

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001

Appeal by Residences of Columbia Heights, A Condominium BZA Appeal No. 20183

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS’
OPPOSED MOTION TO
EXCLUDE CERTAIN TESTIMONY *IN LIMINE***

The D.C. Department of Consumer and Regulatory Affairs (“DCRA”), by and through counsel, and for its Opposed Motion to Exclude Certain Testimony *In Limine*, states as follows:

DCRA moves to exclude irrelevant testimony *in limine*. The Board of Zoning Adjustment (the “Board”) has the power to limit or exclude irrelevant testimony under 11-Y DCMR § 506.1(e). Upon information and belief, Appellant, Residences of Columbia Heights, a Condominium (“RCH”), intends to tender certain witness testimony “regarding the adverse impacts on each of their properties flowing from the violations of the law and regulations as alleged in this appeal.”¹ RCH seeks to offer this testimony through the following individuals: Barbara Bridges, Amity Kirby, Jordan MacKenzie, and Jumana Qamruddin.² These individuals are unit owners who reside at 1420 Clifton St NW. However, such testimony is irrelevant, immaterial and unduly repetitious. It should be excluded under Subtitle § 506.1(e). (See, also, Subtitle Y § 408.9, citing D.C. Code §2-509(b) (. . . every agency shall exclude irrelevant, immaterial, and unduly repetitious evidence).

This Appeal is limited to whether or not the Zoning Administrator erred in approving the building permit with respect to highly technical aspects of the zoning regulations.³ The proposed

¹ BZA Appeal 20183 – Exhibit 33A- Appellant’s Supplement to Revised Pre Hearing Statement.

² BZA Appeal 20183 – Exhibit 33A- Appellant’s Supplement to Revised Pre Hearing Statement.

³ BZA Appeal 20183 - Exhibit 33 - Appellant’s Revised Pre-Hearing Statement, p. 2.

witness testimony is irrelevant as: 1) none of the witnesses are being offered to demonstrate *how* the Zoning Administrator erred in approving the building permit; and 2) the alleged testimony will not assist the Board in determining any technical zoning matter. Accordingly, the proposed testimony from RCH’s (4) four witnesses regarding “adverse impacts” is wholly irrelevant, immaterial, and unduly repetitious and should be excluded under Subtitle Y § 506.1(e).

If, however, the Board considers allowing the witnesses to testify, the Appellant must first provide a detailed proffer as to how the testimony of any of these witnesses is relevant to the issues on Appeal.

WHEREFORE, DCRA respectfully requests that the Board grant its Motion and exclude testimony and evidence *in limine* regarding the “adverse impacts on each of their properties flowing from the violations of the law and regulations as alleged in this Appeal.”

Respectfully submitted,

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Date: 2/18/20

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CERTIFICATE OF SERVICE

I certify that on this February 18, 2020 a copy of the foregoing was served via electronic mail to:

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