

DISTRICT OF COLUMBIA COURT OF APPEALS

RECEIVED
D.C. OFFICE OF ZONING

2010 FEB -1 AM 11:23

JAN 28 2010

JULIUS FLEISCHMAN,

Petitioner,

v.

BOARD OF ZONING ADJUSTMENT,

Respondent.

No. 09-AA-1514

(BZA Order No. 17837)

**BOARD OF ZONING ADJUSTMENT
District of Columbia**

CASE NO.

17837

EXHIBIT NO.

65

OPPOSITION TO PAPAGEORGE NOTICE OF INTENTION TO INTERVENE

Hillcrest Homes Associates LP ("Hillcrest"), through undersigned counsel, opposes the Notice of Intention to Intervene filed by George C. Papageorge in the above-referenced matter. Mr. Papageorge should be denied intervenor status for the following reasons:

1. Mr. Papageorge was not a party to the agency proceeding below and may not intervene by notice under Rule 15(d). In fact, Mr. Papageorge was specifically denied party status to the Board of Zoning Adjustment case.¹ To intervene in this matter, Rule 15(d) required Mr. Papageorge to file a motion to intervene within 30 days after the petition for review was filed, which he failed to do.

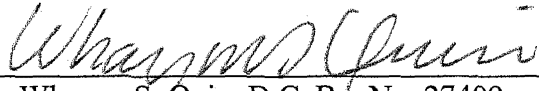
2. While Mr. Papageorge asserts that he has acquired an interest in Parcel 208/66, which borders the property that was the subject of the Board of Zoning Adjustment case below, he fails to identify the nature of the interest, his capacity in that interest, or any other evidence to support his claim. The land records of the District of Columbia Recorder of Deeds, available online at <http://www.washington.dc.us.landata.com> and current through January 13, 2010, clearly demonstrate that only the Petitioner Julius Fleischman holds title to Parcel 208/66.

¹ See D.C. Board of Zoning Adjustment Hearing Transcript in Case No. 17837, November 18, 2008, at 47-51; 59-64 (available online at www.dcoz.dc.gov).

3. Without more, Mr. Papageorge has not met his burden to establish intervenor status and, accordingly, intervenor status should be denied.

Respectfully Submitted,

HOLLAND & KNIGHT LLP

By: 
Whayne S. Quin, D.C. Bar No. 27409
Paul J. Kiernan, D.C. Bar No. 385627
Mary Carolyn Brown, D.C. Bar No. 478749
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000

Attorneys for Intervenor

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Opposition to Papageorge Notice of Intention to Intervene was mailed first class, postage pre-paid, this ^{28th}~~29th~~ day of **January, 2010**, to:

Julius Fleischman
2901 Branch Avenue, S.E.
Washington, D.C. 20020

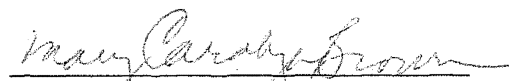
Mr. George C. Papageorge
2333 Branch Avenue, S.E.
Washington, D.C. 20020

Commissioner Robin Marlin
Single Member District Commissioner 7B05
Advisory Neighborhood Commission 7B
3350 Erie Street, S.E.
Washington, D.C. 20020

Yvonne Moore, Chairperson
Advisory Neighborhood Commission 7B
3200 S Street, S.E.
Washington, D.C. 20020

Alan Bergstein, Esq.
Commercial Division
Office of Attorney General
1100 - 15th Street, NW
Suite 800
Washington, DC 20005-1707

Jamison L. Weinbaum, Director
D.C. Office of Zoning
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001


Mary Carolyn Brown