

STATEMENT IN SUPPORT

In connection with BZA Application No. 17594, the Applicant sought confirmation from the Zoning Administrator that the two structures located at Lot 83, Square 73, which were approved and constructed as one building for purposes of zoning, continue to be one building. An affirmative finding would have obviated the need to go forward with the variance relief requested in Application No. 17594. In a letter dated April 20, 2007 (attached as Exhibit A), the Zoning Administrator determined that the office and residential structures located at Lot 83, Square 73 are two buildings for purposes of zoning. The Z.A.'s determination was based on the following reasons: (1) the two structures were permitted on one building permit, but this is not controlling; (2) the two structures have no above-grade communication; and (3) either structure could be razed without affecting the other.

None of the reasons underlying the Z.A.'s determination have any basis in fact or law. Specifically:

- (1) The two structures were not just permitted as one building. They were approved by this Board as one building for purposes of zoning, received multiple building permits as one building, and were issued certificates of occupancy as one building.
- (2) The two structures have an above-grade communication. Because the building is constructed on a lot that slopes downward approximately ten feet from north to south, the multiple building entrances occur at different elevations, and the portion of the building where the communication is located is clearly "above grade" and would count towards the building's floor area ratio ("FAR"). Further, at the time of permitting and approval, the building's compliance with both the Zoning Regulations and the Height Act was evaluated based on the premise that this was a sufficient connection between the Office and Residential Components. The connection is essential to establishing the building's conformity with the Zoning Regulations and the Height Act of 1910.
- (3) The two structures cannot be separated. The Regulations require that each building be located on a separate record lot. If the two structures were separate, the resulting lots would violate the yard, court, and height provisions of the Zoning Regulations. Again, more importantly, the residential component would violate the Height of Buildings Act of 1910.

For these reasons, which were explained in the appellant's Motion to Dismiss in Application No. 17594 (attached as Exhibit B), and in consideration of all of the facts relevant to the approval, construction, and operation of the properties, we respectfully request that the Board reverse the Z.A.'s determination and find that the office and residential structures located on Lot 83, Square 73 are one building for purposes of zoning.

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17667

EXHIBIT NO. 3 Board of Zoning Adjustment
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EXHIBIT NO. 3