

**BEFORE THE BOARD OF ZONING ADJUSTMENT  
FOR THE DISTRICT OF COLUMBIA**

APPEAL OF A DECISION OF THE ZONING ADMINISTRATOR FOR THE DISTRICT OF  
COLUMBIA, DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
SUBDIVISION OF LOT 108 ON SQUARE 192

In re	)	
	)	Case No.20453
Appeal of Dupont East Civic	)	
Action Association)	)	
	)	
_____	)	

In re	)	
	)	
Appeal of Michael D. Hays	)	Case No. 20452
	)	
_____	)	

**REPLY OF APPELLANTS DUPONT EAST CIVIC ACTION ASSOCIATION  
AND MICHAEL D. HAYS TO DCRA’S OPPOSITION TO MOTION  
TO REVISE SUBMISSION SCHEDULE**

In their Motion to Revise Submission Schedule, Appellants Dupont East Civic Action Association and Michael D. Hays (collectively “DECAA”) moved the Board of Zoning Adjustment (“BZA”) to revise the dates for submissions set forth in the BZA Rules of Practice and Procedure Subtitle Y §§ 302.16-302.18 as follows:

- Monday April 12, 2021: Appellants shall file with the Board any supplemental documents (9 days earlier than required under § 302.16, i.e. April 21).
- Friday April 30, 2021: Appellee and all persons with party status and the affected ANC shall file any responsive briefs and supporting information, whether in support of or opposition to the appeal (giving them 18 days after Appellants’ submission instead of 14 days, 4 extra days than the time between filings allowed under §§ 302.16-302.18).

- Friday, May 7, 2021: Appellants may file a brief and supporting information in reply to any of the responsive briefs (giving Appellants' 7 days instead of 4 days, 3 extra days between the time for filings allowed under §§ 302.16-302.18).

The common sense basis for this motion was to provide more time for the parties to prepare their submissions and for the BZA to consider those submissions before the hearing scheduled on May 12, 2021.

Surprisingly, DCRA has opposed this motion principally on the alleged grounds that the proposed revised schedule “shortens DCRA’s time to respond[.]” Opp. at 2. This short-sited contention is wrong in the fundamental sense that the proposed schedule, as noted above, will provide DCRA with 18 days after Appellants’ *final submission* instead of 14 days, an extra 4 days. While it is true that DCRA’s submission would be due “several days earlier than required under the rules” (Opp. at 2), nevertheless the proposed schedule provides DCRA with an extra 4 days to respond to Appellants’ final submission, which is the critical point.

Moreover, as Appellants noted in their motion, the provision of extra time for Appellants’ reply is fair and just given the total absence of any documentation regarding the basis for the Zoning Administrator’s approval of the subdivision at issue. The Zoning Administrator’s failure to provide any analysis at the time of his approval of the subdivision should not be used in conjunction with the very short 4 day period provided in the rules as a tactical ploy to deprive Appellants of due process by denying them a reasonable opportunity to respond. The predicate of the 4 day period provided in the rules undoubtedly assumed that the Zoning Administrator would have provided the parties with adequate notice of the basis of his decision. Here, there was none. Under these circumstances, it is not reasonable to impose a 4 day requirement for reply submissions. Appellants require the additional time set forth in their proposal to consult with their experts and prepare their reply submissions.

**CONCLUSION**

For all the above reasons, Appellants respectfully request that BZA grant this request for a revised submission schedule.

Respectfully submitted,

For Dupont East Civic Action Association

/s/Edward Hanlon

Edward Hanlon

For Michael D. Hays

/s/Michael D. Hays

Michael D. Hays

### Certificate of Service

I hereby certify that, pursuant to 11-Y DCMR §§ 205.3(e) and 302.15, a copy of the foregoing Reply of Appellants Dupont East Civic Action Association and Michael D. Hays to DCRA's Opposition to Motion to Revise Submission Schedule has been served, this 28th day of March, 2021, upon the following by email:

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