

**APPELLANT'S FORM 125  
SUPPORTING STATEMENTS**

The statements required in the Appeal 125 Form are all included below, as an attachment to the Form 125 online electronically filed form. Appellant has broken down the required statements in accordance with specified filing requirements. Appellant reserves the right to supplement these statements prior to the hearing, and will include summaries of witness testimony.

**1. Appellant**

The Residences of Columbia Heights, a Condominium  
1420 Clifton Street, N.W.  
Washington, DC 20003

There are 36 residential units and 18 deeded parking spaces in this condominium. All owners are represented by the Appellant.

**2. Counsel for Appellant**

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Counsel for Appellant has supplied a Y§302.10 Authorization Letter as **Exhibit 1**.

**3. Statement of Decision Appealed**

The Administrative Decision being appealed by Appellant is the Decision of the Department of Consumer and Regulatory Affairs to approve and issue building permit number B1908601 granted to the Department of General Services on September 30, 2019 for new construction at 2500 14<sup>th</sup> Street, N.W.

Appellant has supplied the September 30, 2019 Permit as **Exhibit 7**.

**4. Owner of the Subject Property**

a. The property identified in Building Permit B1908601 is 2500 14<sup>th</sup> Street, N.W., Washington, DC 20009 and is owned by the Department of General Services.

b. The building permit B1908601 is for the construction of a second principal building on Lot 205, Square 2662, at 2500 14<sup>th</sup> Street, N.W., Washington DC 20009. The Property is in the MU-5A zone.

## **5. Statement on Appeal Timeliness**

Appellant has regularly monitored the status of the building permit on permit tracking pages of DCRA at: <https://eservices.dcradepot.com/obpat/default.aspx> and <https://pivs.dcradepot.com/#!/searchHomePage>.

The building permit was approved on September 30, 2019, which Appellant's counsel became aware of October 1, 2019. See Timeliness discussion in Appellant's Pre-Hearing Statement. Exhibit 13.

## **6. Statement on Appellant's Standing**

Appellant is aggrieved by the erroneous issuance of the building permit as an abutting property owner. Building permit approval is for construction that will adversely impact the use and enjoyment by Appellant of its property and that of its members, who own or reside in condominium apartments in the Appellant's abutting building. A lawful permit would not have been issued, if at all, until the BZA had determined via a special exception proceeding whether that part of the permitted construction that constitutes an emergency shelter use should be allowed and, if so, under specified conditions to minimize or eliminate any adverse impacts or compatibility concerns raised by Appellant in the special exception hearing, i.e., the hearing that should have preceded issuance of the permit. Absent relief in this appeal, that hearing has been obviated due to issuance of the permit without special exception approval, in violation of U-513.1(b)(6). In this case, for example, the construction authorized by the permit will all but completely block the light and air to the east from Appellant's condominium. See *Tiber Island Coop Homes, Inc. v. D.C. Zoning Comm'n*, 975 A.2d 186, 192 n.6 (D.C. 2009) ("neighbors whose everyday views would be affected by a proposed development are precisely the sort of people who have a sufficiently concrete and particularized interest in a zoning project to have standing to challenge that project."); *Cathedral Park Condo. Comm'n v. D.C. Zoning Comm'n*, 743 A.2d 1231, 1234, 1238 (D.C. 2000) (condominium committee had standing to represent unit owners in a building across the street from the challenged project).

## **7. Statement of Issues on Appeal**

A. The Permit was unlawfully issued for the following reasons:

1. The Permit approves a special exception use on the property despite the applicant's failure to obtain the requisite special exception approval from the BZA, as specified in U-513.1(b), for an "emergency shelter."

2. The Permit erroneously authorizes the construction of a second primary building on the Property in violation of B-309.1 and A-301.3 because, among other deficiencies in the

approved plans, the connection between the two buildings has not been shown to be fully above grade, one of the requirements for two buildings to be considered one. B-309.1(a).

3. The Permit erroneously authorizes violation of the rear-yard setback requirements for the second primary building in the MU-5A zone, G-405.2, due to the erroneous acceptance of the claim that the added building and the existing building are to be considered a single building.

4. The Permit erroneously authorizes violation of the parking and loading requirements for the portion of the permitted construction that constitutes an “emergency shelter” use.

B. DGS’s claim that this appeal is untimely is meritless.

The issues on appeal are more fully described in a Memorandum sent by undersigned counsel to the Zoning Administrator on April 18, 2019, **Exhibit 4**, and in a follow-up letter of May 8, 2019, **Exhibit 6**, which responds to a May 3, 2019, letter from DGS counsel. **Exhibit 5**.

The issues are discussed in Appellant’s Pre-Hearing Statement. **Exhibit 12**.

## 8. Exhibits

Appellant’s Initial Pre-Hearing Statement is filed herewith as **Exhibit 12**. It references most of the following additional exhibits:

**Exhibit 2** – Google Ariel photograph of the property

**Exhibit 3** – DGS-DCRA email correspondence (March 2019)

**Exhibit 8-11** – Excerpted plans from DGS Permit application