

February 19, 2018

Dear Zoning Commission Members,

I am writing to you to offer my opinion regarding case #17-18. I am a licensed Architect working in the District. I have 18 years of experience in the design profession working in the District and surrounding communities and have been a licensed sole practitioner in DC for the past 5 years. The primary goal of case #17-18 is to clarify the rules of measurement regarding cellars, basements and gross floor area. I am greatly supportive of this clarification effort and I believe that the fundamental intent of the revision is sound and serves all interested parties.

However, I am writing to the Board because of the proposed changes to the regulation of window wells and areaways. These proposed changes, in my opinion, may have unintended consequences with regards to accessibility and fair, inclusive access to housing, especially in light of the age and configuration of much of the existing housing stock within the District of Columbia. These new regulations do not effectively address one of the primary reasons that architects create and utilize areaways and window wells. In the course of practice of architectural design, I have encountered multiple projects that utilize or modify areaways and window wells on existing buildings to both create accessible routes for disabled people and improve the use and enjoyment of existing housing stock by disabled people. Limiting the ways we design and include these devices in our designs could effectively exclude disabled people from equal access to the District's older housing stock and its established historic and older neighborhoods. I believe that the proposed rule changes to areaways and window wells need further consideration by the Zoning Department and the Office of Planning with this in mind. I also feel that the Office of Human Rights and/or the Office of Housing and Community Development should be consulted for testimony. Lastly, the Department of Transportation (DDOT) routinely reviews areaway design, has codified a definition of an areaway within public space and routinely has favorable reception of areaways within public space to serve or improve access, use and enjoyment by disabled people. Their Public Space division (PSRA) should be consulted, as well. Allowing for greater access to existing housing stock for people with disabilities not only allows greater choice of housing options for disabled people; it also makes this housing more affordable. If the proposed changes to areaways and window wells are adopted, the following unintended consequences may arise:

- The proposed zoning code changes may discriminate against disabled people by limiting housing options, especially in older neighborhoods, and further limit the use and enjoyment of accessible housing by disabled people.
- The proposed zoning code changes may effectively de-incentivize re-development of existing housing stock to include people with disabilities. Currently, buildings built or occupied prior to March 13, 1991 are not covered by the Fair Housing Act; however, because of the configuration and availability of cellar or basement space in this older housing stock, areaways and window wells offer a unique opportunity to include people who would otherwise be excluded. If

property owners are disadvantaged by these regulations to provide access or develop these lower levels with this in mind, they won't do so.

- The design and/or modification of existing housing to accommodate disabled people may be unduly burdened by the Zoning Variance process. While I am confident that the BZA would be highly receptive to such a potential variance, developing and presenting this variance request requires a significant amount of resource that could be an undue burden to applicants.
- Accessibility improvements to properties of those who may become disabled in the future should be considered. In many cases, accessible design is commissioned when people become disabled and need to modify the dwellings they currently occupy. Regulations need to recognize that areaways and window wells help provide this access and help improve the use and enjoyment of these dwellings.

I have not had the opportunity to consider all of the potential implications of the regulations; however, I would like the Board, the Office of Planning and the Zoning Administrator to consider the following:

- Disabled people who cannot occupy elevated dwelling units in FHA covered buildings should be afforded an equal private outdoor space as occupants on upper levels. Currently, apartment houses are permitted by zoning code to have a maximum 6' projection as a balcony without limit of length along the face of the building and without impacting the Gross Floor Area of the building. An areaway is essentially a balcony that is below grade. Disabled people and especially people with mobility disabilities should have equal access to private outdoor space as those in elevated units. While I don't think it is reasonable to provide unlimited length of areaway along the face of the building, these two architectural devices included in the zoning code (balconies and areaways) should be given equal consideration as effectively providing the same amenity.
- My understanding of the Fair Housing Act is that any unit that is constructed or renovated after March 13, 1991 becomes a covered dwelling unit if it is located on an accessible route. By refining and improving the definition of an areaway, the zoning code could align the goal of greater inclusion of disabled people and the re-development of older housing stock. Stated plainly, if the zoning code is incentivized to convert otherwise non-covered, non-FAR dwelling units into accessible units, access will be improved.
- The ramps and stairs that serve an areaway should be explicitly excluded from the area that is considered as an areaway. Without this specific exclusion- the regulations could be interpreted such that a compliant areaway serving a cellar is no longer possible. In plain terms- when I measure the areaway- do I count the ramp that serves the areaway? What portion is the ramp? What portion is the areaway? As I understand the proposed changes, there is no specific exclusion and no clear definition of what is a stairway or ramp used to access the areaway and what is the areaway, itself. Also, the Zoning Board might consider a specific

Special Exception for areaways that improve accessibility or use and enjoyment by disabled people.

- Many areaways occupy some combination of public space and private space. The Department of Transportation already regulates areaways in public space and providing accessibility is routinely considered a favorable reason for approval by the Public Space Commission. The proposed changes should reinforce this policy and not limit the development of areaways that partially occupy public space as an approved projection. Sometimes in design- we are 'connecting' a public space areaway to a portion of that same areaway that is wholly on private property. There should be a provision that allows continuity of a public space areaway to the building face without reduction in size and without impacting the BHMP or Grade Plane calculation.

I hope that this testimony is helpful. Thank you for your time and consideration.

Sincerely,



William M. Cleaveland, AIA