

COMMITTEE OF NEIGHBORS DIRECTLY IMPACTED BY LAMB APPLICATION

December 19, 2017

Chairman Fred Hill
DC Board of Zoning Adjustment
441 4th Street, NW; Suite 200S
Washington, DC 20001

VIA IZIS: 12/19/2017

RE: BZA Case #19581 – Response to ANC 4C's Applicant Support Submission

Dear Chairman Hill and Members of the Board:

In the above referenced case, the Applicant, Latin American Montessori Bilingual (LAMB), is seeking special exception approval to allow the establishment and co-location of a public charter school with a private school – Kingsbury – in a well-established neighborhood, protected by a R-16 Zoning Overlay.

At the conclusion of its November 15, 2017 public hearing, the Board requested Advisory Neighborhood Commission 4C, (ANC 4C) provide a resolution pertaining to the Applicant's and Office of Planning's (OP) alternative condition.

Before any ANC is allowed to produce any official recommendation, there are specific legal requirements that must be fulfilled:

- Seven (7) days written notice of each Commission meeting;
- Notice must be given in two (2) different ways, selected from a list of four (4) alternatives, by law:
 1. Postings in at least four (4) conspicuous places in each SMD;
 2. Publication in a city or community newspaper;
 3. Distributing, via e-mail, through a mailing list; and
 4. Other methods of the Commission's own choosing, which to be valid, requires a vote on that method at a public meeting, subsequently recorded in the minutes;
 5. Required to provide an opportunity at every meeting for residents to speak out; and
 6. As a general rule, a SMD Commissioner keeps their constituents informed and represents their interest..

Additionally, each Commission is required to have bylaws that govern its operation and internal structure and it assumes each Commission will follow these bylaws, which amongst other things may include, but not be limited to:

- Procedures for acting on committee recommendations; and
- If revised, filed with the DC Council and the OANC within 30-days of the changes.

If all of the above conditions are met, as the Board is aware, under DCMR § 1-309.10, the Board is required to provide each ANC notification of any cases pending before it and accord any ANC *great weight* in its own deliberations, but only if they follow and meet certain specific conditions and requirements, amongst them:

- Reasons for the ANC's recommendations, more specifically why;
- How many Commissioners are needed for a quorum;
- The vote count;
- The date of the ANC meeting; and
- Signatures of the Chairperson or Vice-Chairperson.

In the immediate instance, ANC 4C failed several of these conditions. Amongst them:

1. Failed to keep their constituents informed and represent their interest.
2. Failed to provide seven (7) days written notice of its 12/13/17 public meeting;¹
3. Failed to give notice in two (2) different ways of its 12/13/17 public meeting;²
4. Failed to provide an opportunity for residents to speak at several ANC meetings;³
5. Violated its own bylaws by not providing documentation timely;⁴
6. Failed to file its new bylaws with the appropriate authority, as required;⁵
7. Failed to provide reasons consistent with law, in making recommendations to the BZA in the above referenced case;⁶
8. Failed to state number of Commissioners required to make a quorum;⁷ and
9. Failed to vote on the specific issue ordered by the Board;⁸

Failed to keep their constituents informed and represent their interest.

The subject property is located in SMD 4C02, represented by SMD Commissioner Maria Barry, serving her first full term, having joined the full ANC 4C Commission in October 2015.

Unofficially, by her own admission, Commissioner Barry knew of the Applicant's pending move before the Commission's official 08/22/17 notification from the BZA. The Applicant's - at one time Kingsbury and LAMB - caused confusion in this process when it decided to separate their cases. Commissioner Barry and other Commissioners had already had conversations with representatives of the Applicant and/or LAMB parents who had been discussing the pending move to Kingsbury for months.⁹

Notices came from the BZA at the very end of August and it wasn't until Tuesday, September 12, 2017 @ 9:41PM¹⁰ that Commissioner Barry notified her constituents that:

"Based on feedback (she) received from the community (she) asked Building Hope/LAMB to present tomorrow evening at the ANC4C meeting ... (and) I will put a meeting together ... in the next few weeks ..."

¹ See E-mail compilation December 12, 2017 - ANC 4C Agenda - December 13 Meeting

² ANC 4C relies on notice in the NW Current, which is not available anywhere in SMD 4C01, 4C02 or 4C03. Commissioner Barry did not notify her constituents until the day before the ANC meeting; See E-mail compilation: Commissioner Barry Dec 12, 2017 Agenda notification

³ See all E-mail compilations between November 01, 2017 and December 06, 2017

⁴ See ANC 4C Minutes - April 12, 2017 - Item #6 under New Business

⁵ § 1-309.11(d)(3) requires a 30-day filing with the Council and the OANC of bylaws and amendments. There is no evidence that ANC 4C did either.

⁶ None of ANC 4C's resolutions specifically addressed any issues related to the R-16 Overlay Zone and its impact on the immediate community and only regurgitated the Applicant's submission word-for-word. They did not address any of CNDI-LA's concerns or pleadings - their own constituents.

⁷ See Exhibit #133 - first sentence; quorum is left blank

⁸ See Exhibit #133 - the first paragraph - they only voted to "support the application of LAMB for the establishment of a public charter school.

⁹ See NW Current, Volume L; No. 48 - Wednesday, 12/06/2017 - Charter aims to consolidate at Kingsbury by Current Staff Writer Grace Bird

¹⁰ See CNDI-LA E-mail compilation 09/12/17 - 09/14/17

Inconsistent with ANC bylaws and DCMR, the community (and we believe some ANC Commissioners) were never notified, but the Applicant was placed on the agenda and they were heard.

Two days later – Thursday, September 14, 2017² @ 10:34PM – Commissioner Barry sent an e-mail announcing two community meeting dates – 09/20/17 and 09/25/17 – with a location to be confirmed by the following day.

Commissioner Barry did not meet with her constituents opposed to this special exception being granted, until Sunday, October 22, 2017, a full 2-months past her official notification from the BZA.

At its November 08, 2017 ANC public meeting, Commissioner Barry introduced a resolution in support of LAMB, despite promises to include OP's condition that they return to the BZA prior to applying for a C of O for 600 students and 110 faculty and staff; that condition had to be forced on Commissioner Barry, who reluctantly accepted it, but unethically – along with her colleague SMD 4C01 Commissioner Charlotte Nugent – sent in separate letters of support¹¹ in stark contradiction to the vote of the full ANC.

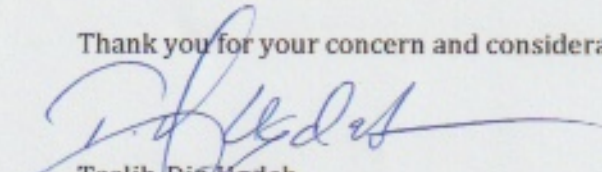
CONCLUSION:

Therefore, CNDI-LA respectfully request this Board not accord ANC 4C great weight, for the reasons articulated above.

Under DCMR § 1-309.10 the BZA is required to give this great weight during its deliberations, raised in the recommendations, issues or concerns by the Commission and acknowledge that the ANC was the source of these recommendations, and explicit to any issues or concerns.

We don't believe this BZA, in good conscious, can do that; CNDI-LA raises too many inconsistencies, ethical and legal violations in its response to the ANC's submission.

Thank you for your concern and consideration.



Taalib-Din Uqadah
obo/CNDI-LA

¹¹ See Exhibit #72; Paragraph 4 and Exhibit #70; Paragraphs 4 & 5 respectively – 11/12/17

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on Tuesday, December 19, 2017, in Response to Advisory Neighborhood Commission 4C (ANC 4C), the Committee of Neighbors Directly Impacted by LAMB Application (CNDI-LA), submitted and delivered its response via e-mail to the following:

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Advisory Neighborhood Commission 4C
c/o Commissioner Jonah Goodman, Secretary - SMD 4C10
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and
Commissioner Maria Barry, SMD 4C02
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Taalib-Din A. Ugdah