

**TESTIMONY OF DAVID H. MARLIN BEFORE ZONING COMMISSION ON
FEBRUARY 26, 2014**

My name is David Marlin and my wife and I have resided in the District since 1961 and since 2005 at 2101 Connecticut Avenue, NW, a 64-unit cooperative apartment house built in 1927 and located in the Kalorama Triangle Historic District

I have served as a District administrative law judge for 11 years as an appellate judge with the Rental Housing Commission, a trial judge with the Contract Appeals Board and as Chair of the Board of Appeals and Review.

In 2012, Lock 7 developers contracted to purchase two well-cared-for Colonial Revival adjoining single-family town houses at 2102 and 2104 Kalorama Road adjacent to our property with the intention of converting them into 17 condominium apartments. Lock 7 presented its concept construction plans to the Historic Preservation Review Board in the Fall of 2012 without notifying either our coop building or the other adjacent apartment house at 2100 Kalorama Road, in violation of its legal obligation. The concept plan was approved by HPRB before we and 2100 Kalorama Road had been informed. HPRB dismissed the developer's transgression as a "misunderstanding" and approved the concept plan. The residents of 2101 Connecticut and 2100 Kalorama Road subsequently contested the proposal but were informed by the HPRB that its jurisdiction extended only to design and Lock 7's enormous construction project could and would be approved as a zoning by-right.

This last point is critical. HPRB is mandated to ensure that development in historic districts conforms to historic guidelines. Here, HPRB failed spectacularly. One illustration: the juxtaposition of heights between single-family townhouses and pre-war apartment buildings like ours is one of the distinguishing characteristics of the Kalorama Triangle Historic District as illustrated by the Designation of the Kalorama Triangle Historic District by the Secretary of the Interior. HPRB ignored these decades-old characteristics by decreeing that a developer can increase a building to three times its original size because, HPRB reasoned, the apartment building next door is taller. HPRB offered not one shred of evidence, not one statute, to support its decision. Instead, HPRB buttressed its misreading of historic guidelines by asserting only that the developer's plans would be approved by the Zoning Board as a "matter of right."

Deferring to zoning rules is in dereliction of HPRB's responsibilities. Its job is to pass judgment on whether a proposed design conforms to the historical character of the building in question, the immediately adjacent buildings in the block and the historic district as a whole. In our case, HPRB failed on all three considerations. Our experience is not the only example. HPRB has permitted in-fill development and pop-ups that destroy open spaces and are incompatible with the historic character of the buildings and the neighborhood affected. We invite you to examine our case history and come visit the site.

2101's extensive and expensive opposition efforts succeeded in several favorable design changes but the wholesale renovations, below ground and to the height and the massive add-on construction to the rear have severely compromised the historic character of our neighborhood and have adversely affected the light, air and privacy of our residents. Our hope was that the historic guidelines put in place years before would be upheld. We didn't stand to reap millions of dollars in profit like Lock 7. All of the experts we consulted opined that HPRB was ignoring fundamental principles of historic preservation when it approved this project.

I provide this history of our case, which is well documented and fully available, for your study during your current consideration of zoning regulation revisions.

The District is, members of the Zoning Commission, in the midst of a smart growth policy that has been extended into historic districts where special protections that have been provided by law and regulations are no longer honored.

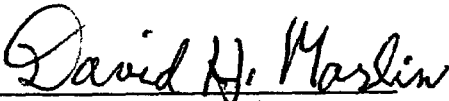
This outrageous intrusion into historic districts, I believe, is a product of the leadership and staff of the Office of Planning, the latter supplying staff work for HPRB.

The smart growth push has been to increase density around all Metro transportation routes, subway and bus, even though Kalorama Triangle is fully built out and the only way increased density can occur is by invading existing buildings.

This push has included restructuring minimum parking requirements even though Kalorama Triangle street parking is almost non-existent and no garage parking exists.

Our story is that HPRB no longer complies with its mission. Therefore, we urge you to down-zone our historic district so that issues of density, noise and parking are controlled and the character of our neighborhood is once again protected in accordance with the intent of historic guidelines. The change in zoning can be accomplished by requiring a developer seeking to renovate a historic property to seek a variance before the Zoning Board of Appeals with concurrent approval of the HPRB, all subject to regulations to be adopted.

Respectfully submitted,


David H. Marlin