

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

MATTER OF
EIMAJ, INC./FILLORAMO
Appellant

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Case No. 17670

MOTION TO RECUSE MR. LOUD FROM THIS MATTER, AND CONSENT REQUEST
TO TREAT THIS MOTION AS TIMELY FILED

Appellant - Nicholas Filoramo, Eimaj, Inc., and Royce Video
- respectfully moves to recuse Board Member Marc D. Loud, for
the following grounds:

1. At the last hearing before the Board, Appellant moved
to recuse Board Member Marc D. Loud, and referenced the attached
June 14, 2004, letter to Appellant's owner Nicholas Filoramo
from Mr. Loud, expressing an interest in having his
organization, Gateway Georgia Avenue, purchasing the building
that now solely houses Appellant's business, Royce Video.

In response, undersigned counsel was advised that any
recusal request should be put in writing, which this Motion
amounts to.

2. Undersigned counsel misplaced his notes on the dates
set to file this Motion. When undersigned counsel's assistant
called the BZA for the date around two or three weeks ago, she
was told that an order had not yet been issued with filing
deadlines. On November 30, 2007, by phone conversation, opposing

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counsel Doris Parker-Wooldridge, Esquire, gave undersigned counsel her consent to file this recusal Motion as late as today, so long as she is given the same time interval as originally to respond, to which Appellant agrees. Appellant asks the Board to treat this Motion as timely filed.

3. As confirmed by the Final Order from Office of Administrative Hearings ("OAH") Administrative Law Judge ("ALJ") Janet James Mahon in this matter (dated March 12, 2006), Appellant was issued a notice of infraction ("NOI") on or about April 29, 2005, allegedly for operating a sexually oriented business establishment ("SOBE") without a SOBE Certificate of Occupancy ("COO").

Only nine months before the NOI was issued, Mr. Loud sent Appellant his enclosed June 14, 2004, letter expressing an interest in replacing appellant in his current location.

4. Recusal is necessary both to assure that Appellant does not receive an unfair adjudication, and to not make the public lose faith in the ability of the BZA to hear and consider matters before it fairly and impartially.

5. Because the BZA does not appear to have a rule governing recusal, of assistance might be to consider the District of Columbia Superior Court's rule for recusing judges from civil matters:

Rule 63-I. Bias or prejudice of a judge.

(a) Whenever a party to any proceeding makes and files a sufficient affidavit that the judge before whom the matter is to be heard has a personal bias or prejudice either against the party or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned, in accordance with Rule 40-I(b), to hear such proceeding.

(b) The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists and shall be accompanied by a certificate of counsel of record stating that it is made in good faith. The affidavit must be filed at least 24 hours prior to the time set for hearing of such matter unless good cause is shown for the failure to file by such time.

In the foregoing spirit, Appellant expects shortly to file an affidavit from Appellant Nicholas Filoramo asserting in good faith that Mr. Loud has a personal bias or prejudice either against Appellant or in favor of the Appellee in this matter. However, Mr. Loud's attached June 14, 2004, letter already demonstrates such bias.

6. As confirmed by Gateway's website (relevant page attached), Mr. Loud continues as Gateway's President. There is no way to remove an actual or apparent conflict of interest by Mr. Loud other than to have him recused from this matter.

WHEREFORE, Appellant respectfully moves for the recusal of Marc D. Loud from this matter.

Respectfully submitted,

MARKS & KATZ, L.L.C.

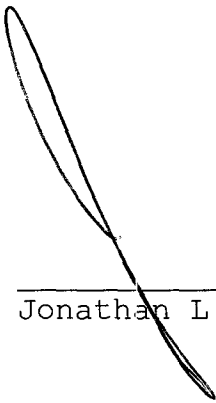


Jonathan L. Katz
D.C. Bar No. 425-615
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendant's Motion was served by fax and first-class mail, postage-prepaid, on December 3, 2007, to:

Doris Parker-Wooldridge, Esquire
D.C. Attorney General's Office
941 North Capitol St. NE
Washington, DC 20002
Fax: 202-442-9447
Email: doris.parker-wool@dc.gov



Jonathan L. Katz

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

MATTER OF

EIMAJ, INC./FILLORAMO

Appellant

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Case No. 17670

ORDER

UPON CONSIDERATION OF Appellant's foregoing Motion to
recuse Marc D. Loud, it is this _____ day of December 2007
hereby

ORDER that Appellant's Motion is hereby GRANTED; and it is
further

ORDERED that Board Member Marc D. Loud have no involvement
with the above-captioned matter in his capacity as a member of
the Board of Zoning Adjustment.

For the Board of Zoning Adjustment



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gatewaycdc@aol.com
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www.gatewaycdc.com

June 14, 2004

Mr. Nick Filleramo, Owner
Royce Video
7435 Georgia Avenue, NW.
Washington, D.C. 20012

Dear Mr. Filleramo:

I am writing on behalf of Gateway Georgia Avenue Revitalization Corporation (hereafter "Gateway") to explore the feasibility of purchasing 7435 Georgia Avenue. Gateway is interested in finding permanent space for our activities along the upper Georgia corridor. The location at 7435 has interested the Gateway Board of Directors.

Gateway is a 5 year old community based organization committed to revitalizing the upper Georgia corridor as a vibrant community for a variety of small business. Since 2000, Gateway has accomplished the following on upper Georgia:

- Installed 29 lamppost banners;
- Completed 30 storefront façade improvements;
- Successfully lobbied the District government to have a Parking Needs Analysis Study completed (expected October '04)
- Landscaped treeboxes twice annually with community volunteers;
- Won a 5 year D.C. Main Street grant.

Gateway is led by a 9 member Board of Directors, one full time Executive Director, and a part-time administrative assistant. All of the Gateway officers, and most of the Gateway Board live near the upper Georgia Avenue corridor. I would appreciate an opportunity to meet with you to further discuss Gateway's interest in 7435 Georgia Avenue.

Thanks in advance for your assistance. You may reach me at 202-409-8340 (cell), or 202-291-2400 (office).

Sincerely,

A handwritten signature in black ink, appearing to read "Marc D. Loud".

Marc D. Loud/Executive Director

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Marc Loud

Mr. Loud can be reached by
email at:
gatewaydc@aol.com

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DOCUMENTS](#)

Marc Loud is a Partner in the law office of Loud and Loud, 7826 Eastern Avenue, N.W., Washington, D.C. Mr. Loud was Deputy Chief of Staff and Deputy Legal Counsel in the Office of D.C. Mayor Sharon Pratt Kelly. Prior to that Mr. Loud served as Attorney and Manager of Agency Programs in the Office of the D.C. City Administrator. He served as Clerk to the Honorable Paul R. Webber III of the D.C. Superior Court. He has been since 1997 the Chairman of the United Methodist Lawyers Guild. He served on the Board of Directors of the Emory Beacon Of Light Community Development Corporation. He is the Founder of the D.C. "Summer Law College for Teens" and was a Delegate to the African/African-American Summit, Harare, Zimbabwe in August of 1997. He is a graduate of the Industrial Areas Foundation Community Builders Training Program in Los Angeles, California. Mr. Loud is a graduate of Howard University Law School (J.D.) and of San Francisco State University (B.A. International Relations).

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