



Advisory Neighborhood Commission 6A
P. O. Box 75115
Washington, DC 20013



February 3, 2013

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Office of Zoning
441 Fourth Street NW, Suite 210S
Washington, DC 20001

RE: BZA Case 18499 – ANC 6A will not appear but does not withdraw

Dear Mr. Moy,

Under the authority of their designation of me to act on behalf of the ANC, ANC 6A has decided not to appear in its appeal of building permit #B1209455. We do not, however withdraw from the appeal. We still believe that the Zoning Administrator erred in this case, but believe that further prosecution of the matter is futile because the Board of Zoning Adjustment has abrogated its responsibility to enforce the Zoning Regulations and act as an oversight body for the Office of the Zoning Administrator.

For example, in the January 15, 2013 public meeting for BZA Case 18439, Chair Jordan acknowledged the Zoning Administrator did not comply with Section 3202.3 when it issued the building permit and felt that the office could be “slapped on the wrist” for the improper issuance – but then failed to revoke the permit. In addition, it was clear that Chair Jordan and the rest of the BZA believed that Board had the authority to ignore the zoning regulations when it thought that the Office of the Zoning Administrator followed reasonable but uncodified procedures.

In BZA Case 18146, the BZA ruled that the Zoning Administrator erred in issuing a Certificate of Occupancy, but exceeded its authority by preventing the ANC from appealing the revised C of O. Section 3200.1 clearly states

... appeals to the Board of Zoning Adjustment may be taken by any person aggrieved, or organization authorized to represent that person, .. affected by ANY decision of an administrative officer granting ... a certificate of occupancy or any other administrative decision based in whole or part upon any Zoning Regulations... (emphasis added)

When this issue was raised at the hearing, the Board cited no authority to prevent the ANC's appeal of an administrative decision of the Zoning Administrator.

The current Board does not follow the rule of law when it permits the Zoning Administrator to follow extra-legal procedures that contradict the zoning regulations. If Chair Jordan and the rest of the BZA do not agree with a provision in the zoning regulations, they are free to petition the Zoning Commission to change the regulations through a rulemaking. However, they should not be free to ignore the regulations because they disagree with them or issue orders which exceed their authority as granted by these regulations.

Because we believe we cannot get a fair hearing before the BZA and are prevented by law from appealing BZA decisions to court, we will concentrate our efforts on:

Urging the City Council to lift the current prohibition of ANCs from appealing BZA decisions to court. and

Making the City Council aware the Board has made rulings inconsistent with the zoning regulations and has abrogated its responsibility to act as an oversight body to the Office of the Zoning Administrator.

Sincerely,

A handwritten signature in black ink that reads "David Holmes". The signature is written in a cursive, flowing style with a large initial "D".

David Holmes
Chair

cc: Matt LeGrant
Christy Shiker, Holland and Knight