

April 21, 2017

VIA IZIS

Chairman Anthony Hood
District of Columbia Zoning Commission
441 4th Street NW, Suite 200
Washington, DC 20001

Re: ZC Case No. 14-18A – First-Stage PUD Modification and Second-Stage PUD Application (“Application”) of Mid-City Financial Corporation (the “Applicant”) – Applicant’s Opposition to Motion to Strike

Dear Chairman Hood and Members of the Commission:

On April 18, 2017, the Brookland Manor/Brentwood Village Residents Association (the “**Association**”) made a Motion to Strike (the “**Motion**”) Exhibits 179 D1 and D2 from the record in this case. These Exhibits contain a memorandum entitled “Analysis of Potential Impact of the RIA Development on Gentrification, Destabilization of Property Values, Displacement, and Employment” and related exhibits (collectively, the “**Memorandum**”) and were part of the Applicant’s April 10, 2017 post-hearing submission. The Applicant hereby opposes the Association’s Motion.

The Memorandum, as well as all of the other information submitted by the Applicant on April 10, 2017, falls squarely within the scope of the specific materials that the Zoning Commission requested in a post-hearing submission. The Memorandum contains information that will assist the Commission in its deliberations on the Application. The Applicant underscores that it has not proffered the author of the Memorandum as an expert witness in this matter.

The Association seeks to strike the Memorandum on the grounds that it did not have the opportunity to cross-examine the Applicant with respect to the Memorandum. The Zoning Regulations do not afford the Association the opportunity to cross-examine materials in the Applicant’s written post-hearing submission. Instead, the Zoning Regulations allow parties in opposition to file written responses within seven days of the proponent’s post-hearing submission. 11-Z DCMR § 602.3. This regulation protects the opposing party’s procedural rights and was followed in this case: the Association was served with a copy of the Memorandum (among other materials) on April 10, 2017 and had eight days to file a post-hearing submission. The Association had the opportunity to rebut the Memorandum or offer

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contradictory evidence in its own post-hearing submission. Rather than offer any rebuttal or discussion of the Memorandum, the Association filed the Motion.

The Association's Motion is puzzling. If the Association's logic is followed, it would seem to require that either a public hearing with cross-examination must be conducted on any material included as part of a post-hearing submission or that no new information may be included in a post-hearing submission. The Association's Motion is inconsistent with the Zoning Regulations and the practice of the Zoning Commission. The Association's procedural rights were adequately protected by the Zoning Commission allowing the Association to submit a response to this information eight days after it was submitted by the Applicant. Accordingly, the Motion should be denied.

The Applicant looks forward to the Zoning Commission's deliberations on this case at the April 24, 2017 public meeting.

Sincerely,

A handwritten signature in blue ink that reads "Paul A. Tummonds, Jr." with a stylized flourish at the end.

Paul A. Tummonds, Jr.

A handwritten signature in blue ink that reads "D. A. Lewis" in a stylized, blocky font.

David A. Lewis

Certificate of Service

The undersigned hereby certifies that copies of the foregoing document will be delivered by first-class mail or e-mail to the following addresses on April 21, 2017.

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Brookland Manor Residents Association (*via e-mail*)
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Washington Legal Clinic for the Homeless
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David A. Lewis