

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
Case No. 19751**

**MAHCA'S RESPONSE TO APPLICANT'S OPPOSITION TO MAHCA'S MOTION TO
DISMISS OR, IN THE ALTERNATIVE, TO POSTPONE**

The Massachusetts Avenue Heights Citizens Association ("MAHCA") hereby responds to the arguments MED Developers, LLC ("Applicant") puts forward in Applicant's Opposition to Motion to Dismiss or Postpone ("Applicant's Brief") for the reasons set forth below. MAHCA respectfully requests that the Board of Zoning Adjustment ("BZA") dismiss Case No. 19751 for the reasons set forth herein and, in the alternative, that the BZA postpone Case No. 19751.

I. There is a strong basis to dismiss Case No. 19751

- (a) **Applicant admits its application is deficient on its face:** Applicant admits, on page four (4) of Applicant's Brief, that it did not include for lot 0812 in its application the information required by Subtitle Y §300.8(g). Applicant could have acted in good faith and offered to correct its mistake, of which Applicant has been aware since at least September 12, 2018 when MAHCA filed its Party Status Request. Instead, Applicant chose to argue that designating lot 0044 in square 1935 as the only lot in the subject property is good enough. It is not good enough, as clearly and unambiguously stated in the D.C. Zoning Regulations. Subtitle Y §§300.8 and 300.8(g) read:

"In addition to the memorandum or certification required by Subtitle Y § 300.6 and the information required by Subtitle Y § 300.5 relating to appearance and representation, the **applicant shall furnish** two (2) paper copies of all information required by the application form at the time of filing the application, including...(g) The name and addresses of the owners **of all property located within two hundred feet (200 ft.) of the subject property** and two (2) copies of self-stick labels printed with their names and addresses..." (emphasis added)

In the event there is any doubt as to what the language in Subtitle Y §300.8(g) means, the requirement is clarified in the "Instructions for Form 120 – Application for Variance/Special Exception" (Attached hereto as Exhibit 1). Section 5 of the Application Requirements and the tenth bullet in Section 5 read as follows:

"Below is a list of all the documents that must be submitted in PDF format at the time you file your application. Please have these documents ready for uploading before you start your application ... The name and mailing addresses of the owners **of all property within 200 feet, in all directions from all boundaries of the property involved in the application**, and two sets of self-stick labels of the names and mailing addresses of the owners of the properties. (Note: This information is most readily available from the D.C. Department of Tax and Revenue, Tax Assessors, 1101 4th Street, S.W. – West Building, Washington, D.C. 20024.)..."

As admitted by Applicant in Applicant's Brief, its application is deficient on its face and does not meet the requirements in Subtitle Y §300 or in the instructions for Form 120. Consequently, Applicant's application should have been neither "accepted by the Office of Zoning for processing" (Subtitle Y §300.1), nor processed "until the application is

complete” (Subtitle Y §300.2). Applicant should be required to follow the letter of the law and submit a complete and accurate application, in particular because Applicant is represented by land-use counsel very experienced with filing special exception applications, making the mistake in Applicant’s application all the more egregious. MAHCA respectfully requests that Case No. 19751 be dismissed because Applicant’s application is deficient on its face, as acknowledged by Applicant.

- (b) **Applicant’s “plain language” argument fails:** The term “subject property” refers to all lots at issue in an application, as evidenced by the language of the law (cited in (a) above) and by the instructions for Form 120 (cited in (a) above). Applicant argues that “subject property” cannot refer to more than one lot, but on page 3 of its own application (*See* IZIS Exhibit 15 “Statement of the Applicant”), Applicant defines three lots as the “Property” (*as shown in the excerpt below from Statement of the Applicant*):

the contract purchaser of the property located at 2619-2623 Wisconsin Avenue NW, (Square 1935; Lots 0044, 0034, 0033) (the “Property”) in support of their application for special exception relief pursuant to

On the first page of its report, the Office of Planning states, “[t]he subject property consists of two lots, lots 44 and 812, which form a rectangular property ...” (*See* IZIS Exhibit 50 “OP Report”).

For the reasons set forth in section (a) above and in this subsection (b), Applicant’s plain language argument fails. MAHCA, therefore, respectfully requests that Case No. 19751 be dismissed because Applicant’s application, as admitted by Applicant, is deficient on its face.

- (c) **The code does not give the BZA discretion to waive Subtitle Y §300.8(g):** In some code sections, the BZA is given discretion on certain matters. Those sections include language such as “[i]f the Board finds...” There is no such language included in Subtitle Y §300. The BZA, therefore, cannot and should not waive the legal requirements set forth in Subtitle Y §300. If the BZA were to start waiving application requirements set forth in the code, where would the BZA draw the line on this slippery slope? MAHCA respectfully requests that Case No. 19751 be dismissed because Applicant admitted its application is deficient on its face and the BZA does not have the discretion to waive the application requirements set forth in Subtitle Y §300.

II. **Applicant’s deficient application caused the BZA’s failure to provide notice to individuals within two hundred (200) feet of lot 0812 in square 1935:**

- (a) **The BZA’s failure to provide notice is the fruit of the fundamental flaw in Applicant’s application:** In this case, it is not known exactly how many and exactly which properties would be included within two hundred (200) feet of lot 0812 in square 1935. On page five (5) of Applicant’s Brief, Applicant asserts that none of the individuals who have alleged a failure to receive notice live within two hundred (200) feet of lot 0812. Since Applicant states it knows the homes of these individuals are not within two hundred (200) feet of lot 0812, Applicant implies it knows which homes are within two hundred (200) feet of lot 0812. If Applicant has the information, why did Applicant not include it in its application. Applicant should have the information because Applicant had the subject property surveyed.

Since, at this point in time, it is not known exactly which property owners are within two hundred (200) feet of lot 0812, there is no way to determine whether and how affected property owners received actual notice. This is not a situation where an applicant's application is correct, but there was a snafu with providing accurate notice. Applicant's inaccurate and incomplete application directly resulted in the BZA not being able to provide notice of the BZA hearing for Case No. 19751 to property owners within two hundred (200) feet of lot 0812 in square 1935, as required by law. MAHCA respectfully requests that Case No. 19751 be dismissed because Applicant's deficient application directly caused the BZA's failure to provide forty (40) day notice, as required by law (Subtitle Y §402.1(d)).

- (b) **The criteria in Subtitle Y §402.11 require that the BZA postpone the BZA hearing currently scheduled for September 26, 2018:**

Subtitle Y §402.11 reads as follows:

“If the Board finds a **failure** or defect in the notice of public hearing, the Board shall determine whether to postpone, continue, or hold the public hearing as scheduled on the following considerations:

- (a) The nature and extent of the actual notice received by the parties and the public from all sources;
- (b) Attendance or lack thereof at the public hearing; *and*
- (c) The nature and extent of the construction and/or use proposed under the application.”

Regarding Subtitle Y §§402.11(a) and (b), it is not possible to gauge “the nature and extent of the actual notice received” or the “attendance or lack thereof at the public hearing” because it is not known who all the property owners are who are affected by the BZA's failure to provide notice. At least some of the property owners within two hundred (200) feet of lot 0812 will be on the west side of Wisconsin Avenue, NW, which is not a part of MAHCA. It is, therefore, even more unlikely that any such property owner would have either (i) received an e-mail from a MAHCA neighbor about the BZA hearing or (ii) received a leaflet stuck in his/her door by Applicant about its hastily and unilaterally scheduled “community meeting” on August 29, 2018. Even if a property owner within two hundred (200) feet of lot 0812 received a flyer about the Applicant's “community” meeting or some other informal information about the project, such informal information is entirely different from receiving formal notice from the BZA mailed to ones home.

With regard to Subtitle Y §402.11(c), even if there were actual notice to the parties who were omitted from Applicant's application, the circumstances of Case No. 19751 warrant that the BZA dismiss Case No. 19751 and require Applicant to refile a complete and accurate application. At the very least, the “nature and extent of the construction and/or use proposed under the application” require that the BZA postpone the BZA hearing for Case No. 19751. In this case, Applicant is attempting to combine and develop two R-1-B lots, which are zoned for single family homes and are part of a neighborhood designated by the DC Comprehensive Plan Generalized Policy Map as a Neighborhood Conservation Area, into one contiguous memory care facility which would have thirty-four (34) units and be three to four stories tall plus a penthouse for a total height of fifty-two (52) feet. Applicant is seeking a CCRC special exception without complying with

and meeting the conditions for being granted a CCRC special exception set forth in Subtitle U §§203.1(f)(1)-(6). These conditions were only added to the D.C. Zoning Regulations in 2017, but are now the law and must be followed and upheld.

For the reasons set forth above, the criteria in Subtitle Y §402.11 require that the BZA at the very least postpone the BZA hearing currently scheduled for September 26, 2018.

III. The motion to postpone is justified because Applicant's plans were conceptual until August 29, 2018/September 5, 2018:

MAHCA has engaged with Applicant in good faith. It was Applicant's choice to file its application in March 2018 before it had an operator. It was Applicant's choice to present to ANC 3C's Planning and Zoning Committee at the beginning of May 2018 before it had an operator. At that May 2018 ANC 3C Planning and Zoning Committee meeting, Applicant was unable to answer any of the ANC's questions about how the facility would be operated, how many staff there would be, how the building would be built and operated in accordance with code requirements, how many vehicles would come to the facility on a daily, weekly, monthly basis, etc. Applicant stated that only an operator could answer those questions, so MAHCA agreed to pose those questions to an operator once Applicant managed to persuade an operator to join its project. Applicant introduced the operator to MAHCA on August 29, 2018 when MAHCA learned that, in addition to Applicant having absolutely no experience building or managing assisted living or memory care facilities, operator has never before operated a memory care facility. The August 29, 2018 meeting was hastily and unilaterally scheduled by Applicant and Applicant's counsel (Attached hereto as Exhibit 2 is an e-mail from MAHCA's Zoning Coordinator to Applicant's counsel which Applicant left out of the e-mails it submitted as exhibits to Applicant's Brief).

August 29, 2018 was the first time MAHCA heard anything (i) from the operator about how the facility may be run, (ii) that the facility would be a memory care facility and not "less assisted than assisted," as Applicant had previously stated, and (iii) that the building plans Applicant submitted with its March 2018 application had been changed. At the August 29, 2018 meeting, there were toilets missing from the first and/or second floors of the building plan, which was raised by a neighbor, there was no fence around the garden area, which was raised by a neighbor, there were no dimensions of any rooms, hallways, or any other spaces included on the plans, there were no details included about the proposed mechanical penthouse, etc. The building plans, which were projected onto a screen, shown by Applicant to the neighbors in attendance were incomplete on August 29, 2018. The building plans submitted with Applicant's September 5, 2018 meeting, the day after the ANC 3C Planning and Zoning Committee meeting, are still incomplete. The ANC 3C resolution, which the ANC passed on September 17, 2018, addresses not only the ANC's concerns about the proposed facility and its adverse impact on affected neighbors, but the lack of information provided by Applicant (*See* IZIS Exhibit 146 "ANC 3C Resolution").

Given (i) the late date on which Applicant introduced the operator of its proposed facility, (ii) the lack of operator's relevant experience, and (iii) the lack of evidence Applicant has provided in the public record to meet the conditions for the CCRC special exception (*See* Subtitle U §§203.1(f)(4)-(5)) and its other legal burden (*See* Subtitle X §901.3), it appears as though Applicant is rushing to push through its application without meeting the required conditions and legal burden or without allowing MAHCA time to prepare its

opposition case. In fact, it would appear that Applicant is attempting to shift its legal "burden to prove no undue adverse impact" (*See* Subtitle X §901.3) "through evidence in the public record" (*See* Subtitle X §901.3) to MAHCA to prove adverse impact on affected neighbors. That is not the purpose or intention of the law and the BZA should not allow such attempt by Applicant to shift its legal burden to affected neighbors.

Given the information set forth above in this Section III, Applicant cannot now make the straw man argument that MAHCA has had enough time to prepare its case in opposition to Case No. 19751.

MAHCA respectfully requests the BZA dismiss Case No. 19751 on the grounds set forth above. If the BZA does not dismiss Case No. 19751, MAHCA respectfully requests the BZA postpone Case No. 19751 until Applicant resubmits a correct application, the BZA provides the requisite forty (40) day notice, as legally required by Subtitle Y §402.1, to all property owners within two hundred (200) feet of all lots included in the subject property, and MAHCA has a commercially reasonable period of time of at least six (6) weeks to prepare its case.

Dated September 25, 2018



Paul Cunningham
President of MAHCA

EXHIBIT 1

INSTRUCTIONS FOR FORM 120 – APPLICATION FOR VARIANCE/SPECIAL EXCEPTION



Online Application Forms

INSTRUCTIONS FOR FORM 120 – APPLICATION FOR VARIANCE/SPECIAL EXCEPTION

Application Requirements: Any application that is not completed in accordance with the following instructions shall not be accepted.

1. All applications shall be made pursuant to this form. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form (drawings and plans may be no larger than 11" x 17").
2. Form 120 must be filed electronically using the Interactive Zoning Information System (IZIS).
3. At the time of filing this application, the Applicant shall complete and submit a Form 126 - Board of Zoning Adjustment Fee Calculator in accordance with the BZA Schedule of Fees – Subtitle Y, Chapter 16.
4. If seeking an Expedited Review pursuant to Subtitle Y § 401, the applicant shall complete and submit a Form 128 – Waiver of Hearing for Expedited Review.
5. Below is a list of all the documents that must be submitted in PDF format at the time you file your application. Please have these documents ready for uploading before you start your application.
 - Either a memorandum from the Zoning Administrator at DCRA directing the applicant to the BZA or a Form 135 - Zoning Self-Certification, which requires certification by a DC licensed architect or attorney;
 - If the owner will be represented by a third party, including the lessor or contract purchaser of the property, a Letter of Authorization signed by the owner authorizing the representative to act on the owner's behalf with respect to the application, and a Certification signed by the representative that they have read Subtitle Y, the Board's Rules of Practice and Procedure, and are able to competently represent the owner. (See Letter of Agent Authorization/Competency Tutorial)
 - A statement that the Applicant will contact the local Advisory Neighborhood Commission (ANC), community/civic groups, the Office of Planning (OP), and adjacent property owners to discuss their application. The statement should include a pledge from the Applicant to submit a statement of the efforts made to contact these groups and the results of these efforts no less than twenty one (21) days before the scheduled public hearing/meeting. The contact with these entities should occur at the earliest time practical prior to the scheduled public hearing/meeting.
 - A completed application form;
 - A plat, drawn to scale and certified by a survey engineer licensed in the District of Columbia or by the D.C. Office of the Surveyor, showing the

boundaries and dimensions of the existing and proposed structures and accessory buildings and structures on the specific piece of property, if necessary (See Required Specifications for Plats, Plans and Elevations Tutorial – for the required information on these drawings.);

- Architectural plans and elevations in sufficient detail to clearly illustrate any proposed structure to be erected or altered, landscaping and screening, and building materials, and where applicable, parking and loading plans (See Required Specifications for Plats, Plans and Elevations Tutorial – for the required information on these drawings.);
- A detailed statement of existing and intended use of the structure, or part thereof;
- A detailed statement of how the application meets each element of the review standards for special exceptions specified in Subtitle X § 901, or for variances specified in Subtitle X § 1002 (See Burden of Proof – Variance or Burden of Proof – Special Exception);
- Three (3) or more color images, not to exceed letter-size (8½ in. x 11 in.), showing the pertinent features of the structure, and property involved (front, rear, and sides, if possible and applicable);
- The name and mailing addresses of the owners of all property within 200 feet, in all directions from all boundaries of the property involved in the application, and two sets of self-stick labels of the names and mailing addresses of the owners of the properties. (Note: This information is most readily available from the D.C. Department of Tax and Revenue, Tax Assessors, 1101 4th Street, S.W. – West Building, Washington, D.C. 20024.);
- The name and address of each person having a lease with the owner for all or part of any structure located on the property involved in the application;
- A copy of the certificate of occupancy or other documentation showing the current authorized use(s) on the property. In cases where a change in one nonconforming use to another nonconforming use is requested, a copy of the certificates of occupancy or other documentation showing the past authorized uses;
- A copy of the resume of any expert witness who will be testifying in the case;
- A written summary of the testimony of all witnesses;
- A statement of the efforts that have been made to apprise the affected ANC and other individuals and community groups concerning the application, if any; and
- If a map, plan, or other document is readily available to the general public, in lieu of filing a copy of the document, the applicant may provide a complete citation to the source of the document and indicate where the public may view the document.

Please note, after you submit this electronic filing, you will be required to submit two paper copies of the application with supporting documents, including two (2) sets of self-stick labels of the names and mailing addresses of the owners of the properties.

The application will not be accepted for processing unless accompanied by a certificate of service demonstrating that a copy of the application and all accompanying documents have

been sent to:

- (a) The Office of Planning; and
- (b) The affected ANC.

Note: All applications are referred for review and recommendation to the Office of Planning (OP) and the Advisory Neighborhood Commission (ANC) within which the affected property is located. Their reports are given "great weight" in the BZA decision-making process. Applicants are strongly encouraged to contact these agencies to discuss the merits of their application/petition. OP can be reached at (202) 442-7600. ANC information can be ascertained by contacting the Office of Advisory Neighborhood Commissions at (202) 727-9945.

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EXHIBIT 2

**E-MAIL FROM MAHCA ZONING COORDINATOR WHICH APPLICANT LEFT OUT OF
THE E-MAILS APPLICANT PROVIDED IN THE EXHIBITS TO APPLICANT'S BRIEF**

Subject: RE: BZA Case 19751 - MED Developers

From: MMoldenhauer@cozen.com

To: jennyverdery@gmail.com; anitaliviamitra@yahoo.com

Cc: pac@harkinscunningham.com; nmacwood@gmail.com

Date: Wednesday, August 22, 2018, 4:25:13 PM EDT

We are working to be open and transparent with the ANC and neighbors. If you are out of town you can still listen and hear about the project.

The community meeting on Aug. 29th will be live-streamed for those not able to attend.
Video Instructions: Google Chrome browser → join.cozen.com → Meeting ID: 8430763
Audio Instructions: Call 1-833-471-2717 → Call ID: 8430763

Feel free to share the above live-stream link.



Meridith Moldenhauer
Member | Cozen O'Connor
1200 19th Street NW | Washington, DC 20036
P: 202-747-0763 F: 202-683-9389 C: 202-246-7070
[Email](#) | [Bio](#) | [Map](#) | cozen.com

From: jenny verdery [mailto:jennyverdery@gmail.com]
Sent: Wednesday, August 22, 2018 3:14 PM
To: Anita Mitra <anitaliviamitra@yahoo.com>
Cc: Moldenhauer, Meridith <MMoldenhauer@cozen.com>; Paul Cunningham <pac@harkinscunningham.com>; nmacwood@gmail.com
Subject: Re: BZA Case 19751 - MED Developers

Anita - I am out of town but agree that this process is unacceptable. What can I do to help ?

Sent from my iPhone

Jenny Verdery

202-431-2890

On Aug 21, 2018, at 7:35 PM, Anita Mitra <anitaliviamitra@yahoo.com> wrote:

Meridith,

Those impacted neighbors who are able to attend the community meeting on August 29th will do so, but I would like to note the following:

- this case has been dormant since early May 2018 when the applicant told us that a contract would be entered into with an operator within approximately ten days, but that did not happen,

- we did not hear anything until late July 2018 when you reached out to our former ANC Commissioner, Malia Brink, on July 25, 2018 to inform her that the applicant has found an operator and that you would like to set up a meeting with the community; Malia responded the same day, informed you that she has to resign because she moved and asked you to contact me regarding the meeting with the operator, but you never reached out to me, so I had to contact you on August 3, 2018,

- You did not respond to my August 3, 2018 e-mail, so I followed-up with you on August 10, 2018 and then you responded that you/your client/the operator unilaterally decided that the community meeting, the purpose of which is to discuss the project with impacted neighbors, will be on August 29th, knowing full well that many people will still be out of town until after Labor Day.

- If I had not followed-up with you on August 10, 2018, I do not know when I would have learned about the meeting.

Please be advised that we will be asking the ANC to delay its consideration of your client's project until October 2018 so that the impacted community may have time to digest and consider the information learned from the operator on August 29, 2018. This preparation time is especially since, as you are aware, our SMD currently does not have an ANC Commissioner.

Regards,

Anita

On Monday, August 13, 2018, 8:41:41 AM EDT, Moldenhauer, Meridith <MMoldenhauer@cozen.com> wrote:

I will check with the team but working with multiple schedules and accommodating upcoming ANC meetings, the 29th is what worked. We want to make sure we have people from our team present to answer questions.

Currently, we have the 29th scheduled for representatives from Guest Services, the operator, to be present and able to answer questions. Guest Services has been serving the Greater Washington Area since 1917. While Guest Services started locally, they now service facilities nationwide. The company has extensive experience in many hospitality industries and started servicing senior living facilities in the 1970s.

We look forward to talking in more detail at a community meeting.

I will inquire about other days but it took us some time to schedule the 29th.

Meridith

Sent from my iPhone

On Aug 13, 2018, at 7:53 AM, Anita Mitra <anitaliviamitra@yahoo.com> wrote:

Meridith,

Thank you for getting back to me on this. Are there any later dates on which you and the operator are available to meet? While DCPS starts on August 20th, many private schools do not start until after Labor Day on either September 4th or 5th (Edmund Burke School, Georgetown Day School, National Cathedral School, Potomac School, Sidwell Friends, St. Albans, St. Patricks).

Would you also please share the name of the operator?

Thank you,

Anita

On Monday, August 13, 2018, 7:16:15 AM EDT, Moldenhauer, Meridith <MMoldenhauer@cozen.com> wrote:

Anita – We have coordinated with our team and our team is available to meet with the community on August 29th at 6pm or 7pm.

Seeing that DCPS starts on August 20th – so this should work for most people. We are finalizing a meeting location and will send that out to you shortly.

Meridith

Meridith Moldenhauer
Member | Cozen O'Connor
1200 19th Street NW | Washington, DC 20036
P: 202-747-0763 F: 202-683-9389 C: 202-246-7070
[Email](#) | [Bio](#) | [Map](#) | cozen.com

From: Anita Mitra [<mailto:anitaliviamitra@yahoo.com>]
Sent: Friday, August 3, 2018 10:52 AM
To: Moldenhauer, Meridith <MMoldenhauer@cozen.com>
Cc: Paul Cunningham <pac@harkinscunningham.com>; nmacwood@gmail.com
Subject: Re: Fwd: BZA Case 19751 - MED Developers

Hi Meridith,

We look forward to meeting with you to learn about the new operator. Will the operator also attend the meeting? I will be away as of tomorrow and a lot of other neighbors are currently away. People will be back when schools start, which will be between August 20th and early September after Labor Day. I think the impacted neighbors will most benefit from a meeting the first or second week of September. Does this work for you? If so, would you please send me dates that work for you and I will coordinate a meeting?

Regards,

Anita

From: Brink, Malia N. (SMD 3C08) [<mailto:3C08@anc.dc.gov>]
Sent: Wednesday, July 25, 2018 10:03 AM
To: Moldenhauer, Meridith <MMoldenhauer@cozen.com>

Cc: DeBear, Eric J. <EDeBear@cozen.com>; Nancy MacWood <nmacwood@gmail.com>; Anita Crabtree <anitaliviamitra@yahoo.com>
Subject: Re: BZA Case 19751 - MED Developers

I actually had to resign my post effective end of this month. We relocated out of the SMD. I would encourage you to meet with Nancy with regard to the ANC and Anita, with regard to the neighborhood. Both are copied here.

Malia

On Jul 25, 2018, at 9:46 AM, Moldenhauer, Meridith <MMoldenhauer@cozen.com> wrote:

Hi. I am back from vacation and would like to schedule an informal meeting to provide you with more information now that the operator is on board. Do you have time the 1st full week of August?

Meridith

Meridith Moldenhauer
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1200 19th Street NW | Washington, DC 20036
P: 202-747-0763 F: 202-683-9389 C: 202-246-7070
[Email](mailto:MMoldenhauer@cozen.com) | [Bio](#) | [Map](#) | cozen.com

From: DeBear, Eric J.
Sent: Monday, July 16, 2018 2:23 PM
To: Brink, Malia N. (SMD 3C08) <3C08@anc.dc.gov>
Cc: Moldenhauer, Meridith <MMoldenhauer@cozen.com>
Subject: RE: BZA Case 19751 - MED Developers

Commissioner Brink,

Thank you for the confirmation. Are you available during the week of August 6th for a meeting or conference call to discuss the new operator? I would suggest grabbing a coffee if that works for you. Given that the ANC is not meeting, we would like to provide some of this information to you so we can determine if the ANC will need further information or if any new questions arise.

Thank you,

Eric

Eric DeBear
Attorney | Cozen O'Connor
1200 19th Street NW | Washington, DC 20036
P: 202-747-0769 F: 202-683-9394 C: 617-909-1052
[Email](mailto:EDeBear@cozen.com) | [Bio](#) | [Map](#) | cozen.com

From: Brink, Malia N. (SMD 3C08) [<mailto:3C08@anc.dc.gov>]
Sent: Thursday, July 12, 2018 4:15 PM
To: DeBear, Eric J. <EDeBear@cozen.com>
Cc: Moldenhauer, Meridith <MMoldenhauer@cozen.com>
Subject: Re: BZA Case 19751 - MED Developers

As noted previously we do not meet in August at all. Monday is our next meeting, and because of Labor Day it will likely be on Tuesday the 4th or Wednesday the 5th.

Malia

On Jul 12, 2018, at 3:42 PM, DeBear, Eric J. <EDeBear@cozen.com> wrote:

Commissioner Brink,

I am working with Meridith on our client's project at 2619-2623 Wisconsin Avenue NW. I wanted to reach out to confirm that the ANC's Planning and Zoning Subcommittee will be meeting on August 6th. I know that some ANC's do not meet in August.

Additionally, our client has selected an operator and we are currently working with the operator to provide further information to the community, as requested. We intend to have that information to you prior to the August 6th meeting.

Thank you,

Eric DeBear

Eric DeBear
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P: 202-747-0769 F: 202-683-9394 C: 617-909-1052
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BZA Case No. 19751 (MED Developers, LLC)

AFFIDAVIT OF SERVICE

I hereby certify that on September 26, 2018 a copy of the foregoing Response to Applicant's Opposition to MAHCA's Motion to Dismiss or, in the Alternative, to Postpone was served via e-mail to the following:

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