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August 30, 2007

JOHN T. EPTING
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VIA HAND DELIVERY

Ruthanne Miller, Chairperson
D.C. Board of Zoning Adjustment
Office of Zoning
441 4th Street, NW, Room 210
Washington, DC 20001

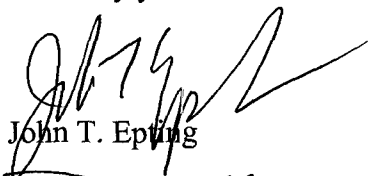
**Re: Minshall Stewart Properties, LLC ("Appellant") –
Appeal No. 17667: Appeal of Determination by Zoning
Administrator Regarding Property Located At Lot 83 in Square 73
2175 K Street, NW and West End Place
Correction to August 28, 2007 Filing**

Dear Chairperson Miller and Members of the Board:

It has come to our attention that copies of the Applicant's Statement in Support of its appeal, which were filed two days ago on August 28, 2007, were missing page 13 due to a reproduction error. Enclosed please find 21 copies of the missing page 13. We sincerely apologize for any inconvenience this may cause the Board and other interested parties. We have also sent copies of the missing page by electronic mail or hand delivery to those individuals listed on the Certificate of Service.

Please feel free to contact us should you need any additional information.

Sincerely yours,



John T. Epting



David M. Avitabile

Enclosures

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17667
EXHIBIT NO. 20

400629559v1

Board of Zoning Adjustment
District of Columbia
CASE NO. 17667
EXHIBIT NO. 20

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2007, a copy of this letter and enclosure was served by hand or electronic mail to the following:

Travis Parker
Office of Planning
801 North Capitol Street, NE, 4th Floor
Washington, DC 20002

Matthew LeGrant
Acting Zoning Administrator
Dept. of Consumer & Regulatory Affairs
941 North Capitol Street, NE, Suite 2000
Washington, DC 20002

Stephen N. Gell, Esq.
Counsel for Florence Harmon and Thomas Scholz
1101 30th Street, NW, Suite 500
Washington, DC 20007

Cornish F. Hitchcock, Esq.
Counsel for West End Place Condominium
5301 Wisconsin Avenue, N.W., Suite 350
Washington, D.C. 20015-2022

Advisory Neighborhood Commission 2A
West End Branch Library
1101 24th Street, NW
Washington, DC 20037



David M. Avitabile

IV. CONCLUSION

Regardless of whether the present-day Zoning Administrator believes that the approved above-grade connection explicitly acknowledged and approved by the BZA and prior Zoning Administrator is no longer sufficient (even with valid certificates of occupancy), he is bound by the decades-old determination of his predecessors. The District has long held it has an interest in maintaining consistent administrative interpretations for all agencies involved in land use decisions, and the interest in administrative consistency and fairness has been upheld and enforced by the courts. The D.C. Court of Appeals has repeatedly held that claims of error regarding zoning determinations are barred if they are unreasonably delayed and prejudice the owner of the subject property. See Goto v. D.C. Bd. of Zoning Adjustment, 423 A.2d 917, 925-926 (D.C. 1980); Wieck v. D.C. Bd. of Zoning Adjustment, 383 A.2d 7, 11-13 (D.C. 1978).

Indeed, it would be patently unfair for the District to affirmatively impose and enforce a series of land use restrictions based on one interpretation of the Regulations in 1980, yet then reverse that interpretation over twenty-five years later in order to impose a different restriction that the property would not be subject to under the first interpretation. Here, the District cannot, on the one hand, consider the Residential and Office Structures as one building at the time of permitting so that the Residential Structure may measure its height from K Street to evade the 90-foot Height Act limit but then, on the other hand, reinterpret the structures as two buildings over twenty years later in order to mandate the application of Section 1709.20 to the Office Structure. Such a change, based on a claim that the original permitting and approval was somehow in error, would undermine public interest in administrative reliability and consistency, and offend basic principles of equity.

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