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OF COUNSEL:

HAROLD E. JORDAN

December 16, 2011

TRANSMITTED ELECTRONICALLY

Meridith Moldenhauer, Esq., Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, N.W. - Room 210 South
Washington, D.C. 20001

Re: Keener-Squire Properties, on behalf of the First Baptist Church - Application No. 18272

Dear Ms. Moldenhauer:

This firm represents a party opponent in this proceeding, The Richmond Group. At the conclusion of the public hearing on November 15, 2011, you requested that the parties submit particular pieces of information to supplement the record and provided an opportunity for the parties to comment.

Having reviewed the Applicant's post-hearing submissions dated December 2, 2011 and December 16, 2011, we offer the following observations for the Board's consideration.

Deferred and Annual Maintenance Costs of First Baptist Church

The Applicant presents the Board with a \$5,067,000 million price tag on deferred maintenance for the church buildings. In fact, as the letter from Rand Construction Corporation, dated December 1, 2011, indicates a portion of this work (roof and parapet repairs) has already been accomplished. In reviewing the list of identified maintenance tasks, the three largest categories amounting to 65% of the total are the replacement of mechanical systems (\$1,741,036), project management (\$965,078) and design services (\$508,209). Of the remaining tasks, most appear to be discretionary as opposed to essential. Clearly, the Applicant has the motivation to exaggerate its maintenance needs in order to obtain the maximum financial return from an inflated apartment building and to justify the crasure of the inconvenient SP-1 zoning.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18272
EXHIBIT NO. 46

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Meridith Moldenhauer, Esq., Chairperson
D.C. Board of Zoning Adjustment
December 16, 2011
Page 2

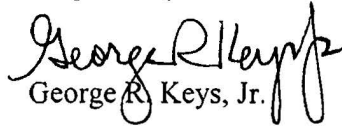
Additional Shadow Studies

The Applicant's and The Richmond Group's shadow studies are consistent in showing an adverse impact on the Richmond building and the public garden which varies in degree at different times of the year. Recognizing this fact, the Applicant continues to insist that the Board must not consider the injunction of § 1501.4(e) of the Dupont Circle Overlay Regulations to preserve and protect areas planned as open gardens. For the Board to ignore this injunction would contradict and explicit conclusion of law in a recent decision in which the Board stated:

“ ‘Areas planned as open gardens and backyards’ are specifically called out in § 1501.4(e) as worthy of preservation by the Dupont Circle Overlay, and these two gardens, used daily and relied on, fall precisely within the protective ambit of §1501.4, as well as within the general protections on light and air set forth in § 3104.”¹

The Applicant asks this Board to grant an extraordinary level of zoning relief to ensure the greatest financial return to First Baptist Church and to do so in a manner which does not present any inconvenience to its current operations. There are, however, adverse impacts from this proposal on nearby property, to the SP-1 zone scheme and to the purposes of the Dupont Circle Overlay. The Board should not ignore these consequences in the face of the self-serving blandishments of an over-reaching land owner.

Respectfully submitted,


George R. Keys, Jr.

cc: Mary Carolyn Brown, Esq.
Advisory Neighborhood Commission 2B
D.C. Office of Planning
Kay Marlin

¹Decision and Order in BZA Application No. 17337-A (September 28, 2010) , p. 14.