C.
25. On March 27, 2007, OAH issued a written decision in favor of the Appellant and against DCRA granting the Appellant’s Motion for Summary Adjudication finding that the First Stop Work Order issued by DCRA invalid as a matter of law. BZA Appeal Exhibit G, and Exhibit C.
26. On April 9, 2007, DCRA issued a second Stop Work Order (“Second Stop Work Order”) alleging the same alleged violations of the First Stop Work Order, as well as six

additional and unsubstantiated charges and proposed fines of \$16,000.00. BZA Appeal Exhibit H, and Exhibit C.

27. On April 12, 2007, DCRA posted a third Stop Work Order (“Third Stop Work Order”). DCRA provided no notice of any kind of the Third Stop Work Order as required under 12A DCMR §114.1. Exhibit C.
28. On April 23, 2007, the Appellant filed an appeal of the Second Stop Work Order with the Code/Reviewing Official. Exhibit C.
29. The Code/Reviewing Official did not respond to the appeal of the Second Stop Work Order. Exhibit C.
30. On April 27, 2007, the Appellant filed the second stage appeal of the Second Stop Work Order with the Director of DCRA. Exhibit C.
31. The Director of DCRA did not respond to the Appeal. Exhibit C.
32. On May 7, 2007, Appellant filed the pending OAH Appeal of the Second Stop Work Order. Exhibit C.
33. On May 8, 2007, Appellant’s counsel was contacted by DCRA’s counsel in response to the pending OAH appeal of the Second Stop Work Order and was given first notification of the Third Stop Work Order (dated April 12, 2007) and notice of the fourth Stop Work Order (“Fourth Stop Work Order”) of the same date. No notice of the Fourth Stop Work Order was provided to Appellant as required under 12A DCMR § 114.1. Exhibit C.
34. On May 18, 2007, Appellant filed an appeal of the Third Stop Work Order and Fourth Stop Work Order with the Code/Reviewing Official. Exhibit C.
35. On May 23, 2007, the Code/Reviewing Official summarily denied Appellant’s appeal of the Fourth Stop Work Order citing, without specificity or explanation, the entire ninety-



- three (93) pages of Chapter 1 of the Building Code. The Code/Reviewing Official did not respond to the appeal of the Third Stop Work Order. Exhibit C.
36. On May 24, 2007, Appellant filed an appeal of the Third Stop Work Order and Fourth Stop Work Order to the Director of DCRA. Exhibit C.
37. On May 29, 2007, the Director of DCRA summarily denied Appellant's appeal of the Fourth Stop Work Order citing, without specificity or explanation, the entire ninety-three (93) pages of Chapter 1 of the Building Code. The Director of DCRA did not respond to the appeal of the Third Stop Work Order. Exhibit C.
38. On June 5, 2007, DCRA filed a Motion to Dismiss of the pending OAH appeal of the Second Stop Work Order as moot based on the issuance of the Fourth Stop Work Order. Exhibit C.
39. On June 15, 2007, Appellant filed a Notice of Appeal with OAH of the Third Stop Work Order and the Director of DCRA's decision to deny the appeal of the Fourth Stop Work Orders. Exhibit C.
40. On July 20, 2007, DCRA served Appellant's counsel with the Notice to Revoke Permits. Exhibits B and C.
41. On July 25, 2007, OAH granted Appellant's Motion to Consolidate the appeals of the Third Stop Work Order and Fourth Stop Work Order with the appeal of the Second Stop Work Order, and denied DCRA's Motion to Dismiss as moot. Exhibit C.

#### **IV. LEGAL ANALYSIS**

##### **A. THE ORIGINAL BUILDING PERMIT COMPLIED WITH THE ZONING REGULATIONS**

The Original Building Permit, in all respects complied with the applicable Zoning Regulations, including specifically 11 DCMR § 330.5(c). Affidavit of Olutoye Bello (“Bello Affidavit”), Exhibit F. In the R-4 zone, § 330.5(c) authorizes as a matter-of-right the “conversion of a building or other structure existing before May 12, 1958, to an apartment house as limited by §§ 350.4(c) and 401.3.” Specifically, § 350.4(c) is not applicable because it applies only to property located in the R-5 zone. The Property complies with § 401.3 requiring 900 square feet of lot area for each apartment or, in this case, a minimum lot area of 9,900 square feet for the eleven (11) units. The Property has a lot area of 10,443 square feet which exceeds the minimum required. Additionally, the Original Building Permit provides for a total of a nine (9) off-street parking spaces (six (6) standard and three (3) compact) which exceeds the minimum required of four (4) standard (9 x 19) parking spaces under 11 DCMR § 2101.1 (one (1) parking space for each three (3) dwelling units).

##### **B. THE SINGLE-FAMILY DWELLING WITH THE ADDITION AND CONVERSION TO AN 11-UNIT APARTMENT BUILDING IS A CONFORMING USE AND CONFORMING STRUCTURE WHICH MAY BE REBUILT AS A MATTER-OF-RIGHT**

As authorized by the Original Building Permit and as partially constructed, the single family dwelling with the addition and conversion to an eleven unit apartment building is a conforming use and conforming structure. See, 11 DCMR §§ 330.5(c), §§ 400-406. Bello Affidavit, Exhibit F. Additionally, the single-family dwelling portion of the project is

independently a conforming use and conforming structure. See, 11 DCMR §§ 201.1(a), §§ 400-406. Bello Affidavit, Exhibit F.

It is undisputed that a conforming use and conforming structure destroyed by casualty or Act of God may be rebuilt as a matter-of-right. Bello Affidavit, Exhibit F. In this case, the structural failure, emergency demolition, and final collapse of the remaining portion of the existing single family dwelling was an unforeseen casualty and/or Act of God. Under similar circumstances, even a non-conforming structure may be rebuilt as a matter-of-right to its previous condition if the resulting damage was seventy-five percent (75%) or less than the cost of reconstructing the entire structure (single family dwelling and addition/conversion of eleven-unit apartment building). See, 11 DCMR § 2001.6. The Appellant has the absolute right to reconstruct the collapsed walls of the existing single family dwelling as requested through the Revised Permit Application. Furthermore, the Original Building Permit and Emergency Demolition Permit were valid and fully in compliance with the applicable Zoning Regulations and the Appellant is entitled to complete the work as authorized by those permits as a matter-of-right. Bello Affidavit, Exhibit F.

**C. THE DENIAL OF THE REVISED BUILDING PERMIT AND  
REVOCATION OF THE ORIGINAL BUILDING PERMIT AND  
EMERGENCY DEMOLITION PERMIT BY DCRA VIOLATED THE  
ZONING REGULATIONS AND WAS ABUSIVE AND IN BAD FAITH**

Notwithstanding the former Zoning Administrator's well documented opposition to permitted apartment conversions in the R-4 Zone, see, Appeal No. 17648-A of Endalkachew Tesfaye, (November 15, 2006) (granting appeal against Zoning Administrator for refusal to issue Certificate of Occupancy for completed conversion to six unit apartment pursuant to numerous

DCRA permits and completion of all final inspections), there exists no legitimate basis for denying the Revised Permit Application or revoking the Original Building Permit and Emergency Demolition Permit. At all times, Appellant has acted in accordance with the Original Building Permit, the Emergency Demolition Permit, other building permits and direct instructions from DCRA and the Zoning Regulations.

The actions of the former Zoning Administrator and DCRA have been made in total disregard of the Zoning Regulations and fundamental fairness. Both the former Zoning Administrator's denial of the Revised Permit Application and the Notice to Revoke Permits are fatally flawed based on the unsupported assertion that the Appellant had intentionally razed the existing single family dwelling. The structural failure of the original single-family dwelling and eventual collapse was an unplanned and unforeseen casualty or Act of God.

Furthermore, the repeated posting of the four stop work orders illustrates the victimization of the Appellant by the former Zoning Administrator and DCRA. In the twenty-four (24) months since the issuance of the Original Building Permit and the nineteen (19) months since the issuance of the Emergency Demolition Permit and the posting of the First Stop Work Order, the Office of the Zoning Administrator and DCRA's misconduct, including incompetence and/or total indifference for its own regulations, inexcusable delay, and repeated violation of the Appellant's civil rights and due process has created a moving target that Appellant has never been able to catch-up with and have its appeals litigated before the Board of Zoning Adjustment and/or the Office of Administrative Hearings for a final decision.

**D. THE DISTRICT IS ESTOPPED FROM DENYING THE REVISED PERMIT APPLICATION AND REVOKING THE ORIGINAL BUILDING PERMIT AND EMERGENCY DEMOLITION PERMIT**

The District of Columbia is estopped from denying the Revised Permit Application and revoking the Original Building Permit and the Emergency Demolition Permit. The Appellant has already acted in good faith reliance, to its detriment, on the Original Building Permit and the Emergency Demolition Permit, and DCRA's recommendation to submit the Revised Permit Application.

There is a substantial body of case law applying estoppel to municipal corporations, include, specifically the District of Columbia. See i.e., District of Columbia v. Cahill, 54 F.2d 453, 454 (D.C. 1931) (where a party acting in good faith under affirmative acts of a city has made such expensive and permanent improvement that it would be highly inequitable and unjust to destroy the rights acquired, the doctrine of equitable estoppel will be applied); Bannum, Inc. v. District of Columbia Board of Zoning Adjustment, 894 A.2d 423 (D.C. 2006); Saah v. District of Columbia Board of Zoning Adjustment, 433 A.2d 1114 (D.C. 1981); Goto v. District of Columbia Board of Zoning Adjustment, 423 A.2d 917 (D.C. 1980); Wieck v. District of Columbia Board of Zoning Adjustment, 383 A.2d 7 (D.C. 1978); Smith v. District of Columbia Board of Zoning Adjustment, 342 A.2d 356 (D.C. 1975).

Most recently, the D.C. Court of Appeals has repeated the six part test required to successfully establish an estoppel claim against the D.C. government, including: 1) expensive and permanent improvements; 2) made in good faith; 3) in justifiable and reasonable reliance upon; 4) affirmative acts of the District Government; 5) without notice that the improvements might violate the Zoning Regulations; and 6) the equities strongly favor the petitioner. Bannum, Inc. at 431; District of Columbia Department of Consumer and Regulatory Affairs v. Vu, CR-C-06-100009, (OAH, October 16, 2006). Finally, the District, and specifically, the Zoning

Administrator, and DCRA are estopped from denying the Revised Permit Application and revoking the Original Building Permit and Emergency Demolition Permit.

It is indisputable that the Appellant undertook the present action, including but not limited to, incurring substantial debt, contracting with several contractors, allowing substantial and costly work to be performed on the Property and making other expensive and permanent improvements to the Property, in reliance on the Original Building Permit and the Emergency Demolition Permit under the direction of DCRA, before the issuance of the former Zoning Administrator's March 6, 2007 denial of the Revised Permit Application and the July 19, 2007 Notice to Revoke Permits.

To date, the Applicant had incurred debt for the acquisition of the Property, including at least Two-Hundred Twenty Five Thousand Dollars (\$225,000.00) in high-interest carrying charges since the First Stop Work Order was issued nineteen (19) months ago; and Five-Hundred Fifty Thousand Dollars (\$550,000.00) in construction costs. Additionally, the four stop work orders over a period of fifteen (15) months has prevented Appellant from obtaining lower-interest construction financing. This substantial financial investment and expenditure of funds, and the actions of the Appellant, were made in direct reliance on the affirmative acts of the District, including the issuance of the Original Building Permit and Emergency Demolition Permit, as well as DCRA's recommendation to submit the Revised Permit Application. The Appellant's reliance on the repeated affirmative acts of the District were at all times in good faith, justified and reasonable under the circumstances for the purpose of investing in an aging vacant property and the construction of an addition thereto, for use as a rental accommodation. In a matter decided by the Office of Administrative Hearings, captioned District of Columbia Department of Consumer and Regulatory Affairs v. Vu, supra, the District was estopped from

revoking a building permit as the homeowner had debt of in excess of One Million Dollars (\$1,000,000.00) and the expenditure of the funds was in good faith and in justifiable and reasonable reliance on affirmative acts of DCRA. District of Columbia Department of Consumer and Regulatory Affairs v. Vu, CR-C-06-100009, (OAH, October 16, 2006).<sup>2</sup>

At no time prior to initiating the extensive and expensive construction at the Property or initiating the emergency demolition of the single family dwelling did the Appellant have any notice that the Original Permit and/or Demolition Permit were in violation of the Zoning Regulations. Only after the emergency demolition had occurred did the former Zoning Administrator raise a challenge to the approvals granted. The former Zoning Administrator's assumption and accusation that the Appellant had intentionally razed the existing single family dwelling and/or misrepresented the facts in the various permit applications is without any basis in fact or law.

The equities in this case overwhelmingly favor the Appellant. On the basis of the Original Building Permit, the Appellant began construction and reasonably continued for more than a year at a cost exceeding \$550,000.00. Since the posting of the First Stop Work Order, the Appellant has not been able to continue construction on the Property. As such, for approximately nineteen (19) months, the Property has been left with a partially completed and uninhabitable structure. Currently, construction is only approximately thirty percent (30%) completed, and denying the Revised Permit Application and revoking the Original Building

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<sup>2</sup> The Court of Appeals in Saah v. District of Columbia Board of Zoning Adjustment, *supra*, found that equitable estoppel applied against the District when significantly less money had been expended to complete less construction than in Vu. In Saah, the homeowner spent over one-quarter of a million dollars (\$225,000.00) for sixty percent (60%) completion.

Permit and Emergency Demolition Permit have the domino affect of leaving the Property in this unfinished state. As in the Vu case, this result would be "ruinous" to the Appellant, precipitating a default in the acquisition loan and erecting a barrier to obtaining permanent financing and subjecting the Property to foreclosure. "In zoning, the equities can be so compelling as to favor the individual property owner." Wieck at 13.

**E. REVOCATION OF THE ORIGINAL BUILDING PERMIT AND  
EMERGENCY DEMOLITION PERMIT IS BARRED BY THE  
DOCTRINE OF LACHES**

The Notice to Revoke Permits is barred by the doctrine of laches, as the District "slept on its rights" with respect to any claim as to the Original Building Permit and the Emergency Demolition Permit. See, 11 D.C.M.R. 3112.2(a); see also, Appeal No. 16849 of Robert Lehrman; Appeal No. 14110 of the Residential Action Coalition; Georgetown Residents Alliance v. District of Columbia Board of Zoning Adjustment, 816 A.2d 41 (D.C. 2003); Waste Management of Maryland, Inc. v. District of Columbia Board of Zoning Adjustment, 775 A.2d 1117 (D.C. 2001).

"To prevail on the affirmative defense of laches, the party asserting the defense bears the burden of proving that (1) the claimant knew of the existence of the grounds for the claim; (2) the delay was unreasonable and must have worked to the disadvantage, injury or prejudice of the party asserting the defense; (3) the delay of time has resulted in some change in the condition of the property or in the relations of the parties; however, the mere passage of time is insufficient to support a finding of laches." Town of Cameron v. Woodell, 150 N.C. App. 174, 563 S.E. 2d 198 (N.C. App. 2002).



If the District had a viable claim against the issuance of the Original Building Permit and the Emergency Demolition Permit, it waited far too long in seeking recourse. See, Federal Marketing Company v. Virginia Impression Products Company, 823 A .2d 513 (D.C. 2003); see also, Richards v. Mackall, 124 U.S. 183 (1888); Halstead v. Grinnan, 152 U.S. 412 (1894). The Court of Appeals in American University Park Citizens Association v. Burka, 400 A. 2d 737 (D.C. 1979), stated that "[l]aches is the principle that equity will not aid a plaintiff whose unexcused delay, if the suit were allowed, would be prejudicial to the defendant." Id. at 740 (internal quotations omitted).

The Original Building Permit was issued on September 6, 2005. BZA Appeal Exhibit C. On or about September 7, 2005 construction at the Property commenced and continued for five (5) months at a cost of \$550,000.00. The Emergency Demolition Permit was issued on February 14, 2007. BZA Appeal Exhibit D. The District is barred by laches, as well as estoppel, discussed *infra*, from revoking the Original Building Permit and the Emergency Demolition Permit almost two (2) years after the issuance of the Original Building Permit and the start of construction. Given the level of sustained scrutiny that the former Zoning Administrator and DCRA has directed at the Property, it is inexcusable that the Notice to Revoke Permits was filed at such a late date.

The Appellant, in reliance on the issuance of the Original Building Permit authorizing the construction of the addition to the single family dwelling, combined with the subsequent issuance of the Emergency Demolition Permit authorizing the demolition of the single family dwelling, has expended significant amounts of money on the Property. It is without dispute that a change in the condition of the Property has occurred since the time the Original Building Permit was issued, and that said change in condition is directly related to the issuance of the

Original Building Permit and Emergency Demolition Permit. Clearly, the District's delay in acting on its alleged claims, without making a concession as to the merits of the same, has operated to the extreme prejudice of the Appellant. The Notice to Revoke Permits may result in the Appellant defaulting on its acquisition loans and other financial obligations as to the Property.

## **V. WITNESSES**

In Support of this Appeal, the Appellant will introduce at least the following witnesses if a hearing is required:

1. Mr. Taiwo Demurren, Appellant
2. Mr. Olutoye Bello, Zoning Expert
3. Mr. Vincent Ford, Construction Expert

## **VI. CONCLUSION**

For the foregoing reasons, the Zoning Administrator's March 6, 2007 decision and the July 19, 2007 Notice to Revoke Permits are incorrect and barred by the doctrine of estoppel and/or laches, and therefore, the Appeal, as amended, must be GRANTED with prejudice and DCRA directed to issue the Revised Building Permit Application and reinstate the Original Building Permit and Emergency Demolition Permit, if required, to reconstruct the single-family dwelling portion of the existing structure which was destroyed by casualty and/or Act of God without further delay or interference.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

A handwritten signature in black ink, appearing to read 'JTB', is written over a horizontal line.

John Patrick Brown, Jr, # 417566

Stephanie A. Baldwin, # 463370

1620 L Street, N.W.

Suite 900

Washington, D.C. 20036

(202) 452-1400

*Counsel for Appellant – 1231 Morse Street*

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Notice of Appeal and Statement in Support of Appeal was served by first-class mail, this 15th day of September, 2007, upon the following:

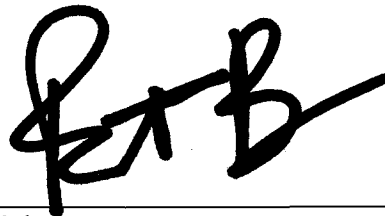
The Honorable Neil O. Albert  
Deputy Mayor for Economic Development  
The John A. Wilson Building  
1350 Pennsylvania Ave., N.W.  
Room 317  
Washington, D.C. 20004

Jill Stern, Esq. (Also, By Hand)  
General Counsel  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, N.E.  
Room 9400  
Washington, D.C. 20002

Doris Parker-Woolridge, Esq. (Also, By Hand)  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, N.E.  
Room 9400  
Washington, D.C. 20002

Mr. William Shelton  
Chairperson  
Advisory Neighborhood Commission 5B01  
1437 Montana Ave., N.E.  
Washington, DC 20018

Ms. Elise Bernard  
Advisory Neighborhood Commission 5B08  
1220 Florida Ave., N.E.  
Washington, DC 20002



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John Patrick Brown, Jr.

# EXHIBIT A

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**



**VIA PERSONAL SERVICE,  
U.S. FIRST CLASS MAIL, and  
U.S. FIRST CLASS CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED**

Paul Henry, Registered Agent  
1625 Morris Road, S.E.  
Washington, D.C. 20020

1231 Morse Street, Inc.  
1405 H Street, N.E  
Washington, DC 20002

1231 Morse Street, Inc.  
3203 Shortridge Lane  
Bowie, MD 20721-2574

Taiwo Demuren  
3203 Shortridge Lane  
Mitchellville, MD 20721

Dear Mr. Demuren:

The District of Columbia Department of Consumer and Regulatory Affairs ("District") reviewed your January 19, 2007, building permit application for a revision to Building Permit B477039 for the premises at 1233 Morse Street, N.E. Your revised application was to "reconstruct collapsed walls of an existing structure".

The District's February 27, 2006 inspection revealed that the existing structure had been razed. Once an existing structure has been razed, it can no longer be considered a reconstructed building. Based on the razing of the property, the District determined that your application violates the Zoning Regulations, specifically 11 DCMR 330.5(c)<sup>1</sup>. Furthermore, without an existing structure, there can be no conversion to an apartment building in the R-4 (Residential) District pursuant to 11 DCMR 330.5(c)).

---

<sup>1</sup> 11 DCMR 330.5 provides in part: [T]he following uses shall be permitted as a matter of right in an R-4 District: . . . ( c ) The conversion of a building or other structure existing before May 12, 1958, to an apartment house as limited by 350.4 ( c ) and 401.3.

In addition, the plans submitted with your application do not reflect the original structure and collapsed walls that are proposed for reconstruction. The plans simply show the new walls of the new structure *shaded* in various tones to give the appearance of reconstructed collapsed walls. Since the plans submitted misrepresent the existing structure, the District cannot approve the zoning section of your application because it violates Title 11, Chapter 3 of the Zoning Regulations of the District of Columbia.

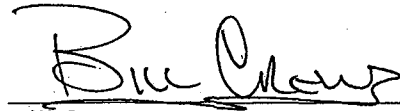
### RIGHT TO APPEAL

You have a right to appeal this decision made by the Zoning Administrator within sixty (60) days to the Board of Zoning Adjustment (BZA) pursuant to 11 DCMR 3112.2 (a). The BZA is located at 441-4<sup>th</sup> Street, N.W., Suite 210S, Washington, D.C. 20001.

If you have any questions, you may contact the Zoning Administrator at (202) 442-4576.

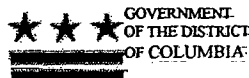
Date

03.06.07



Bill Crews  
Zoning Administrator

PRE-FILE NUMBERS		ZONING DISTRICT		FILE NUMBER		PERMIT NUMBER	
N.C.P.C. No:	O.G. No:	R-4	102954			By:	
H.P.A. No:	S.L. No:	Ward No:	Receipt No:	Date:		Receipt No:	



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**  
**BUILDING AND LAND REGULATION ADMINISTRATION PERMIT SERVICE CENTER**  
 Tel 202-442-4589 Fax 202-442-4862

BLRA-33  
(Rev. 2/04)

**APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY**  
 (PRINT IN INK OR TYPE, DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

<b>CLEARANCE TO FILE</b>	<b>ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION</b>
By: _____ Date: _____	

**(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27**

1 Address of Proposed Work: <b>1233 MORSE ST. NE</b>		Suite No.	2. Lot <b>130</b>	3. Square <b>4069</b>	4. Application Date
5 Owner of Building or Property <b>1231 MORSE STREET, INC</b>		6 Address (include Zip Code) <b>3203 SHORTRIDGE LANE MITCHELLVILLE, MD 20721</b>			7 Phone <b>240 832-4315</b>
8 Agent for Owner: (if applicable)		9. Address (include Zip Code)			10. Phone
11. Type of Proposed Work (check all applicable boxes)					
<input type="checkbox"/> New Building <input type="checkbox"/> Retaining Wall <input type="checkbox"/> Garage <input type="checkbox"/> Addition <input type="checkbox"/> Fence <input type="checkbox"/> Sign <input type="checkbox"/> Alteration and Repair <input type="checkbox"/> Shed <input type="checkbox"/> Projection <input type="checkbox"/> Raze Building <input type="checkbox"/> Awning <input checked="" type="checkbox"/> Other (Specify) <b>REVISION PERMITS</b>					
12. Description of Proposed Work <b>REVISION TO PERMIT # B477034 - 9/6/05 RECONSTRUCT COLLAPSED WALLS OF EXISTING STRUCTURE, PER PLANS NO OTHER CHANGE TO PREVIOUSLY APPROVED PLANS</b>					
13 Existing Use(s) of Building or Property <b>SINGLE FAMILY DWELLING</b>		14 Ex. No of Stories of Bldg <b>2 + BASEMENT</b>	15 Ex No of Dwelling Units <b>1</b>	Official Use Only Miscellaneous FEE \$ _____	
16 Proposed Use(s) of Building or Property <b>APARTMENT HOUSE - 11 Units</b>		17 Prop No of Stories of Bldg <b>3 + CELLAR</b>	18 Prop. No of Dwelling Units <b>11</b>	By: _____ Date: _____	
19 Starting Date <b>ASAP</b>	20 Completion Date of work <b>T.O.B.D.</b>	21 Method of Removing Construction Debris <input type="checkbox"/> Pick-up Truck <input checked="" type="checkbox"/> Dumpster <input type="checkbox"/> Other (specify)		22 Does the proposed work involve disturbing the earth or razing a building? <input type="checkbox"/> Yes, answer q. 23 <input checked="" type="checkbox"/> No, SKIP q. 23-27	
23. Is the area of disturbed earth more than 50 sq. ft? <input type="checkbox"/> Yes, answer q. 24-25 <input type="checkbox"/> No, SKIP q. 24-25	24. Soil Erosion Control Methods		25. Area of Offsite Drainage	26. No of Footings or Columns	27. Size of Footings or Columns

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I)

Complete Section B if the proposed work is new building, addition or alteration. (Page 2)  
 Complete Section C if the proposed work is razing a building. (Page 2)  
 Complete Section D if the proposed work is a retaining wall. (Page 2)  
 Complete Section E if the proposed work is a fence. (Page 3)  
 Complete Section F if the proposed work is a shed/garage. (Page 3)  
 Complete Section G if the proposed work is an awning. (Page 3)  
 Complete Section H if the proposed work is a sign. (Page 3)

OFFICIAL USE ONLY					
P	H	A			
M					
P					
E			W	Yes	No
F			PLANS		
S				Sm	Lg



**(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)**

28. Architect's Name:		29. D.C. Lic. No.:		30. Architect's Address: (include Zip Code)			31. Phone:																	
32. Engineer's Name:		33. D.C. Lic. No.:		34. Engineer's Address: (include Zip Code)			35. Phone:																	
36. Building Contractor's Name:		36A. D.C. Lic. No.		37. Contractor's Address			38. Phone:																	
39. Type of Construction <input type="checkbox"/> Masonry <input type="checkbox"/> Steel <input type="checkbox"/> Wood <input type="checkbox"/> Other <input type="checkbox"/> Concrete		40. Fire Suppression: <input type="checkbox"/> Fully Sprinklered <input type="checkbox"/> Standpipe System <input type="checkbox"/> Partially Sprinklered <input type="checkbox"/> None <input type="checkbox"/> Other _____		41. Booster Pump <input type="checkbox"/> New <input type="checkbox"/> Existing <input type="checkbox"/> None		42. Total Lot Area sq. ft.		43. Breakdown of Lot Area (= 100 %) a. building _____ % b. paved area _____ % c. greenery _____ %																
44. Present Gross Floor Area of Bldg. sq. ft.		45. Proposed Gross Floor Area of Bldg. sq. ft.		46. Floors involved in this permit <input type="checkbox"/> All <input type="checkbox"/> Floors _____			47. Projection beyond building line? <input type="checkbox"/> Yes, Answer q. 48-52 <input type="checkbox"/> No, SKIP q. 48-52																	
48. Number and type of projection:		49. Distance of projection:		50. Width of projection:		51. Width of building frontage ft.																		
						52. Signature of Owner (projection only):																		
53. Water or Sewer Excavation? <input type="checkbox"/> Yes <input type="checkbox"/> No		54. Driveway Construction? <input type="checkbox"/> Yes <input type="checkbox"/> No		55. Sheeting/Shoring Necessary? <input type="checkbox"/> Yes <input type="checkbox"/> No		56. Elevators Involved? <input type="checkbox"/> Yes, answer q. 57 <input type="checkbox"/> No		57. No and type of elevator																
								58. Plans Certified by Engineer? <input type="checkbox"/> Yes, cert. attached <input type="checkbox"/> No																
59. Estimated Cost of Work		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="4">OFFICIAL USE ONLY</th> </tr> <tr> <th>Alter/Repair FEE</th> <th>New Const. FEE</th> <th>Filing Fee</th> <th>TOTAL PERMIT FEE</th> </tr> <tr> <td>\$ 230.00</td> <td>\$</td> <td>\$</td> <td>\$ 230.00</td> </tr> <tr> <td>By: [Signature]</td> <td>Date: 1/19/07</td> <td>By: [Signature]</td> <td>Date: 1/19/07</td> </tr> </table>							OFFICIAL USE ONLY				Alter/Repair FEE	New Const. FEE	Filing Fee	TOTAL PERMIT FEE	\$ 230.00	\$	\$	\$ 230.00	By: [Signature]	Date: 1/19/07	By: [Signature]	Date: 1/19/07
OFFICIAL USE ONLY																								
Alter/Repair FEE	New Const. FEE	Filing Fee	TOTAL PERMIT FEE																					
\$ 230.00	\$	\$	\$ 230.00																					
By: [Signature]	Date: 1/19/07	By: [Signature]	Date: 1/19/07																					
(a) New/Add.: \$ _____ (b) Alt/Repair \$ _____ Total \$ 101000		60. Volume of New Bldg. or Addition cubic ft.																						

**(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)**

61. Raze Contractor's Name:		62. Contractor's Address: (include Zip Code)			63. Phone:											
64. Insurance Company		65. Policy or Cert. Number		66. Expiration Date		67. Raze Method										
68. Building Material	69. Raze Entire Building? <input type="checkbox"/> Yes <input type="checkbox"/> No	70. Building Condemned? <input type="checkbox"/> Yes <input type="checkbox"/> No	70A. Building Vacant? <input type="checkbox"/> Yes <input type="checkbox"/> No	71. Public Space Vault? <input type="checkbox"/> Yes <input type="checkbox"/> No	72. Disconnect Water and/or Sewer? <input type="checkbox"/> Yes <input type="checkbox"/> No	73. Size of Water Connection in.										
74. Plumber's Name:		75. D.C. Lic. No.	76. Length ft.	77. Width ft.	78. Height ft.	79. Volume ft.	80. Party Wall? <input type="checkbox"/> Yes <input type="checkbox"/> No									
81. Asbestos in the Building? <input type="checkbox"/> No <input type="checkbox"/> Yes, location _____		82. Raze Contractor Signature			<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="3">OFFICIAL USE ONLY</th> </tr> <tr> <td>FEE</td> <td>By:</td> <td>Date:</td> </tr> <tr> <td>\$</td> <td></td> <td></td> </tr> </table>			OFFICIAL USE ONLY			FEE	By:	Date:	\$		
OFFICIAL USE ONLY																
FEE	By:	Date:														
\$																
		83. Owner's Signature														

**(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)**

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations

84. Cost of Work \$	85. Material:	86. Height	87. Color	88. Location: <input type="checkbox"/> Entirely on Owner's Land <input type="checkbox"/> Party Line with Adjacent Neighboring Land *	
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\* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application

89. Signature of Adjoining Owner:		90. Phone: Home Work		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="3">OFFICIAL USE ONLY</th> </tr> <tr> <td>FEE</td> <td>By:</td> <td>Date:</td> </tr> <tr> <td>\$</td> <td></td> <td></td> </tr> </table>		OFFICIAL USE ONLY			FEE	By:	Date:	\$		
OFFICIAL USE ONLY														
FEE	By:	Date:												
\$														
91. Address of Adjoining Owner:		92. Lot:	93. Square:											

## CONTRACT AGREEMENT

Name of Contractor/Owner 1231 MORSE STREET INC Contractor's License No. \_\_\_\_\_Address of Contractor/ Owner 3203 SHORTRIDGE LN, MITCHELLVILLE, MD 20721 Date: 01/16/07

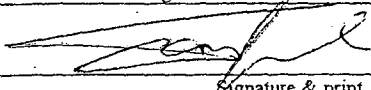
ADDRESS OF PROPOSED WORK <u>1233 MORSE ST, NEA</u>	LOT: SQUARE:
OWNER OF BUILDING OR BUSINESS: <u>1231 MORSE STREET, INC</u>	PHONE No:
DESCRIPTION OF PROPOSED WORK: <u>REVISION TO PERMIT # _____ TO RECONSTRUCT COLLAPSED WALLS OF EXISTING STRUCTURE, PER PLANS. NO OTHER CHANGES TO PREVIOUSLY APPROVED PLANS.</u>	

## COST ESTIMATE

CONSTRUCTION e.g drywall, ceilings, framing, carpentry etc	\$	<u>10,000</u>
ELECTRICAL	\$	
MECHANICAL	\$	
PLUMBING	\$	
FIRE PROTECTION e.g sprinkler system, fire alarm system, generator etc.	\$	
DEMOLITION	\$	
MISC/OTHER (please specify)	\$	
TOTAL	\$	<u>10,000</u>

The labor and material costs of counter tops, kitchen cabinets, floor coverings, tile work, caulking, patching and plaster repair, painting other than fire retardant paint, gutters and downspouts, not more than 160 square feet of gypsum board shall not be included in the cost estimate for permitting purposes. The entire list can be seen in the 1999 D.C Building Supplement Chapter 1 Section 107.3.

The foregoing terms, specifications and conditions are satisfactory and hereby agreed to. You are authorized to work as specified and payment will be made in the amount as outlined. Upon signing this agreement, the owner represents and warrants that he or she is the owner or the authorized agent of the owner of the aforesaid premises and that he or she has read this agreement.

CONTRACTOR  Signature & print TAWO DFM Date: 01/16/07

OWNER OF BUILDING/BUSINESS \_\_\_\_\_ Date: \_\_\_\_\_  
Signature & print

Upon signing this document, the owner and contractor declare that the cost of construction as specified above for the referenced project is true and correct to the best of their knowledge

Please fill out this agreement form in accordance with D.C Construction Code Supplement 1999, Chapter 1 Section 112.1.

July 11, 2005 *Robert J. Smith Jr*

Flat for Building Permit of: SQUARE 4069 SIDE PER SUB

Furnished to: TAIWO DEMUREN

I hereby certify that all existing improvements upon certain parcels described, which are hereby platted, that all proposed buildings to construct, or parties thereto, including those parcels, are correctly dimensioned and plotted and agree with those accompanying the plat. I further certify that the proposed improvements are correctly dimensioned and plotted in accordance with the requirements set forth accurately in the same scale as the property lines shown on the plat and that by reason of the proposed improvements to be erected as shown herein the size of any adjoining lot or lots will be increased or decreased in accordance with the requirements of the Zoning Regulations and that the proposed improvements will not be a detriment to the health, safety and welfare, and it is further certified and agreed that the proposed improvements when retained by the Zoning Regulations will be preserved in accordance with the Zoning Regulations, and that it was has been correctly drawn and dimensioned hereon. It is further certified and agreed that the proposed improvements are in accordance with the requirements of the Zoning Regulations and that the proposed improvements will be a detriment to the health, safety and welfare of the community at any point on private property in excess of 20% for single-family dwellings or lots, or in excess of 12% at any point for other buildings. The policy of the Highway Department is to allow a driveway grade of 15% across the property, and the proposed driveway proposed.

Date: 3/20/05  
[Signature]  
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

let me

1233-MORSE STREET, N.E.

Provided

1. Required Parking Spaces  
Size 9' x 18'
2. Extra Spaces  
Size 9' x 19'
3. Extra Spaces - Compact  
Size 8' x 16'

Exempted from registration

A SUBDIVISION HAS  
BEEN ORDERED TO  
CREATE A LOT OF RECORD.

117 11/23/04

Now Rented Lot ~~132~~ in Square ~~4069~~  
DH 7/1-05

Handwritten:  $\frac{1}{2}$  and  $\frac{1}{2}$

**DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS  
Building and Land Regulation Administration**

**ENVIRONMENTAL INTAKE FORM**

Project Name:	Project Address:	Lot:	Square:
	1233 MORSE ST, NE		
Filed Job Application # (if applicable):	Project Description: REVISION TO PERMIT # TO RECONSTRUCT COLLAPSED WALLS OF EXISTING STRUCTURE, PER PLANS, NO OTHER CHANGE TO PREVIOUSLY APPROVED PLANS		

Owner: 1231 MORSE STREET INC.

Date: 01/16/07

Owner's address and phone #: 3203 SHORTRIDGE LN, MITCHELLVILLE, MD 20724 240 832-4315

Authorized agent: \_\_\_\_\_

Address and Phone # of authorized agent: \_\_\_\_\_

Scope of the Project	Yes	No	Instructions
1. Is this a solid waste facility?		<input checked="" type="checkbox"/>	If yes, see EIS Coordinator
2. Does the owner of this site own adjacent or abutting property?		<input checked="" type="checkbox"/>	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA.
3. Does the owner of this site plan to acquire property that is adjacent to or abutting this site within the next three years?		<input checked="" type="checkbox"/>	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA.
4. Is additional activity planned by the applicant for this site or any site within the same square during the next three years that requires a permit?		<input checked="" type="checkbox"/>	If yes, submit a site plan to EIS Coordinator, DCRA. If no plan exists, submit written explanation to EIS Coordinator, DCRA.
5. Is this a residential project within the R-1 through R-5-A zoning districts?	<input checked="" type="checkbox"/>		If yes, skip to signature line.
6. Is this project a single-family residence that is not in conjunction with the building of two or more units?			If yes, skip to signature line.
7. Is this project an accessory structure such as a garage, patio, swimming pool or fence?			If yes, skip to signature line.
8. Is the project solely an interior renovation with no change in the use or capacity of the structure being renovated?			If yes, skip to signature line.
9. Is the project located in an Economic Development Zone, as defined in DC Code 5-1401 et seq (DC Law 7-177)?			If yes, skip to signature line.
10. Is the project located within the Central Employment Area as defined in DC Zoning Regulations? (Title 11DCMR)			If yes, skip to signature line.
11. Does the project involve only the operation, repair, maintenance, or minor alteration of public structures, facilities, mechanical equipment, or topographical features and involve negligible or no expansion of use beyond that previously existing?			If yes, skip to signature line.
12. Has an Environmental Impact Statement (EIS) been prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), or a determination made that no EIS is needed, or has the functional equivalent of an EIS been prepared?			If yes, submit documentation to EIS Coordinator, DCRA.

-OVER-

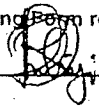
Scope of the Project	Yes	No	Instructions
13. Is an exemption claimed from the requirement to submit an Environmental Impact Screening Form pursuant to Title 20, Sec. 7202 that is not referred to in this form? If yes, describe the exemption and cite the relevant section of the regulations on an attachment.			If yes, describe on an attachment and submit to EIS Coordinator, DCRA.
14. Does the total cost of the project exceed \$1.51 million, including site preparation and construction?			If yes, and no exemption claimed, Environmental Impact Screening Form (EISF) required.
15. Is the cost of this project \$1.51 million or less? If yes, please answer all of the following questions:			If yes, complete A through G.
A. Does the project site contain any species of plant or animal that is identified as threatened or endangered?			If yes, EISF required.
B. Are any streams, lakes, ponds, springs or wetlands within 100 feet of the project site?			If yes, EISF required.
C. Will the project result in an emission of odorous or other air pollutants from any source, including VOCs?			If yes, EISF required.
D. Will this action involve the use, production or disposal of hazardous substances as defined in 20 DCMR 7299?			If yes, EISF required.
E. Will construction be on land where the depth to the water table is less than 3 feet?			If yes, EISF required.
F. Will blasting occur as part of the project?			If yes, EISF required.
G. Will the project generate medical, infectious, radioactive or hazardous waste?			If yes, EISF required.

I certify that all of the statements on this application are true and complete to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia. The making of false statements on this application is punishable by criminal penalties. (DC Code Sec. 22-2514)

Signature of Owner/Authorized Agent

Date

01/16/07

OFFICIAL USE ONLY	
Environmental Impact Screening Form required: Yes _____ No <input checked="" type="checkbox"/>	Referred to EIS Coordinator _____
DCRA Reviewer 	Date 1/19/07
If yes, submit to EIS Coordinator Department of Consumer and Regulatory Affairs Building and Land Regulation Administration	
Comments _____	

NOTE: APPROVAL OF A BUILDING PERMIT IS NOT SYNONYMOUS WITH APPROVAL OF AN ACTION OR ENTIRE PROJECT UNDER THE ENVIRONMENTAL POLICY ACT OF 1989. IF THE APPLICANT BUILDS ON THE SAME, ADJACENT OR ABUTTING PROPERTY OR EXPANDS UPON THE WORK DESCRIBED IN THE INSTANT APPLICATION OR PLANS AND SPECIFICATIONS WITHIN THREE YEARS, AN ENVIRONMENTAL IMPACT SCREENING FORM MAY BE REQUIRED FOR THE ENTIRE PROJECT, INCLUDING THE PORTION ENCOMPASSED BY THIS APPLICATION AND PERMIT APPROVAL. FURTHER, IF THE ACTION IS IN VIOLATION OF ANY FEDERAL OR DISTRICT LAWS PERTAINING TO THE ENVIRONMENT, AN EISF CAN BE REQUIRED.

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY DC GOVERNMENT OFFICE OR OFFICIAL, CALL THE INSPECTOR GENERAL ON 1- 800- 521-1639

9/2004

\*\*\* GOVERNMENT  
OF THE DISTRICT  
OF COLUMBIA  
Form BLRA-15  
(Rev. 9/30/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B477039

P  
E  
R  
M  
I  
T

Date 9/6/05 (Type) ADDITION  
Address of work 1233 MORSE ST. NE.  
Permission is hereby granted to

TATWO DEMUREN

who is authorized to perform the work described herein at the  
address shown above in strict accordance with the conditions  
stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

(Owner)

NO.

DATE

FEE PAYABLE

\$ 4305.00

FOR INSPECTIONS CALL 727-7582

BUILD ADDITION TO SFD / CONVERT TO SFD TO 11-UNIT APT. AS PER PLAT/PLANS.  
SEPARATE ELECTRICAL, PLUMBING AND MECHANICAL INSTALLATION PERMITS ARE REQUIRED.

Builder—

Width of Bldgs.

Length

Height

Value \$

No. of Bldgs.

Zone

R-4

Height of terrace above grade

To be occupied as

No. of Stories

3 & CELLAR

Address of owner

Projections:

11-UNIT APT.

Chief, Permit Issuance Branch

Deposit No.

Amount \$

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

By

Permit Clerk

PATRICK CANAVAN  
DIRECTOR

E. KING

Department of Consumer and Regulatory Affairs  
Building and Land Regulation Administration  
941 North Capitol Street N.E. Room 2100  
Washington D.C. 20002

Tel: (202) 442-4470

Fax: (202) 442-4862

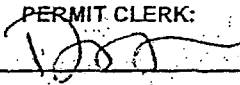
**B**

**Building Permit**

THIS PERMIT IS VALID ONLY FOR THE PREMISES  
OF THE PROJECT ADDRESS

PERMIT NO. B478240

DATE: 12/14/06

ADDRESS OF PROJECT: 1233 MORSE ST. NE.		SSL: SQ: 4069	SS: LOT: 130
		WARD: 5	ZONE: R4
DESCRIPTION OF WORK: EMERGENCY DEMO.			
PERMIT TYPE: A/R	PLANS (Y/N)	EXISTING USE: STD	PROPOSED USE:
PERMISSION IS HEREBY GRANTED TO OWNER: 1233 MORSE ST. NE. INC.		PERMIT FEE: \$890.00	
AGENT NAME:			
CONDITIONS / RESTRICTIONS:			
TO REPORT WASTE, FRAUD OR ABUSE BY ANY D.C. GOVERNMENT OFFICIAL, CALL THE D.C. INSPECTOR GENERAL AT 1-800-521-1639:			
DIRECTOR: Dr. Patrick Canavan, Psy. D.		PERMIT CLERK: 	EXPIRATION DATE: 12/14/07

CONDITIONS: As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all the work authorized by this permit and to require any change in construction which may be necessary to insure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under the Permit must start within one (1) year of the date appearing on this permit or this permit is automatically void. If work is not started, any application for partial refund must be made within six months of the date appearing on this permit.

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT ADDRESS OF WORK UNTIL WORK IS COMPLETED.

NOTIFY THE BUILDING INSPECTOR THE DAY THE WORK STARTS. PHONE: (202) 442-4841 941 NORTH CAPITOL ST NE WASHINGTON DC 20002

A separate permit is required for all Plumbing, Refrigeration, Gas Fitting, and Electrical Work.

94. Material and type:	95. Height ft.	96. Color:	97. Location: <input type="checkbox"/> Entirely on Owner's Land <input type="checkbox"/> Party Line with Adjacent Neighboring Land *
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\* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application

98. Signature of Adjoining Owner:	99. Phone: Work Home	<b>OFFICIAL USE ONLY</b>	
	101. Lot	102. Square	<b>FEE</b>
100. Address of Adjoining Owner:		\$	
		By:	Date:

**(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)**

103. Number	104. Length: ft.	105. Width ft.	106. Area: sq.ft	107. Height ft.	108. Volume cu.ft	109. Est. Cost of Work \$	<b>OFFICIAL USE ONLY</b>
							<b>FEE</b>
110. Material of Roof	111. Material of Sides	112. Wall Thickness: <input type="checkbox"/> External ( ) inches <input type="checkbox"/> Party ( ) inches				113. Color	\$
							By: Date:

**(G) AWNING (COMPLETE ITEMS 114 THRU 123)**

114. Number:	115. Color	116. Type: <input type="checkbox"/> Folding <input type="checkbox"/> Fixed	117. Projections: Beyond bldg. line _____ in. Beyond pt of attachm _____ in	118. Height of Lowest Part of awning	<b>OFFICIAL USE ONLY</b>
					<b>FEE</b>
119. Material of Frame	120. Material of Covering	121. Lettering on awning? <input type="checkbox"/> Yes <input type="checkbox"/> No	122. Fixed Posts? <input type="checkbox"/> Yes <input type="checkbox"/> No	123. Over Side- walk café? <input type="checkbox"/> Yes <input type="checkbox"/> No	(a) _____ ft above sidewalk (b) _____ ft above parking (c) _____ ft above grade
					By: Date:

**(H) SIGN (COMPLETE ITEMS 124 THRU 144)**

124. Number	125. Electric Signs? <input type="checkbox"/> Yes, answer q. 126-132 <input type="checkbox"/> No. SKIP q. 126-132	126. Type: <input type="checkbox"/> Incandes. <input type="checkbox"/> Fluoresc. <input type="checkbox"/> Neon	127. Power _____ VA	128. Electrical Contractor License Number:
129. Address of Electrical Contractor (include Zip)		130. Signature of Licensed Electrician		131. Phone No.
132. License No.				
133. Height relative to building and ground (a) _____ ft _____ in above sidewalk (b) _____ ft _____ in above roof (c) _____ ft _____ in is building height (d) _____ ft _____ in above projection of window (e) _____ ft _____ in from roof to sign's bottom		134. Material of Sign		135. Type of Sign
		136. Color		
		137. Width ft.	138. Length ft.	139. Area of Sign sq. ft
		140. Wide of Business frontage ft.		

141. C of O No for Bldg.	142. Sign Contractor: License No.	<b>OFFICIAL USE ONLY</b>			
		Sign FEE		Elect. FEE	
		Total FEE			
143. Sign Contractor's Address:		144. Phone:			

**(I) APPLICANT'S SIGNATURE**

A. OWNER: I hereby certify that I am the owner of the property, that the application and plans are complete and correct to the best of my knowledge, that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner \_\_\_\_\_ Address 3203 SHORRIDGE LN, Date \_\_\_\_\_

MITCHELLVILLE, MD 20721

B. AGENT: I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia

Signature of Agent \_\_\_\_\_ Address \_\_\_\_\_ Date \_\_\_\_\_



A. PERMIT CONTROL

- ☐ 1. Fine Arts by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 2. Historic by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 3. Cap. Gateway by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 4. NCPC: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 5. W.H./Obs. Precinct by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 6. Flood Control by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 7. WMATA by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 8. Condem. by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 9. Rental Accom. by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 10. Chinatown Distr. by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 11. Utility Clearance by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 12. General Liability Ins. Policy Clearance by: \_\_\_\_\_ Date: \_\_\_\_\_

B. CLEARANCE TO FILE PLANS

- ☐ 1. Zoning by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 2. DDOT - Permit and Records Division  
Access to Parking Street ☐ Street ☐ Alley  
Cleared by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 3. DDOT - Consumer Engineer  
Cleared by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 4. ERA - Erosion Control  
Cleared by: \_\_\_\_\_ Date: \_\_\_\_\_

Restrictions of the Permit:

*ZONING DENIED BY  
Bill Crews 03.05.07*

TO REPORT WASTE, FRAUD,  
OR ABUSE BY ANY D.C. GOVERNMENT  
OFFICIAL, CALL THE D.C. INSPECTOR  
GENERAL AT 1-800-521-1639

C. PLANS AND APPLICATION APPROVAL

- ☐ 1. Information Counter by: *RDP* Date: \_\_\_\_\_
- ☐ 2. Information Center by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (a) ABRA by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (b) Noise Control by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (c) Industrial Safety by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (d) Vector Control by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (e) D.C. Animal by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (f) Police Dept. by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (g) Fire Dept. by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (h) Health Dept. by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ (i) Planning & Zoning by: \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ 4. DDOT - Permit and Records Division/Deposit #  
Sidewalk Deposit \$ \_\_\_\_\_ Driveway Deposit \$ \_\_\_\_\_  
by \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 5. Water/Sewer Design Branch  
Consumer Eng. by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 6. Environmental Regulation Administration  
☐ Environmental Policy Review  
Control No. \_\_\_\_\_ Date \_\_\_\_\_  
☐ Erosion Control by: \_\_\_\_\_ Date \_\_\_\_\_  
☐ Storm Water Mgmt. by: \_\_\_\_\_ Date \_\_\_\_\_  
Plan No \_\_\_\_\_
- ☐ Air Quality by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ Underground Storage by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 7. Mechanical Eng. Review by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 8. Plumbing Eng. Review by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 9. Electrical Eng. Review by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 10. Health Plan Review  
☐ (a) Food Plan Review by: \_\_\_\_\_ Date \_\_\_\_\_  
☐ (b) Medical X-Ray Plan Rev. by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 11. Fire Protection Plan Review  
by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 12. D.C. Fire Dept. (Fire Prevention Plan Review Section)  
by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 13. Elevator Plan Rev. Sec. by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 14. Plumbing Insp Rev. by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 15. Construction Insp. Branch (Field Check)  
by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 16. Historic Pres. Div. by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 17. EISF: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 18. Structural Eng. by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 19. Permit and Certificate Issuance Counter  
by: \_\_\_\_\_ Date \_\_\_\_\_
- ☐ 20. QC By: *[Signature]* Date *1/19/07*

ZONING

C of O Number \_\_\_\_\_  
Existing Use(s) *1 Addition to 11-Unit Apartment*  
Proposed Use *Conversion from 12-Unit Apartment*

Job No. *477039-1916/05* B22 Case No. *78243-121410*

PUD Order No. \_\_\_\_\_

DDOT - PUBLIC SPACE

Street Name: \_\_\_\_\_  
Street Width: \_\_\_\_\_  
Road Width: \_\_\_\_\_  
Sidewalk Width: \_\_\_\_\_  
Parking: \_\_\_\_\_  
Restrictions: \_\_\_\_\_

*1908-11-14-06*  
*Emergency Denial*  
*Bill Crews*  
*477039-1916/05*  
*78243-121410*

# EXHIBIT B

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

Licensing & Permitting Division  
Permit Operations



**VIA PERSONAL SERVICE AND  
U.S. FIRST CLASS MAIL**

Paul Henry, Registered Agent  
1231 Morse Street, Inc.  
1625 Morris Road, S.E.  
Washington, D.C. 20020

1231 Morse Street, Inc.  
1405 H Street, N.E.  
Washington, D.C. 20002

1231 Morse Street, Inc.  
3203 Shortridge Lane  
Mitchellville, MD 20721

Taiwo Demuren  
3203 Shortridge Lane  
Mitchellville, MD 20721

**NOTICE TO REVOKE BUILDING PERMIT NUMBER B477039 AND  
EMERGENCY DEMOLITION PERMIT NUMBER B478240.**

This is an official notice from the Department of Consumer and Regulatory Affairs ("District") that Building Permit Number B477039 and Emergency Demolition Permit Number B478240 are revoked effective ten (10) days (excluding Saturdays, Sundays, and legal holidays) from the date of service of this Notice. This action is taken pursuant to Title 12A of the District of Columbia Municipal Regulations (DCMR) § 105.6(1), which authorizes the Director to revoke a permit "[w]here there is a false statement or misrepresentation of fact, or other significant inaccuracy, in the application or on the plans on which a permit or approval was based" and 12A DCMR § 105.6(6), which authorizes the Director to revoke a permit that was "issued in error."

On September 6, 2005, the District issued Building Permit Number B477039 to you to construct an addition to an existing single family dwelling and convert that single family dwelling to an eleven unit apartment building at 1233 Morse Street, N.E., Washington, D.C. in compliance with Chapter 3, Title 11 of the Zoning Regulations. This structure is located in an R-4 district. Your permit application specifically stated your intent to construct the apartment building as an addition to an existing structure, and the plan that

*Rec'd 7-20-07*

you submitted with your application included the existing single family dwelling that was to be converted into the eleven-unit apartment building.

On February 27, 2006, the District conducted an inspection at 1233 Morse Street, N.E., Washington, DC. The inspection revealed that the single family dwelling had been razed without a permit,<sup>1</sup> and that you had commenced constructing an eleven-unit apartment building without a proper building permit, in violation of 12A DCMR § 105.1(1) and 105.1.4(1). The building permit only authorized conversion of the existing building to an eleven-unit apartment building, not the construction of a new building. Therefore, your construction activity was outside the scope of your permit in violation of 12A DCMR § 105.1.

On March 6, 2007, the Zoning Administrator notified you that, pursuant to 11 DCMR § 330.5(c), there can be no conversion of a building or structure to an apartment building in an R-4 Residential District without an existing structure.<sup>2</sup> Once the existing structure has been razed, no conversion can occur.

Your permit application clearly expressed your intent to construct the apartment building as an addition to an existing structure. Your expressed intent was an essential element of the District's approval of your application. Had you indicated on your application that you planned to raze the existing structure and construct a new one; the District would have denied your application because the construction would have been in violation of the Zoning Regulations. Your building permit application contained a "false statement or misrepresentation of fact, or other significant inaccuracy . . . that substantively affected DCRA's approval" of the application.<sup>3</sup> Therefore, Building Permit Number B477039 must be revoked. Additionally, based on your violation of the zoning regulations, the District has concluded that it issued the permit "in error," 12A DCMR § 105.6(6), and, on this independent ground, the District must revoke Building Permit Number B477039.

On December 14, 2005, you obtained Emergency Demolition Permit Number B478240 to *demolish a wall* of the same single family dwelling that you razed without a raze permit prior to the February 27, 2006 inspection. Razing the building was outside of the scope of your demolition permit and in violation of 12A DCMR § 105.1.7.<sup>4</sup> Furthermore, your statement that you intended only to demolish one wall of the single family dwelling did not accurately represent your plans. Your demolition permit application contained a "false statement or misrepresentation of fact, or other significant inaccuracy . . . that substantively affected the approval" of the application, therefore, Emergency Demolition Permit Number B478240 must be revoked.<sup>5</sup>

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<sup>1</sup> 12A DCMR §§ 105.1.7 and 105.1.7.1 provides that "[a] raze permit is required to secure the right to remove a building or structure down to the ground."

<sup>2</sup> 11 DCMR § 330.5(c) provides that "[t]he following uses shall be permitted as a matter of right in an R-4 District: . . . The conversion of a building or other structure existing before May 12, 1958, to an apartment house as limited by §§ 350.4(c) and 401.3 . . ."

<sup>3</sup> 12A DCMR § 105.6(1).

<sup>4</sup> "A raze permit is required to secure the right to remove a building or structure down to the ground."

<sup>5</sup> 12A DCMR § 105.6(1).

Finally, plumbing inspections must be "performed before installation of any concealing materials."<sup>6</sup> DCRA's February, 2006 inspection also revealed that you engaged in plumbing work without a permit and without the required inspections during the construction of this structure, in violation of 12A DCMR §§ 105.1.16, 109.3 and 109.3.8.1.

As a result of the foregoing, the District has concluded that Permits Numbers B477039 and B478240 must be revoked.

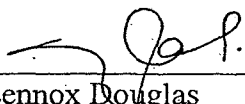
### **RIGHT TO APPEAL**

You have the right to appeal the revocation of your building permit within ten (10) days (excluding Saturdays, Sundays, and legal holidays) of receipt of this notice to the Office of Administrative Hearings<sup>7</sup>. Should you wish to appeal the District's decision, your appeal must be mailed to the Office of Administrative Hearings at P.O. Box 77718, Washington, DC 20002. Alternatively, you may hand-deliver your appeal for a hearing to the Office of Administrative Hearings at 941 North Capitol Street, NE, Suite 9100, Washington, DC 20002.

If you waive your right to a hearing by failing to request one within the time and manner specified in this notice, the revocation will immediately become final without further written notice.

Any questions about this notice may be directed to the Office of Licensing and Permits at (202) 442-4541.

Date 7-19-07

  
\_\_\_\_\_  
Lennox Douglas  
Acting Deputy Director for Licensing  
and Permits

<sup>6</sup> 12A DCMR § 109.3.8.1.

<sup>7</sup> "Revocations . . . are proposed actions and shall become final . . . if the respondent's right to a hearing is waived by failing to request a hearing within ten (10) business days of receipt of the proposed order; or . . . as the result of a hearing requested by the respondent pursuant to Section 105.6.4." 12A DCMR § 105.6.1(1).

# EXHIBIT C

**BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA**

Appeal of 1231 Morse Street, Inc.

BZA Appeal No. 17657  
ANC 5B

Hearing Date: October 2, 2007

**AFFIDAVIT**

I, Taiwo Demurren, duly sworn, depose and state as follows:

1. I am over twenty one (21) years of age and make this Affidavit based on personal knowledge of the facts set forth herein.
2. I am the President of 1231 Morse Street, Inc. ("Appellant"), a District of Columbia corporation which owns the real property and improvements located at 1233 Morse Street, N.E. (Square 4069, Lot 130) (the "Property"), and am authorized to make this Affidavit on behalf of 1231 Morse Street, Inc. in support of the above-captioned BZA Appeal, as amended.
3. The Appellant is the owner of 1233 Morse Street, N.E. (Square 4069, Lot 130 (formerly Lots 810, 812 and 816)) ("Property").
4. The Property is zoned R-4 and has a lot area of 10,443 square feet.
5. The Appellant acquired the Property in April and November 2004, which was at that time was improved with a vacant single-family dwelling constructed in 1940. The acquisition of the Property was originally financed by a Mortgage with an interest rate of 18% which was to be replaced by construction financing at a lower interest rate during the construction phase.
6. On April 12, 2005, the Appellant applied for a Building Permit to construct an addition to the single-family dwelling and convert the single-family dwelling to an eleven (11)

unit apartment building in accordance with the applicable Zoning Regulations. The building permit application was accurate, submitted in good faith and did not misrepresent the Appellant's plans and/or true intentions for the project.

7. On September 6, 2005, DCRA issued the Original Building Permit authorizing the Appellant to "BUILD ADDITION TO SFD/CONVERT SFD TO 11-UNIT APT."

8. On or about September 7, 2005, the Appellant in reliance on the Original Permit began construction of the addition to the single family dwelling at the rear of the Property. Until construction was halted by DCRA, Appellant had spent approximately \$550,000.00 in construction costs to complete at least thirty percent (30%) of the approved work. Additionally, while work has been halted since February 2006, Appellant has incurred \$225,000.00 in high interest finance charges. Since the issuance of the First Stop Work Order, Appellant has been unable to obtain lower-interest rate construction financing which was applied for prior to the First Stop Work Order.

9. On or about February 7, 2006, during the construction of the addition, the Appellant became concerned about the structural integrity of the single-family dwelling, notified DCRA of the concern and requested an inspection of the Property.

10. After inspection, DCRA inspectors confirmed that the existing single family dwelling was unsafe and instructed the Appellant to obtain an emergency demolition permit.

11. On February 14, 2006 [a typographical error shows the permit dated December 14, 2006], DCRA issued Building Permit No. B478420 authorizing the emergency demolition. Appellant in good faith complied with the Demolition Permit and instructions from DCRA.

12. On or about February 15, 2006, the Appellant began the authorized emergency demolition.



13. On Saturday, February 18, 2006, the Appellant ceased demolition activities mistakenly believing that construction activities were limited to Monday through Saturday, from 7:00 am to 7:00 pm.<sup>1</sup>

14. During the course of that weekend, heavy rains and wind caused the collapse of the remaining walls of the single-family dwelling.

15. After the collapse, DCRA instructed the Appellant to stabilize the Property by placing block foundation walls to grade to prevent collapse of the excavated area of the single-family dwelling.

16. On February 22, 2006, DCRA issued the Appellant a written notice of a Stop Work Order to be post dated to February 28, 2006 to allow Appellant to back fill and brace the ground in order to stabilize the Property and prevent damage to the adjoining property.

17. On February 27, 2006, DCRA inspection reported that the existing structure had been razed.

18. On February 28, 2006, DCRA posted the Property with a Stop Work Order ("First Stop Work Order").

19. The Appellant appealed the First Stop Work Order to the Code/Reviewing Official and then the Director of DCRA pursuant to 12 DCMR § 112.1.2.

20. The Code/Reviewing Official did not timely respond to the appeal of the First Stop Work Order, and the Director of DCRA never responded to the subsequent appeal of the First Stop Work Order.

21. On October 17, 2006, the Appellant filed an appeal with the Office of Administrative Hearings (Case No. OAH-CR-C-06-100032).

---

<sup>1</sup> Emergency demolition activities are not subject to the standard construction hours of operation.

22. In an attempt to resolve the First Stop Work Order appeal, the Appellant and DCRA entered into discussions.

23. On January 16, 2007, the Appellant filed the Revised Permit Application based on the settlement discussions Appellant had with DCRA.

24. On January 18-19, 2007, the Revised Permit Application was processed as a “walk-through” permit. A Zoning Review Technician approved the Revised Permit Application on January 18, 2007.

25. On March 5, 2007 overruled the Zoning Technician’s January 18, 2007 approval of the Revised Permit Application. Then on March 6, 2007, the former Zoning Administrator, Bill Crews issued a denial letter for the Revised Permit Application.

26. On March 19, 2007, OAH conducted a hearing on the Appellant’s Motion to Dismiss the First Stop Work Order as invalid on its face for DCRA’s failure to comply with the clear and explicit requirements set forth in 12 DCMR § 114.1.

27. On March 27, 2007, OAH issued a written decision in favor of the Appellant and against DCRA granting the Appellant’s Motion for Summary Adjudication finding that the First Stop Work Order issued by DCRA was invalid as a matter of law.

28. On April 9, 2007, DCRA issued a second Stop Work Order (“Second Stop Work Order”) alleging the same alleged violations of the First Stop Work Order, as well as six additional and unsubstantiated charges and proposed fines of \$16,000.00.

29. On April 12, 2007, DCRA posted a third Stop Work Order (“Third Stop Work Order”). DCRA provided no notice of any kind of the Third Stop Work Order as required under 12A DCMR §114.1.

30. On April 23, 2007, the Appellant filed an appeal of the Second Stop Work Order with the Code/Reviewing Official.

31. The Code/Reviewing Official did not respond to the appeal of the Second Stop Work Order.

32. On April 27, 2007, the Appellant filed the second stage appeal of the Second Stop Work Order with the Director of DCRA.

33. The Director of DCRA did not respond to the Appeal.

34. On May 7, 2007, Appellant filed the pending OAH Appeal of the Second Stop Work Order.

35. On May 8, 2007, Appellant's counsel was contacted by DCRA's counsel in response to the pending OAH appeal of the Second Stop Work Order and was given first notification of the Third Stop Work Order (dated April 12, 2007) and notice of the fourth Stop Work Order ("Fourth Stop Work Order") of the same date. No notice of the Fourth Stop Work Order was ever provided to Appellant as required under 12A DCMR § 114.1.

36. On May 18, 2007, Appellant filed an appeal of the Third Stop Work Order and Fourth Stop Work Order with the Code/Reviewing Official.

37. On May 23, 2007, the Code/Reviewing Official summarily denied Appellant's appeal of the Fourth Stop Work Order citing, without specificity or explanation, the entire ninety-three (93) pages of Chapter 1 of the Building Code. The Code/Reviewing Official did not respond to the appeal of the Third Stop Work Order.

38. On May 24, 2007, Appellant filed an appeal of the Third Stop Work Order and Fourth Stop Work Order to the Director of DCRA.

39. On May 29, 2007, the Director of DCRA summarily denied Appellant's appeal of the Fourth Stop Work Order citing, without specificity or explanation, the entire ninety-three (93) pages of Chapter 1 of the Building Code. The Director of DCRA did not respond to the appeal of the Third Stop Work Order.

40. On June 5, 2007, DCRA filed a Motion to Dismiss of the pending OAH appeal of the Second Stop Work Order as moot based on the issuance of the Fourth Stop Work Order.


41. On June 15, 2007, Appellant filed a Notice of Appeal with OAH of the Third Stop Work Order and the Director of DCRA's decision to deny the appeal of the Fourth Stop Work Orders.

42. On July 20, 2007, DCRA served Appellant's counsel with the Notice to Revoke Permits.


43. On July 25, 2007, OAH granted Appellant's Motion to Consolidate the appeals of the Third Stop Work Order and Fourth Stop Work Order with the appeal of the Second Stop Work Order, and denied DCRA's Motion to Dismiss as moot.

44. The OAH hearing on the Second, Third and Fourth Stop Work Orders has been continued until after this BZA Appeal hearing.

**Remainder of this Page Intentionally Left Blank,  
For Signature Page**

  
Taiwo Demurren

Subscribed and sworn to me this \_\_\_\_\_ day of September, 2007.

  
Notary Public

My Commission Expires:

**YVETTE D. MOORE**  
A Notary Public Of District Of Columbia  
My Commission Expires January 1, 2008

# EXHIBIT D

AP09-4D

**DEED**

THIS DEED, made this 22 day of April, in the year, Two Thousand Four (2004), by and between OTTENBERG'S BAKERS, INC., party(ies) of the first part, hereinafter collectively, "Grantor", and 1231 MORSE STREET, INC., party(ies) of the second part, hereinafter the "Grantee".

WITNESSETH, that in consideration of Forty-five Thousand and no/100 (\$45,000.00) and other good and valuable consideration the said, GRANTOR, do/does grant and convey unto ADEWALE ABODERIN, in fee simple, as Sole Owner, all that property situate in the District of Columbia, and described as follows that is to say:

**SEE ATTACHED LEGAL DESCRIPTION**

Property address: 1231 Morse Street, N.W., Washington, D.C.

Tax ID            Lot 810 and 812            Square 4069

FURTHER SUBJECT TO any and all restrictions, conditions, covenants and easements of record which may be of legal force and effect.

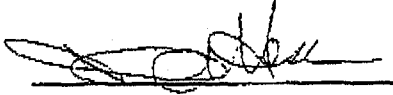
TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the above described lot of ground and premises to the said 1231 MORSE STREET, INC., Grantee, as Sole Owner, his successors and/or assigns, in fee simple.

AND the said Grantor hereby covenant that they/he/she/it has(have) not done or suffered to be done any act, matter or things whatsoever to encumber the property hereby conveyed; that it/he/she/they will warrant specially the property hereby granted; and that he/she/it/they will execute such further assurances of the same as may be requisite.

WITNESS, its hands and seals the day and year first hereinabove written.

WITNESS:



GRANTOR:


Ottenberg's Bakers, Inc.

 (SEAL)

BY: RAY OTTENBERG, PRESIDENT

STATE OF MARYLAND :  
: ss  
COUNTY OF ANNE ARUNDEL :

On this 22 day of April, 2004, before me the undersigned Notary Public in and for the State and County aforesaid, personally appeared, RAY OTTENBERG AS PRESIDENT OF OTTENBERG'S BAKERS, INC., being personally known to me (or satisfactorily proven) to be the person who executed the aforesaid Deed, and he/she acknowledge that he, duly appointed Attorney-In-Fact and President of Ottenberg's Bakers, Inc., this to be his/her voluntary act and deed.

 (SEAL)  
CHERIE KUHN, NOTARY PUBLIC

My Commission Expires: September 1, 2006

AFTER RECORDING PLEASE RETURN TO:

National Title Services, Ltd.  
5000 Sunnyside Avenue, Suite 201  
Beltsville, Maryland  
20705-2300

Ottenberg to ABODERIN Deed, 04.21.04

CHERIE\DEEDS\DC Individual to Individual, 08.12.2003



Title No. AP02-4D

## SCHEDULE "C"

## LEGAL DESCRIPTION

Part of Lots Forty-six (46) and Forty-nine (49) in Block One (1) in the Washington Brick Machine Company's subdivision of part of the tract of land known as "Trinidad", as per plat recorded in Liber County 6 folio 120 of the Records of the Office of the Surveyor of the District of Columbia; also part of Lot One Hundred and Twelve (112) in John C. and Josephine Ewald's combination of lots in Block One (1) "Trinidad", as per plat recorded in Liber County 22 folio 41 of the aforesaid Surveyor's Office Records, described in two parcels as follows:

Parcel 1: Part of Lots Forty-six (46) and One Hundred and Twelve (112) being described in accordance with a plat of Survey made November 21, 1929 in Survey Book 99 page 429 of the aforesaid Surveyor's Office Records, as follows: Beginning for the same on the South line of Morse Street at a point distant fifteen hundredths (15/100) of a foot West of the Northeast corner of said Lot Forty-six (46), said point being due North of the center line of a Nine (9) inch wall between Promises Nos. 1229 and 1231 Morse Street, Northeast, and running thence East along said line of said street, Twenty-five and Fifteen Hundredths (25.15) feet; thence South and along the East face of a brick foundation and a continuation thereto Sixty-three and sixty-eight hundredths (63.68) feet, more or less to the North face of brick wall, being also the most Northerly line of the part of said lots conveyed by Emma J. Ewald to Charles F. Bergand wife by Deed recorded in Liber 4774 folio 298 among the Land Records of said District; thence West along said North face of said brick wall and prolongation thereof to a point Twenty-five and fifteen hundredths (25.15) feet, more or less, due South of the center line of said Nine (9) inch wall; thence North and through the center line of said wall and prolongation thereof Sixty-three and sixty-eight hundredths (63.68) feet more or less, to the point of beginning.

Parcel 2: Part of Lots Forty-six (46) and Forty-nine (49) and One Hundred and twelve (112), being described in accordance with a plat of survey made March 9, 1916, as follows: Beginning for the same at a point in the Southerly line of said lot Forty-six (46), distant One and seventy-five hundredths (1.75) feet East of the Southwest corner of said lot, and running thence in a Northeasterly direction along the exterior wall of the bakery building standing on the South part of said lots, and as shown by said Survey, Seventy-eight and seventy-five hundredths (78.75) feet to a point distant Two and twenty-five hundredths (2.25) feet West of the West line of said lot Forty-six (46), and running thence Southeasterly along said exterior wall, Twenty-two and ninety hundredths (28.90) feet; thence Northeasterly along said exterior wall, Two and ninety hundredths (2.90) feet; thence Southeasterly along said wall, Twenty-five and thirty-one hundredths (25.31) feet; thence Southwesterly along said wall, Eleven and eighteen hundredths (11.18) feet; thence Southeasterly along said wall thirty-one (31) feet; thence Southwesterly along said wall, Fifteen and sixty-five hundredths (15.65) feet; thence Southeasterly along said wall Sixteen and nineteen hundredths (16.19) feet; thence Southwesterly along said wall Fifty-five and thirty-nine hundredths (55.33) feet to a point on the Southerly line of said lot Forty-nine (49), distant Two and twenty-eight hundredths (2.28) feet West of the Southeast corner of said lot Forty-nine (49); and thence Westerly

along said Southerly line of said Lots Forty-nine (49), One Hundred and twelve (112) and Forty-six (46) to the place of beginning; said description being those parts of said lots Forty-six (46), One hundred and twelve (112) and Forty-nine (49), fronting on the Twenty (20) foot public alley, upon which the bakery building now stands, as shown by a Survey made March 8, 1916 by the Surveyor for the District of Columbia, and recorded in the Office of said Surveyor in Survey Book 41 Page 486. Subject to conditions of record. Note: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for taxation purposes as Lots 810 and 812 in Square 4069.

BEING also the same lot of ground which by Deed dated February 3, 1947 and recorded August 14, 1947 as Instrument No. 34955, was granted and conveyed to the within Grantors by Melvin Ottenberg and Florence Ottenberg.

Property Address: 1231 Morse Street, N.W., Washington, D.C.

Lot 810 and 812 Square 4069

File No. 04-5548  
DEED-SHORT FORM D.C.

**This Deed**, made this 30th day of November, 2004, by and between **Steven M. Wright, individually and as attorney-in-fact for Lindsey D. Cottingham, formally known on record as Lindsey D. Cottoningham, by Power of Attorney recorded or intended to be recorded prior hereto, parties of the first part, and 1231 MORSE ST. INC., party of the second part.**

WITNESSETH, that in consideration of the sum of **TWO HUNDRED THOUSAND AND 00/100 Dollars (\$200,000.00)**, the parties of the first part do hereby grant unto the party of the second part, in fee simple, Sole Owner, his/her personal representatives and assigns all that piece or parcel of land, together with the improvements, rights, privileges and appurtenances to the same belonging, situate in the District of Columbia, described as follows, to wit:

Part of Lot numbered One Hundred and Twelve (112) in a combination of lots made by Ewald et al in Block numbered One (1) "Trinidad" as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber County 22 at folio 41; described as follows:

Beginning for the same at the Northeast corner of the Land conveyed to Howard L. Wilkins et al by Deed dated December 12<sup>th</sup>, 1929 and recorded in Liber 6405 at folio 271; and running thence East along the south line of Morse Street, Twenty-five (25) feet more or less to the Northeast corner of said Lot One Hundred Twelve (112); running thence South along the East side of said lot, Seventy-four Eighty-nine Hundredths (74.89) feet, more or less to a North line of the land conveyed to Charles P. Berg and wife, by Deed dated October 16, 1922 and recorded in Liber 4774 at folio 298; running thence West along the said North line, Twenty-four and fifty-four Hundredths (24.54) feet, more or less, an East line of said last mentioned conveyance; running thence North along said East line and along the East line of the aforesaid conveyance to Howard L. Wilkins et al, Seventy-four and Eighty-nine Hundredths (74.89) feet to the point of beginning, as shown in Survey Book 99 at page 429 among the Records of the Office of the Surveyor for the district of Columbia. NOTE: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for taxation and assessment purposes as Lot 816 in Square 4069. TOGETHER WITH a right of way over the following described par of Lot Forty-nine (49) in Block One (1) in the Washing Brick Machine Company's subdivision, known as "Trinidad", as per plat recorded in Liber county 6 at folio 120 among the Records of the Office of the Surveyor for the District of Columbia, BEGINNING for the same at a point in the West line of said lot distant Seventy-one and Ninety-six Hundredths (71.96) feet South from the Northwest corner thereof; thence East and parallel with Morse Street, Eight and Ninety-five Hundredths (8.95) feet more or less, to a point Sixteen and five Hundredths (16.05) feet West of the East line of said lot; thence South and parallel with the East line of said lot Fifteen and Forty-seven Hundredths (15.47) feet more or less, to a point which would intersect a line drawn westerly from and perpendicular to the East line of said lot at a point Eighty-seven and Forty-three Hundredths (87.43) feet southerly from the south line of Morse Street; thence East and parallel with said Morse Street, Fifteen and Ninety-five Hundredths (15.95) feet more or less to the East line of said lot, thence South along said East line, Fifty-seven and Ninety-Three Hundredths (57.93) feet to the Southwest corner of said lot; thence West along the south line of said lot Two and Twenty-eight Hundredth (2.28) feet to the Southeast corner of land conveyed to Charles P. Berg and wife, by deed dated October 16<sup>th</sup>, 1922 and recorded in Liber 4774 at folio 298 among the aforesaid Land Records

AND the said parties of the first part covenant that they will warrant specially the property hereby conveyed; and that they will execute such further assurances of said land as may be requisite.

WITNESS the hands and seals the day and year first hereinbefore written.

IN PRESENCE OF:

\_\_\_\_\_  
\_\_\_\_\_  
Steven M. Wright (SEAL)  
for  
Lindsey Cottingham (SEAL)  
Lindsey D. Cottingham by her  
Attorney-in-fact, Steven M. Wright

STATE OF MARYLAND  
PRINCE GEORGE'S COUNTY

I, MICHEL K COKER, a Notary Public, in and for the  
County of Howard do hereby certify that Steven M. Wright,  
individually and as attorney-in-fact for Lindsey D. Cottingham, by Power of  
Attorney recorded or intended to be recorded prior hereto, who are personally well  
known to me as the grantors in, and the persons who executed the foregoing and  
annexed deed, bearing the date of November 30, 2004, personally appeared before me  
in the said District and acknowledged the said deed to be their act and deed.

Given under my hand and seal this 30th day of November, 2004.

MICHEL K. COKER  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires December 24, 2007

[Signature]  
Notary Public

My Commission Expires: 12/24/07

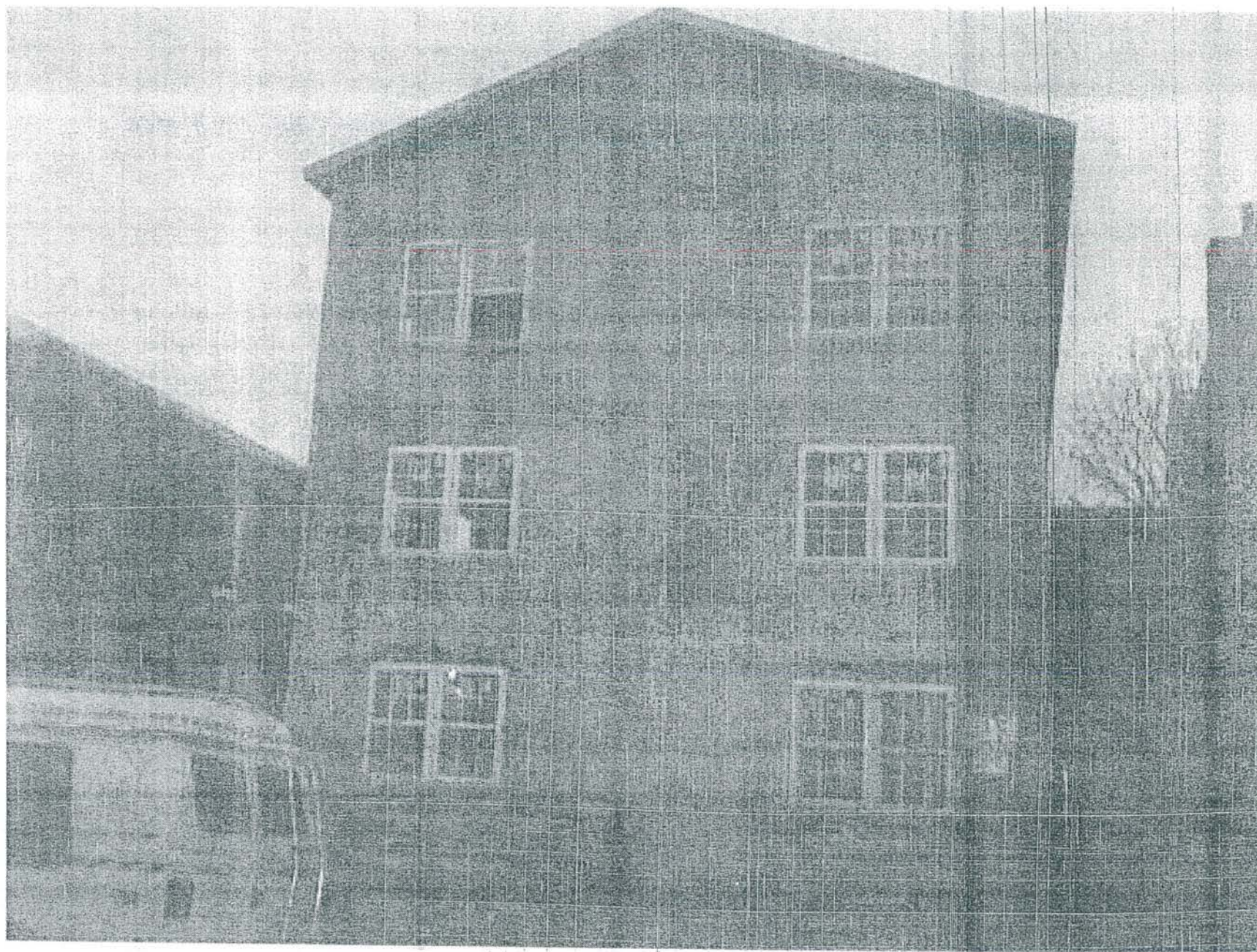
AFTER RECORDING MAIL TO:  
Gideon Titles, Inc.,  
5000 Sunnyside Avenue, Suite 104  
Beltsville, Maryland 20705

GRANTEE'S ADDRESS:  
1233 Morse Street NE  
Washington, DC 20002

# EXHIBIT E



with camera 16



1233 MARSE ST. N.E.

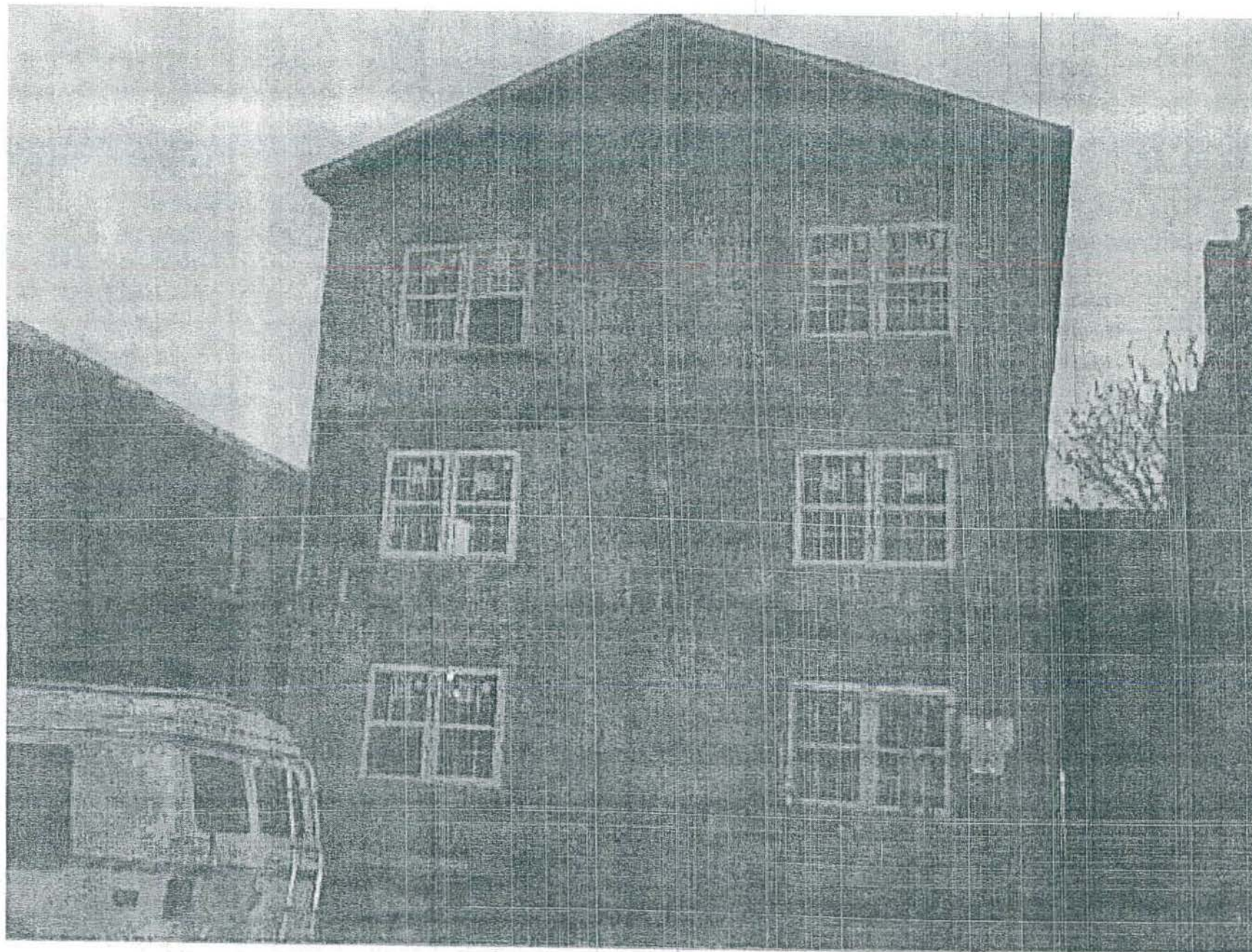
11-27-2006

FRONT VIEW

5:02  
pm



6-11-10

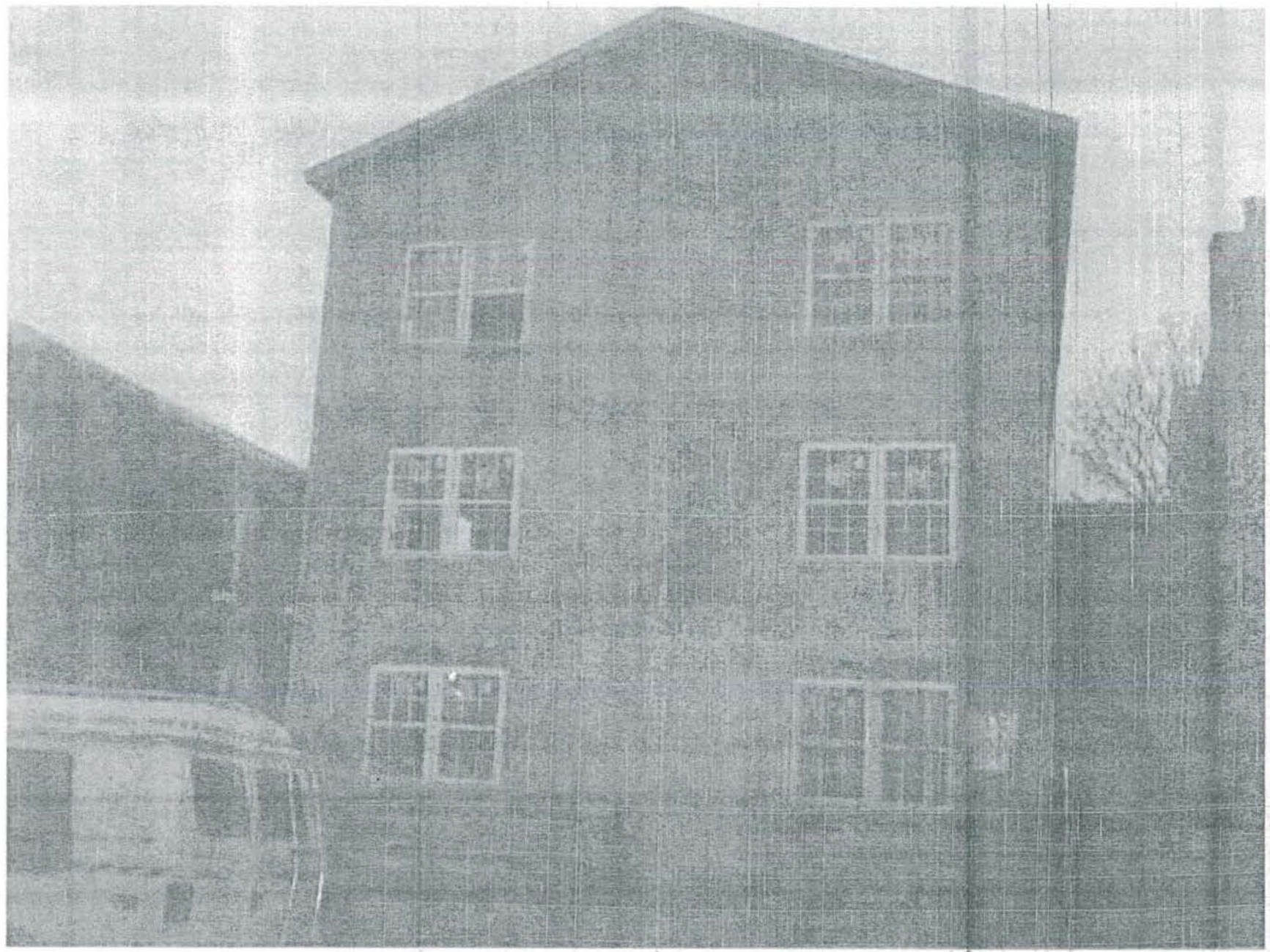


1233 MORSE ST N.E.  
11-27-2006 FRONT VIEW

502  
PM



Distinct's Exh 1b



1233 MARSE ST. N.E.

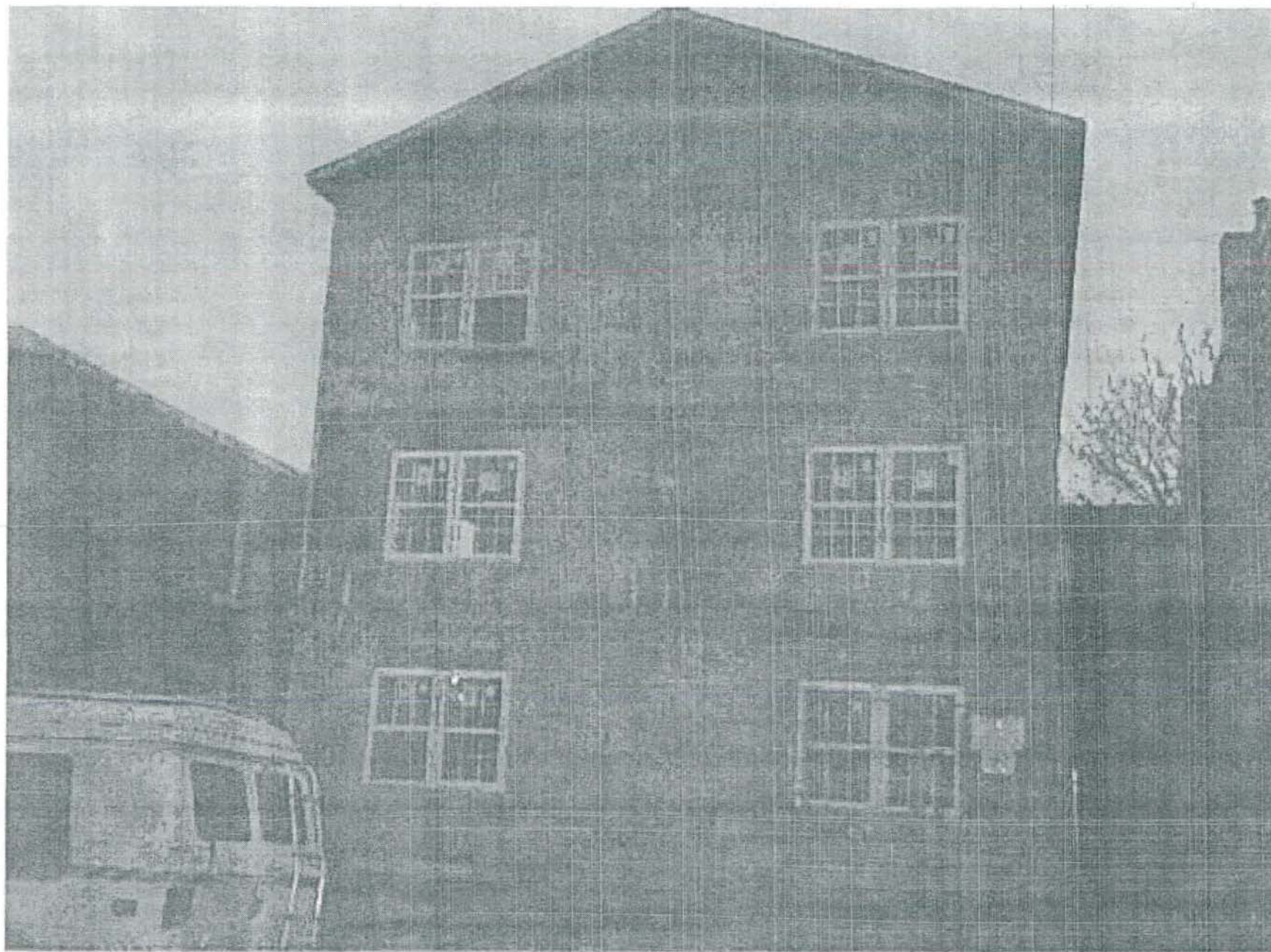
11-27-2006

FRONT VIEW

5:02  
pm



DISTRICT 10  
Exhibit 10

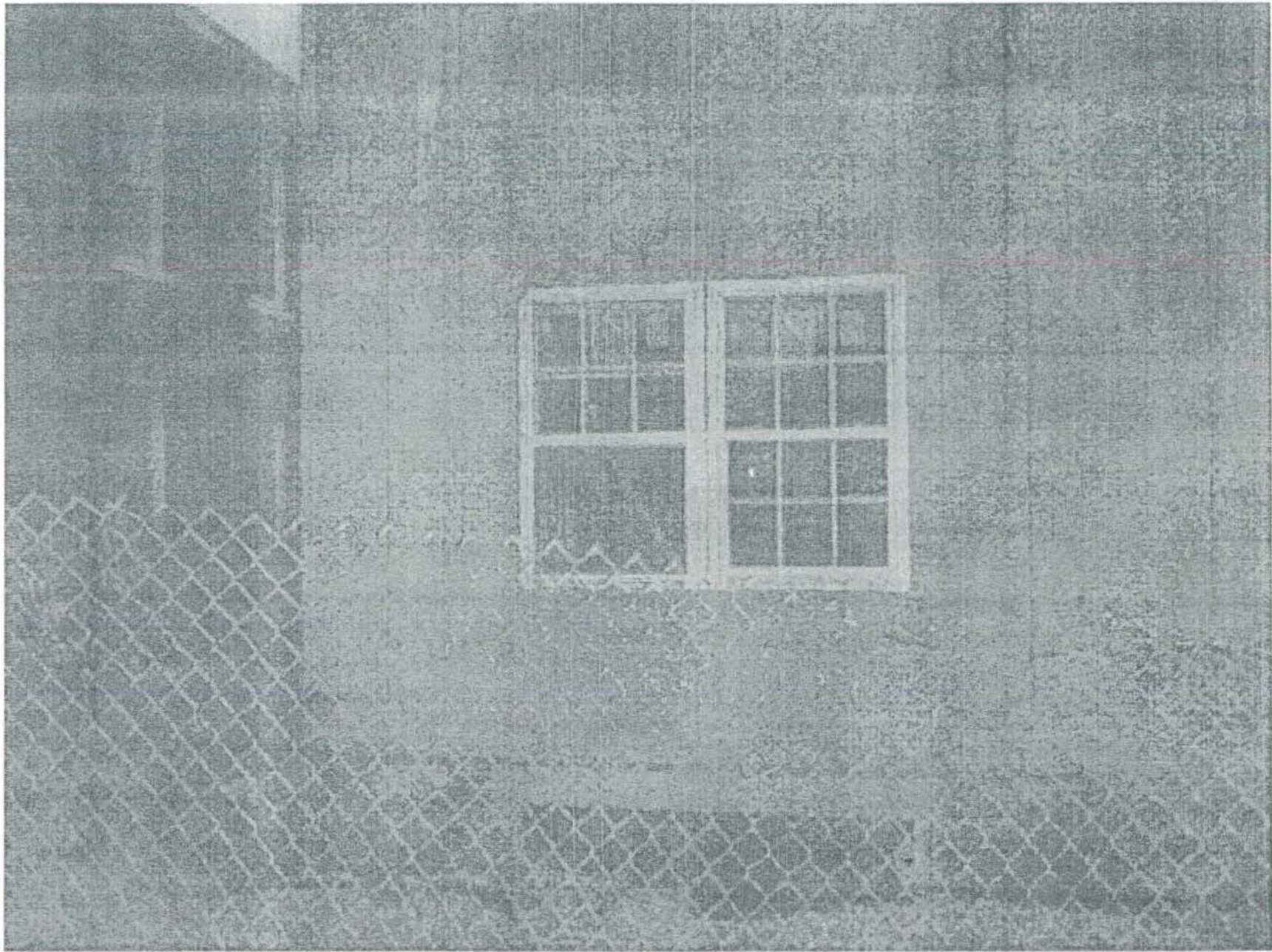


1233 MORSE ST N.E.  
11-27-2006 FRONT VIEW

502  
PM



District's Exh. 1a



1233 MORSE ST N.E.

11-27-2006

FRONT VIEW LEFT SIDE

5:02  
pm

# EXHIBIT F

**BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA**

Appeal of 1231 Morse Street, Inc.

BZA Appeal No. 17657  
ANC 5B

**AFFIDAVIT**

I, Olutoye Bello, duly sworn, depose and state as follows:

1. I am over twenty one (21) years of age and make this Affidavit based on personal knowledge of the facts set forth herein.
2. I am the Managing Member of Bello, Bello & Associates, LLC, a Washington, D.C. based zoning consulting and code compliance, plans review and certified third-party inspection company, and am authorized to make this Affidavit in support of the above-captioned BZA appeal on behalf of the Appellant, 1231 Morse Street, Inc. ("Appellant").
3. I have previously served as the Zoning Administrator for the District of Columbia (October 2004 through May 2005), and was employed by the District of Columbia government for approximately fifteen (15) years in a variety of zoning related positions, including at DCRA and at the Office of Zoning. As a result, I have extensive knowledge and understanding of the duties, responsibilities and limitations of the authority of the Office of the Zoning Administrator and the process by which building permits are applied for, reviewed, approved/denied, and enforced.
4. The Zoning Administrator for the District of Columbia, among other agencies within the District of Columbia government, reviews applications for construction permits, and either approves or disapproves the same based on compliance with the Zoning Regulations. The Zoning Administrator is also responsible for reviewing existing building permits for continued compliance with the Zoning Regulations.

5. Building Permit B477039 [dated September 6, 2005 approving "Addition to SFD/Convert SFD to 11-Unit Apt."] ("Original Building Permit") authorizing the construction of an addition to the existing single family dwelling located at 1231 Morse Street, N.E. (Square 4069, Lot 130) (the "Property") to convert the dwelling to an eleven (11) unit apartment building was reviewed and approved by the Zoning Administrator's Office and remains valid and in compliance with the applicable Zoning Regulations.

6. Emergency Demolition Permit Number B478240 [dated February 14, 2006 approving "Emergency Demo."] ("Emergency Demolition Permit") authorizing the demolition of the existing single family dwelling located at the Property was reviewed and approved by the Zoning Administrator's Office and remains valid.

7. The addition to and conversion of a single family dwelling located in the R-4 zone district to an eleven unit apartment building at the Property, is a conforming use and structure in accordance with the Zoning Regulations, 11 DCMR § 330.5(c).

8. A single family dwelling is independently a conforming use and conforming structure in the R-4 zone district, in accordance the Zoning Regulations, 11 DCMR § 201.1(a).

9. Based on my extensive experience in the interpretation and enforcement of the Zoning Regulations, it is well established and beyond dispute that a conforming use and conforming structure destroyed by casualty or Act of God may be rebuilt as a matter-of-right, and therefore is not in violation of the Zoning Regulations.

10. I have personally reviewed the plans for the Revised Permit Application for the Property, and conclude that the plans for the reconstruction of the pre-existing single-family

dwelling portion of the eleven unit apartment building located at the Property are accurate and in compliance with the Zoning Regulations.

11. In my experience, the Zoning Administrator and/or DCRA does not have the authority to revoke a valid building permit alleging that a structure which existed as a matter-of-right but was partially destroyed under an emergency demolition permit and Act of God was issued in error or on misrepresentation based on the unsupported claim that the building permit application does not comply with the provisions of 11 DCMR § 330.5(c).

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FOR SIGNATURE PAGE**

\_\_\_\_\_  
Olutoye Bello

Subscribed and sworn to me this \_\_\_\_\_ day of September, 2007.

\_\_\_\_\_  
Notary Public

My Commission Expires: