GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12514 of Western Union Telegraph Company, in which it was joined of record by Washington Gas Light Company, for amendment of BZA Order No. 7393 and pursuant to Paragraph 8207.11 of the Zoning Regulations for variances from the side yard requirement (Sub-section 5304.15) and the rear yard requirement (Sub-section 5303.1) to permit construction of a new 320 foot communications tower structure in the C-3-A District at the premises 4623 and 4621 - 41st Street, N. W. (Square 1769, Lots 6, 808 and 809).

HEARING DATE: October 25, 1977
DECISION DATE: November 2, 1977

FINDINGS OF FACT:

1. During the hearing, upon motion duly seconded and unanimously carried, by amendment of the application Washington Gas Light Company, the record owner of Lot 809, which was listed in the application, was joined of record as an applicant along with Western Union Telegraph Company, the record owner of Lots 6 and 808 which were also listed in the application.

2. The subject properties are located at 4623 and 4621 - 41st Street, N. W., in a C-3-A District.

3. The property of applicant Western Union is improved with a three-story, concrete, special purpose communications terminal building supporting two towers. It was the subject of BZA Order No. 7393.

4. The property of Applicant Washington Gas Light Company is improved with a one-story, brick, special purpose communications terminal building supporting one tower.

5. The applicants seek permission for Western Union to erect a triangular communications tower structure, with two legs in the side yard of the Western Union premises and one leg in the rear yard of the Washington Gas premises. A maximum height of 320 feet above ground was stipulated

for this tower by the applicants' witnesses and counsel during the hearing. A height of 340 feet had been specified as the proposed use of the property in the original application.

6. In order to approve the proposed plans for the tower, the Board would have to amend BZA Order No. 7393 to allow modification of plans; and it would have to grant a variance allowing two legs of the tower to rest in the side yard of the Western Union property and a variance allowing its third leg to rest in the rear yard of the Washington Gas property.

7. For a 340 foot tower, the side yard requirement is 58.06 feet, the side yard proposed to be allowed is 4.35 feet, and the variance sought is 53.71 feet, or 93%. This would be slightly less for a tower of 320 feet.

8. The rear yard requirement is 15 feet, the rear yard proposed to be allowed is zero feet, and the variance sought is 15 feet, or 100%.

9. It would be impossible to construct a tower of the proportions contemplated upon the property of either applicant, alone; and it would be impossible to do so on the combined properties without the side yard and rear yard variances requested. Washington Gas Light Company will grant a written, recorded easement for this use of its property and agreed to furnish a copy for the record.

10. The location of the subject lot is topographically unique as it is one of the highest elevations in the District of Columbia. This reduces the height of the tower necessary to transmit over surrounding geographical features.

11. The location and proportions of the proposed tower are practically essential for the purposes contemplated by the applicants, as it would be virtually impossible to find another location which would be approved by the Federal Communications Commission. Those purposes would serve the public interest, and the proposed tower would not adversely affect the light and air access of adjacent properties.

12. The proposed tower is a matter-of-right use in the C-3-A District under Sub-section 4101.38 of the Zoning Regulations. However, if this application is granted, the proposed tower's height would have to be approved in accordance with the Act of June, 1910, by the Mayor of the District of Columbia, an authority now delegated to the Director, Department of Housing and Community Development under C. O. 68-431 and Reorganization Plan No. 3 of 1975.

13. At its regular meeting on October 18, 1977, the Commissioners of ANC-3E unanimously voted not to oppose the application, with one member abstaining.

14. The Municipal Planning Office, by memorandum dated October 20, 1977, reported its approval and recommended that the application be granted.

15. There was no opposition to the application.

CONCLUSIONS OF LAW:

The Board concludes that the requested variances are area variances, the granting of which requires the showing of practical difficulty. Based on the record the Board concludes that the subject property is unique, and that strict compliance with the Zoning Regulations is impossible and would present practical difficulties arising from the nature of the property upon the owner of the property. The Board further concludes that the granting of the application would not create any adverse affect on the use of neighboring property. Accordingly, it is therefore ORDERED that the application is hereby GRANTED.

VOTE:

4-0 (Chloethiel Woodard Smith, Charles R. Norris, William F. McIntosh and Leonard L. McCants to grant, Walter B. Lewis not voting, not having heard the case).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 8 NOV 1977

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.