

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001**

Appeal by Michael D. Hays
Appeal by DuPont East Civic Action Assoc.

BZA Appeal No. 20452
BZA Appeal No. 20453

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS’S
OPPOSED MOTION TO CONSOLIDATE AND
FOR LEAVE TO FILE ITS RESPONSIVE BRIEF BY JULY 21, 2021.**

NOW COMES, D.C. Department of Consumer and Regulatory Affairs (“DCRA”) for its *Opposed Motion to Consolidate and for Leave to File Its Responsive Brief by July 21, 2021*, states as follows:

I. Consolidation Is Appropriate As The Two Appeals Raise the Same Issues and Challenge the Same Final Determination by Zoning Administrator.

Appellants Dupont East Civic Action Association (“DECCA”) and Michael D. Hays (“Mr. Hays”) (collectively the “Appellants”) filed two separate appeals challenging the Zoning Administrator’s approval of a lot subdivision (Sq. 192, Lot 108). The appeals were docketed in January 2021 (BZA Appeal 20453 on or about January 19, 2021; BZA Appeal 20452 on or about January 18, 2011).

These two appeals challenge the same determination by the Zoning Administrator and raise the same issues. Further, the Appellants intend on relying on the same expert witnesses—James McCreary and Ravi Ricker. The Board of Zoning Adjustment (the “Board”) may consolidate matters in the interests of justice and efficiency. See, e.g., *Appeal No. 19224 of ANC 1C* and *Appeal No. 19225 Frederick W. McCarthy III* (because both appeals challenged the same decision of the Zoning Administrator, the Board granted a motion to consolidate). In this instance, consolidation is warranted as appeals both challenge the same decision of the Zoning Administrator. The Board must grant this motion and consolidate these two matters.

II. DCRA Seeks Leave To File its Responsive Brief on Before July 21, 2021 Under Subtitle Y § 302.17

Under Subtitle Y § 302.17, DCRA may file its responsive brief(s) to the appeals seven (7) days before the public hearing. *See*, Subtitle Y § 302.17. This matter was originally set for Virtual Public Hearing on May 12, 2021, which required that DCRA file its responsive brief(s) on or before May 5, 2021. However, the Board has administratively continued these two cases and set the matters for a Virtual Public Hearing on July 28, 2021 (“rescheduled hearing”). However, the Board’s Memoranda is silent with respect to the filing deadlines.¹ DCRA brings this Motion to (a) clarify the record; and (b) to the extent applicable, allow DCRA to file its brief(s) seven (7) days prior of the rescheduled hearing date, pursuant to Subtitle Y § 302.17.

Accordingly, DCRA intends to file its responsive brief seven (7) days before the rescheduled hearing –July 21, 2021 and prays that the Board grant this Motion.

Respectfully submitted,

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Date: 5/5/21

/s/ Hugh J. Green
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¹ BZA Appeal No. 20453 – Exhibit 31 BZA Memo - Hearing Administratively Rescheduled to July 28, 2021 through Webex; BZA Appeal 20452 –Exhibit 25 BZA Memo - Hearing Administratively Rescheduled to July 28, 2021 through Webex.

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CERTIFICATE OF SERVICE

I certify that on this May 5, 2021, a copy of the foregoing was served to:

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