



DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS

Office of the Zoning Administrator

November 21, 2017

VIA CERTIFIED MAIL

To: Serhat Akin
452 Newton Place, NW #1,
Washington, D.C. 20010-1716
Owner of Units 1, P-2, and P-3 (Lots 2011, 2014, & 2015)

Sheida Isabel Elmi Trustee
452 Newton Place, NW #2,
Washington, D.C. 20010-1716
Owner of Units 2 and P-1 (Lots 2012 & 2013)

Bryan Manning, *Governor*
Kaim Development Corporation LLC
12426 Kondrup Drive
Fulton, MD 20759
bryan@kaimdevelopment.com
Certificate of Occupancy Holder

Serhat Akin
1330 Belmont Street, N.W., Unit #101
Washington, D.C. 20011
serhat@kaimdevelopment.com
Registered Agent for Certificate of Occupancy Holder

Re: **452 Newton Place, NW (Square 3036, Lot 0089)**

NOTICE TO REVOKE CERTIFICATE OF OCCUPANCY CO1603907

This is official notice from the Department of Consumer and Regulatory Affairs (“DCRA”) that Certificate of Occupancy No. CO1603907 (the “**2016 CofO**”), issued on December 30, 2016 for a “2-UNIT FLAT” located at 452 Newton Place, NW, Washington, D.C. 20010, known for assessment and taxation purposes as Lot 0089 in Square 3036 (the “**Property**”) and located in the RF-1 Zone, is in violation of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”)) and will be revoked on **January 23, 2017** (the “**Revocation Date**”) unless the Property is brought into compliance as described below before the Revocation Date.

Board of Zoning Adjustment
District of Columbia
CASE NO.19712
EXHIBIT NO.11

1) The 2016 CofO was issued to “Kaim Development Corporation LLC” (“**Kaim**”), which no longer owns the Property. Section A-302.1 of the Zoning Regulations prohibits a person to use a property unless that person has received a CofO in that person’s name. Kaim converted the Property to a condominium regime, the Newton Park Apartments Condominium (the “**Condo**”), comprised of two residential units (Units 1 and 2) and three parking units (Units P-1, P-2, and P-3) on February 28, 2017 (Condominium Declaration, Instrument #20170022616 in the Land Records of the Recorder of Deeds; Condominium Book 91, page 50 in the Land Records of the Office of the Surveyor). Kaim sold Units 2 and P-1 to Sheida Isabel Elmi on April 20, 2017 (Instrument #2017046424) and Units 1, P-2, and P-3 to Serhat Akin on August 31, 2017 (Instrument #2017106157). On September 1, 2017, Kaim had its corporate registration revoked.

Therefore the Condo failed to comply with the requirement of Section A-302.1 of the Zoning Regulations (and Section 110.1 of the Building Code (Title 12A of the DCMR)) to obtain a new CofO upon the change of ownership.

2) The RF-1 Zone, in which the Property is located, allows only 2 units as a matter of right per Section U-301.1(b) of the Zoning Regulations. A third unit is only allowed in the RF-1 Zone upon receipt of a special exception from the Board of Zoning Adjustment (“**Board**”) under Section U-320.2 of the Zoning Regulations.

Kaim applied for the 2016 CofO on September 28, 2016, and stated on the application that the “basement recreation room [will be limited to] owner use only.” This was supported by the construction plans approved with building permit B1603923 (the “**Original Permit**”) that depicted a doorway establishing an internal connection between the lowest level and next level.

However, before issuing the 2016 CofO, DCRA took enforcement action to bring the Property into compliance with 2-unit maximum. Specifically, DCRA required Kaim to remove the third kitchen, or obtain relief from the Board, by an email of November 20, 2016 to Mr. Manning and Mr. Akin (the governor and registered agent, respectively, for Kaim). Mr. Manning confirmed his receipt of this email in a reply of December 7, 2016 inquiring about the timeframe for a decision by the Board. A week later (on December 15, 2016), Kaim applied for a revision to the Permit, Number B1702830, “to remove existing stove per zoning request”, which was issued on December 16, 2016 (the “**Revision**”). A DCRA inspection confirmed the removal of the stove on December 22, 2016.

DCRA approved the 2016 CofO based on (i) Kaim’s statement in the application, as corroborated by the associated Permit plans, that the basement level would be used as part of the first floor unit, and (ii) the Revision removing the stove from the basement level. As a result, DCRA determined that the Property had only 2 residential units and so was in compliance with the Zoning Regulations.

However, a DCRA investigation on November 16, 2017 of the Property revealed that there are three units. The units are identified by signage that reads 'Unit #1, Unit #2, and Unit #1A'. There is a first floor entrance door for Unit #1 and Unit #2, identified by their signage Unit #1 and Unit #2. There is another building entrance on the east side (street level) with signage on the door that reads Unit #1A. The investigation of the Property also confirmed that there are three (3) separate electrical meters on the east side of the building. In addition, Unit 1A was advertised for rent online as a "2 bedroom/2 bathroom" basement unit that included a full kitchen (stove, microwave, fridge, disposal, and dishwasher) and was apparently rented on May 1, 2017.¹

Based on the online rental advertisement, the third electric meter, and the third mailbox, DCRA has determined that the basement is being used as a third unit in violation of Section U-320.2 of the Zoning Regulations.

DCRA is authorized to revoke a CofO if the actual occupancy does not conform to the occupancy authorized by the CofO (Section 110.5.1 of the Building Code (12A of the DCMR)) or if the CofO was issued in reliance on an application that contained a material misrepresentation (Section 110.5.2 of the Building Code).

Pursuant to that authority, and based on the information stated above, DCRA hereby provides notice that the 2016 CofO will be revoked because

- (1) the current owner is not reflected on the 2016 CofO as is required by Section A-302.1;
- (2) the current use of the Property as a 3-dwelling unit building is a different occupancy than the 2-dwelling unit use authorized by the 2016 CofO, which was issued in reliance on the representation that the basement would be a part of the ground floor dwelling unit and not a separate dwelling unit.

This revocation will take effect on the Revocation Date unless the Property is brought into compliance before the Revocation Date by:

- 1) Surrendering the 2016 CofO and apply for a new CofO in the name of the Condominium (Section A-302.2 allows for a single CofO for multiple dwelling units in a single building);
- 2) Cease using the basement as a third unit;
- 3) Removing the third electric meter, mailbox and signage for the basement level/Unit 1A;
- 4) Applying for a new building permit to remove the kitchen on the basement level and remove the appliance electrical/ gas connections, as was required by the Revision, and once issued as a permit, perform the approved work;
- 5) Upon completion of the removal of the kitchen, scheduling a DCRA inspection to confirm that the basement level remains connected to the first floor by an unlocked internal connection and to confirm that the kitchen on the basement level has been

¹<http://www.longandfoster.com/rentals/452-Newton-Place-NW-UNIT-1A-Washington-DC-20010-195162518;>
<https://hotpads.com/452-newton-pl-nw-washington-dc-20010-1mdmajz/1a/pad>

removed, with the appliance gas/electric connections removed as was required by the Revision; and

- 6) Submitting an affidavit from the owner of Unit 1 stating that the basement level will not be used as a separate unit, including not being rented out as a separate apartment from the ground floor portion of Unit 1, and promising to inform any subsequent purchaser of this limitation.

As an alternative to numbers 2-6, the Condo may instead obtain relief from the Board for a special exception under Section U-320.2 to allow the third dwelling unit on the Property. If the Board grants the special exception, the Condo should apply for a new CofO to reflect the authorized third dwelling unit.

RIGHT TO APPEAL

This revocation of the Permit may be appealed under Section 105.6(6) of the Building Code by filing an appeal with the District of Columbia Board of Zoning Adjustment, 441 4th Street, NW, Suite 210 South, Washington, DC 20001 (<http://dcoz.dc.gov>) no later than the Revocation Date, sixty (60) days after the date of service of this Notice, said service deemed to be November 24, 2017 per Section Y-204.3 of the Zoning Regulations (3 days after mailing). Any questions about the appeal process should be directed to the Office of Zoning at (202) 727-6311 or via email at dcoz@dc.gov.

Any questions about this Notice may be directed to the Office of the Zoning Administrator at (202) 442-4576 or via email at matt.legrant@dc.gov.

Date: NOV. 21, 2017


Matthew Le Grant
Zoning Administrator