

1768 Lanier Pl NW
Washington, DC 20009
February 22, 2017

Chairman Frederick L. Hill
And the Members of the
Board of Zoning Adjustment
District of Columbia Office of Zoning
441 4th Street NW, Suite 200S
Washington, DC 20001

RE: In support of DCCA's Appeal in BZA Case No. 19374

Dear Chairman Hill and the Members of the Board of Zoning Adjustment,

I am writing to express my support for the Dupont Circle Citizen's Association (DCCA) appeal in Board of Zoning Adjustment (BZA) case number 19374, which concerns Basement-Cellar Rule problems at 1514 Q Street NW.

My neighbors and I signed a petition which was submitted to the BZA in November 2016 to support the appeal in BZA Case #19374 on the Basement-Cellar Rule. We ask the BZA to address the fact that, although zoning regulations define a "Cellar" as being (1) partially below grade and (2) non-habitable space, the Department of Consumer and Regulatory Affairs (DCRA) has consistently ignored the second part of the definition. We are asking BZA to require DCRA to consistently and completely apply the definition of a "Cellar."

The 1514 Q Street NW neighborhood is a rowhome neighborhood with one of the highest growth and building rates in the City. The neighborhood had been plagued in recent years by out-of-control unscrupulous Pop-Up construction turning rowhouses into gigantic ugly apartment buildings with zero regulatory oversight. Neighbors regularly reported that when they would report zoning or construction violations to DCRA, they would be repeatedly ignored, and later, after the illegal building was completed, DCRA inspectors would come to the Site and say that "there is nothing that we can do about it now – it is already built"!

One of the vehicles that DCRA has used to inflate the size of Pop-Ups, and ruin tax-paying residents' lives, throughout the City, is by an inane perversion of the Basement-Cellar Rule. This rule, as currently implemented, allows developers to declare the Basement of a rowhouse a "Cellar" regardless of whether it is actually a "Cellar" by definition. Calling the Basement a "Cellar" allows the developer to omit this level of the building when calculating Floor Area Ratio (FAR), and thereby allows them to add another story on top of the building, higher than other buildings. Then the developer is allowed to turn around and develop a full-scale apartment in the "Cellar", even though it is actually a "Basement" and rent it out for \$3,000 per month and keep the extra story on top of the building, with impunity.

There is no reason why the obfuscation of this rule needs to be perpetuated – it's a simple rule, and there is a reason for it – so that the tax-paying residents in the neighborhood can maintain some quality of life and not be overshadowed by towering apartment buildings where there used to be rowhouses. The basic notion of this whole entire hearing and this whole entire issue is this: there is a reason for Zoning Regulations, and DC has Zoning Regulations, and those Zoning Regulations should be followed and not manipulated by the very agency that is supposed to implement them.

Board of Zoning Adjustment
District of Columbia
CASE NO.19374
EXHIBIT NO.80

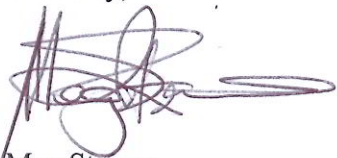
A related issue that results from this manipulation of Basement-Cellar Rule is an issue very important to me. Washington, DC is losing green space at an alarming rate. Every time one of these simple rowhouses is converted into a luxury apartment building with people living in the Basement, the lovely front yard and any trees that may have been nearby are almost always removed entirely in order to create an entrance/egress that meets building codes. This would not amount to much if it were not such a common occurrence, but so many rowhouse front yards are being removed that these lovely tree-lined streets with rows of green flowering leafy front yards are becoming vast expanses of brick and stone. Even if you don't care about green space, if you think you don't need trees and green space for your own survival, think again! Once they are gone, the human race is going to regret killing the trees.

I had hoped and intended to testify in person. However, I took a day off of work on December 14, 2016 in order to testify, only to arrive at the Jerrily R. Kress Memorial Hearing Room, Room 220 South, to find it had been postponed because the Department of Consumer and Regulatory Affairs (DCRA) had failed to submit their paperwork on time. I had worked a 12-hour day in Charlottesville, VA the prior day, and drove home late at night to attend, and therefore missed the 11th-hour emails alerting people of the postponement. I took another day off of work to testify on January 18, 2017, and after several hearings prior to the 19374 hearing, DCRA used legal obfuscation to derail the hearing and get it postponed again. I could not justify to my boss that I needed a third day off in order to attend the same hearing. It is not acceptable that ordinary citizens cannot be heard if they have a job.

Please do not allow DCRA to manipulate the Basement-Cellar Rule in this case or in future cases. Firstly, if the space is a Cellar, then treat the space as a Cellar, during FAR calculations, permit review, Zoning review, construction inspections, and Certificate of Occupancy issuance. Secondly, if the space is a Basement, do not approve a construction permit that adds an additional story to the building omitting the Basement from FAR calculations. Thirdly, DCRA must stop allowing developers to manipulate the determination of whether-or-not the space is a Cellar or a Basement by excavating or constructing false grade-level structures that are solely for the purpose of manipulating the rule. Abolish the notion that if DCRA fails to stop illegal construction while it is happening, it is too late to do anything about it once it is built. My neighborhood suffers many many consequences of that phenomenon by DCRA.

Please apply the Basement-Cellar Rule, as written in plain English, to this case and future cases. There is nothing ambiguous about the language of the Basement-Cellar Rule; the ambiguity is only in how DCRA allows developers to manipulate and obfuscate the rule, and DCRA allows developers to declare the lower level a Cellar at one time and subsequently construct and sell a luxury apartment in the same space with total impunity. Tax-paying neighbors are left to live with the consequences.

Sincerely,



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