

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General for the District of Columbia



ATTORNEY GENERAL



September 10, 2007

Commissioner Joseph Fengler
ANC Commissioner 6A02
8125 F Street, NE
Washington, DC 20002

RE: Special Public Meeting Held by the Board of Zoning Adjustment on August 17, 2007

Dear Commissioner Fengler,

I am responding to your email of August 28, 2007, concerning the special public meeting held by the Board of Zoning Adjustment ("BZA" or "Board") on August 17, 2007. That meeting was called to consider two agenda items; one of which was a motion for reconsideration filed by your ANC in *Appeal No. 17532 of AppleTree Institute for Education Innovation, Inc* ("AppleTree Appeal"). Your email noted that OAG offers legal advice to the BZA and welcomed my review of the procedures followed by the Board.

In response, I asked Alan Bergstein, the Chief of the OAG Section that advises the Board, to review your contentions that the BZA violated the notice requirements of its own rules, as well as §3 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D.C. Law 13-135, D.C. Official Code § 1-309.10) ("ANC Act"), when it scheduled the public meeting.

Soon thereafter, I became aware that the Inspector General (IG), by letter dated August 30, 2007, amended the original audit engagement letter in OIG No. 97-2-28-GA to add, as a third objective, a determination whether "the Board of Zoning Adjustment provided proper notice to ANC 6A when it scheduled hearings with regard to the AppleTree Institute for Education and Innovation's plans to construct a charter school at 138 12th Street, NE."

Although the objective, as stated, does not accurately describe the nature or procedural posture of the AppleTree Appeal (in that the BZA did not schedule further hearings to consider plans to construct a charter school, but had scheduled a public meeting to consider ANC 6A's request that the Board reconsider its reversal of the Zoning Administrator refusal to issue a building permit for such construction), I think it prudent to hold our response until the IG investigation is completed and we have its information.

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It does seem from our initial review that BZA provided proper notice of the special public meeting, including the notice of the one-day postponement resulting from the BZA Chair's need to attend a funeral. However, we will fully examine the matter once the IG has completed its review, and will respond fully to you then.

Sincerely,



LINDA SINGER
Attorney General

cc: Alan Bergstein