Public Library
DISTRICT OF COLUMBIA

Anacostia
Benning
Capitol View
Chevy Chase
Cleveland Park
Francis A. Gregory/ Fort Davis
Georgetown
Juanita E. Thornton/ Shepherd Park
Lamond-Riggs
Mount Pleasant
Northeast
Palisades
Petworth
Southeast
Southwest
Takoma Park
Tenley-Friendship
Washington Highlands
Watha T. Daniel/Shaw
West End
Woodridge

Langston
Parklands-Turner
R.L. Christian
Sursum Corda
Deanwood Kiosk

Engaging Minds,
Expanding Opportunities.

July 10, 2003

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Ms. Carol J. Mitten
Chairman
Zoning Commission for
the District of Columbia
441 4th Street, N.W.
Washington, DC 20001

RE: Case No. 03-10 (Text Amendment-Public Libraries)

Dear Chairman Mitten:

The District of Columbia Public Library (DCPL) is requesting that the attached letter written to Mr. Stephen Mordfin, Office of Planning, become a part of the record regarding the above noted case.

The Commission sought a more definitive explanation for the terms "public library" and "library use" and the attached document, prepared with guidance from our General Counsel, provides what we believe is a clearer definition and is hopefully responsive to the Commission's request.

Thank you for your kind attention to this request.

Sincerely,

Mary E. Raphael

Mary E. Raphael
Director
District of Columbia
Public Library

ZONING COMMISSION
District of Columbia
Case 03-10
Exhibit 18

ZONING COMMISSION
District of Columbia
CASE NO.03-10
EXHIBIT NO.18

July 7, 2003

RECEIVED
D.C. OFFICE OF ZONING
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VIA FACSIMILE and Regular Mail

Mr. Stephen Mordfin
Development Review Specialist
DC Office of Planning
801 North Capitol Street, NW
Suite 4000
Washington, DC 20002

RE: District of Columbia Public Library
Text Amendment – Definitions

Dear Mr. Mordfin:

In response to the Zoning Commission's request that DCPL provide definitions for "public library " and "library use", I asked our General Counsel to review the statute and relevant court cases pertaining to the above definitions.

Establishment of Public Library

DC Official Code 39-101 (2001 Edition) established a free public library that is to be maintained in the District of Columbia. A portion of the language states, **"and said library shall consist of a central library and such numbers of branch libraries so located and so supported as to furnish books and other printed matter and information service convenient to the homes and offices of all residents of the said district."**

Library Use

DCPL's General Counsel has researched and found there is no definitive case law that clearly defines what constitutes "library use". The absence of such cases could result from the fact that there is a consensus as to what constitutes "library use". As noted above, **the statute has clearly established the use of the property as a library and there is no support that can be cited to allow one to take library property for a use other than its designed use.**

ZONING COMMISSION
District of Columbia
Case 03-10
Exhibit 18

In the case, Moline v. Greene, where the City of Moline proposed to take ten (10) feet off of the Moline Public Library property in order to widen the street in front of the library. Residents and appellees in the suit, Nelson Green and A.A. Crampton, objected to the construction on the grounds that the library was a public property already devoted to a public use and could not be taken for another public use. Pursuant to the objection, the city's petition for construction was rejected and the city appealed the ruling. **The Illinois Supreme Court affirmed judgment in favor of the appellees stating that there is no authority to take property already devoted to a public use and apply it to a different use**.

We would therefore argue that property dedicated as library use should not be used for any other purpose other than those set out by the District of Columbia. Moline went on to cite Chicago and Alton Railrod Co. v. City of Pontiac, 169 Ill. 155; Chicago and Northwestern Railway Co. v. City of Chicago, 151 Ill. 348; which provides that "the general rule is, that such property cannot be taken and appropriated to another and different use unless the legislative intent to so take it has been manifested in express terms or by necessary implication. The rational in Moline states that "if it is held appellant has authority to take part of the property, it would necessarily require holding that all of the property could be taken by virtue of the same authority, if that were sought to be done." In reviewing the anaogy, DCPL's General Counsel, applying the reasoning of Moline, to take part of the DCPL property for a different use without the express authority or implied authority, may subsequently allow any or all of the library property to be taken for a different use other than for what it was officially designated.

The bottom line to all of this is that "library use", as established by the statute and noted above, "said library shall consist of a central library and such numbers of branch libraries so located and so supported to furnish books and other printed matter and information service convenient to the homes and offices of all residents of the said district."

Should you have any questions or need additional information, please feel free to give me a call at 202-727-4913 or Kim Green at 202-727-2340.

Sincerely,

Shirley Tolbert Diamond
Capital Construction

Cc: Molly Raphael , Director
Grace Perry-Gaiter, General Counsel
Kim Green, Project Coordinator
File- Chron, Zoning/Text Amendment