

**DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

<i>In re</i> Appeal of DC for Reasonable Development	BZA Case No. 20191  Next Event: Public Hearing, August 5, 2020, 9:30 a.m.
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**DMPED’S RESPONSE TO APPELLANT’S  
EMERGENCY MOTION TO SUPPLEMENT THE RECORD**

At the Board of Zoning Adjustment’s (the Board’s) public meeting on June 24, 2020, the Board held in abeyance the Office of the Deputy Mayor for Planning and Economic Development’s (DMPED’s) motion to dismiss the appeal for consideration at the public hearing of August 5, 2020.<sup>1</sup> The Board also requested that the appellant provide “all statements, information, briefs, reports ... or other exhibits that the appellant may wish to offer in evidence at the public hearing,” as required by 11Y DCMR § 302.12(h).

On July 29, 2020, appellant filed an emergency motion to supplement the record, arguing that the Board should consider new arguments relating to the pending U.S. Commission of Fine Arts (CFA) review of DMPED’s plans for the planned park and community center located at the site, and claiming that “[t]his

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<sup>1</sup> This appeal challenges the Department of Consumer and Regulatory Affairs’ (DCRA’s) issuance to DMPED of permits D1600814 and FD1800040 (the Permits), which authorize demolition and construction of a foundation for a new community center at the McMillan Sand Filtration Site (the Site), which is owned by the District of Columbia and managed by DMPED.

recently discovered information has prior to now been closeted away by the Applicant, DMPED and the Respondent, DCRA, who were responsible in [*sic*] noticing parties ... ." Emergency Mot. to Supplement the Record [52] at 2. The Board should deny the motion and decline to consider these arguments, for the reasons previously expressed by DMPED, including that appellant's submission is an improper attempt to expand the basis for the appeal, CFA review is outside the Board's jurisdiction to consider, and the CFA did not mandate any changes to the community center. *See* DMPED's Response to Appellant's Supplemental Submissions [46] at 5. DMPED also joins DCRA's opposition to the emergency motion. *See* D.C. Department of Consumer and Regulatory Affairs' Response to Appellant's Emergency Mot. to Supplement the Record with Information Regarding the U.S. Commission of Fine Arts [54].

For the foregoing reasons, and the reasons stated in DCRA's response to appellant's emergency motion to supplement the record [54], the Board should deny the motion.

Dated: August 4, 2020.

Respectfully submitted,

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Deputy Attorney General  
Public Interest Division

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**CERTIFICATE OF SERVICE**

Pursuant to 11Y DCMR § 205, undersigned counsel certifies that on August 4, 2020, a copy of this response was served by email on:

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/s/ Brendan Heath  
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