

**DC Board of Zoning Adjustment
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DC for Reasonable Development
Daniel Wolkoff, member
Cynthia Carson, member
Melissa Peffers, member
Jerome Peloquin, member,
James Fournier, member,
Linwood Norman, member,
Jimmie Boykin, member

Appellants,

v.

DC Department of Consumer and
and Regulatory Affairs,

Respondent.

BZA Appeal No. 20191

**EMERGENCY MOTION TO REOPEN RECORD PURSUANT TO 11-Y DCMR 602.6
AND CONSIDER APPELLANT'S PRIOR REQUEST THAT THE BZA PUBLISH A
WRITTEN ORDER NOW MORE THAN EIGHT MONTHS AFTER VERBAL
DECISION ON SEPTEMBER 16, 2020**

Per the BZA rules [11-Y DCMR 602.6, 11-Y DCMR 407.1, .2, et. seq., and 11-Y DCMR 408.1(b), 11-Y DCMR 506.1(b), (h)] and pursuant to email instructions from the Board of Zoning Adjustment Secretary, Mr. Clifford Moy, Appellants jointly file this emergency motion to open the record and consider our prior request that has not seen the light of day. We are asking the BZA to write and publish the order in this case as soon as possible.

All parties have been served per 11-Y DCMR 205, *et seq.* Since this correspondence is being filed as an emergency and given the timing of submission, none of the opposition parties have actively

granted consent to filing, and we presume they will oppose.

Prior emergency letter not put before the BZA

Attached find Appellant's prior emergency request that was sent back on March 11, 2021 seeking BZA consideration. **ATTACHMENT 1.** This emergency request letter was prevented from being put before the BZA by the BZA Secretary and done so without much explanation as to why. So the Appellants are compelled to file this emergency motion per 11-Y DCMR 602.6 to re-open the record for good cause and without prejudice to any parties and ask the BZA to grant the motion.

Appellant's Are Prejudiced Without A Written Decision More Than Eight Months On

The underlying BZA appeal asked Commissioners to consider how the DC Zoning Administrator, Mr. Matthew LeGrant erred by not considering the existing PUD requirements for second stage-stage review of the McMillan Master Plan be completed prior to permit issuance. Moreover, we showed the fact that Mr. Legrant and other officials with the Respondent, DC Dept. of Consumer and Regulatory Affairs contravened zoning regulations by choosing not to ensure recordation of the existing, forever-bound McMillan preservation covenants that run with the McMillan land deed before approving the issuance of permits to demolish the entire 25-acre historic site.

The BZA issued a verbal decision denying our appeal on September 16, 2020. There has still yet to be a written decision published by the BZA thus prejudicing Appellants from acting on their rights to reconsideration per 11-Y DCMR 700, *et. seq.*, given errors in fact and law. The errors in fact and law are quite evident on the record and was especially prominent during the September 16, 2020, meeting when BZA Commissioners discussed and then moved to a verbal decision denying this appeal.

Conclusion

Pursuant to DC Zoning regulations, 11-Y DCMR 602.6, among others, Appellants ask the BZA staff to ensure this motion is put before the BZA as soon as possible and then for Commissioners to act quickly on this emergency motion.

Respectfully submitted by Appellants on this the 25th day of May, 2021.

Regards,

/s /n

Chris Otten, co-facilitator

DC for Reasonable Development

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CERTIFICATE OF SERVICE

I, Chris Otten, attest to serving the above **EMERGENCY MOTION TO REOPEN RECORD PURSUANT TO 11-Y DCMR 602.6 AND CONSIDER APPELLANT'S PRIOR REQUEST THAT THE BZA PUBLISH A WRITTEN ORDER NOW MORE THAN EIGHT MONTHS AFTER VERBAL DECISION ON SEPTEMBER 16, 2020** on May 25, 2021, as follows:

RESPONDENT DCRA

Hugh.Green@dc.gov
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Mayor Muriel Bowser,
By email: com@dc.gov

Courtesy copies to all complainants:

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And by mail to:
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Signed,
/s /n
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