

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application Nos. 15030-46, 15207, 15246, 15249, 15332, 15377 and 15418 of the Lauren Condominium Association and Mokhless Al-Hariri, et al. (No.15332), Dennis Wiggins, et al. (No. 15377), and Caroline Mano (No. 15418); and the further hearing of the applications of Dr. Eric C. Bergman, M.D. (No. 15030), Dr. Marilyn M. Schwartz (15031), Dr. Rosalyn Hirsch (No. 15032), Psychological Services Associates (No. 15033), Dr. David Cage (No. 15034), Dr. Michael J. Petite, M.D. (No. 15035), Dr. James W. Bullard (No. 15036), Robert Keats (No. 15037), Drs. Jonathan and Sally Bloom-Feshbach (No. 15038), John Doolittle (Nos. 15039 and 15207), Dr. Lynn Hornyak (No. 15040), Dr. Robert A. Blum (No. 15041), Leila Ryland Swain (No. 15042), Dr. Steven and Aline Quint (No. 15043), Dr. Frederick M. Jacobsen and Dr. Lillian Comas-Diaz (No. 15044), Caroline Mano, MSW (No. 15045), Dr. Linda Guerkink and Dr. Leslie Chepin Roen (No. 15046), Katherine A. Brunkow (No. 15207), Dr. Richard B. Gerber, M.D. and Naomi L. Gerber No. 15246) and Donald T. Benedick (No. 15249), pursuant to 11 DCMR 3108.1, for special exceptions under Section 508 to establish professional offices on part of the first through third floors and the fifth through tenth floors of an apartment building in an DCOD/SP-2 District at premises 1301 20th Street, N.W. [Square 115, Lot 83 (Unit Nos. 101, 102, 104, 106, 108, 109, 110, 111, 117, 203, 204, 213, 216, 217, 301, 305, 314, 315, 504, 505, 509, 515, 516, 601, 603, 608, 615, 702, 711, 713, 805, 807, 913, 1015 and 1016)].

HEARING DATES: December 13, 1989, March 14, 1990, July 18, 1990, October 21, 1992, February 10, 1993, April 21, 1993 and May 5, 1993

DECISION DATES: January 3, 1990, April 4, 1990, July 18, 1990, September 5, 1990, November 9, 1990, May 6, 1992, July 1, 1992 and June 2, 1993

FINAL DATE OF ORDER: January 20, 1995

RECONSIDERATION ORDER

The Board denied the applications by its Final Order dated January 20, 1995. By letter dated February 2, 1995, counsel for Application Nos. 15030-32, 15034-36, 15038-43, 15045-46, 15207 and 15246 filed a timely request for reconsideration of the Board's decision. These applications are a portion of the larger consolidated group of applications. The basis for the motion to reconsider is summarized below:

1. The Board, in its order, applied the wrong legal standard in denying the subject applications.

2. The Board's order is without basis in the record in terms of the findings with respect to floor area ratio calculations and traffic impact.
3. The Board's procedural actions with respect to the subject applications are legally deficient and deprive the applicants of due process of law.

The motion for reconsideration appeared on the Board's public meeting agenda of March 1, 1995. The Board members present to participate in the decision were Craig Ellis, Laura M. Richards and William L. Ensign. Mr. Ensign participated in the decision to reverse and deny the applications. Mr. Ellis and Mrs. Richards indicated on the record that they had read the record in the case. Mr. Clarens was not present, but was sent the record to read. He submitted an absentee vote to the staff on the matter.

After the applications were officially called for Board action, Mr. Ensign made a motion to deny the motion for reconsideration. Mrs. Richards seconded the motion. Mr. Ellis expressed disagreement with the motion to deny reconsideration, stating he believed the Board should reconsider its decision because of a procedural deficiency in the earlier decision. After considering Mr. Ellis' views, Mrs. Richards withdrew her second, and the motion to deny reconsideration failed for the lack of a second. At this point, Mr. Ellis moved to grant the motion for reconsideration and Mrs. Richards seconded the motion. By a vote of 3-1, the Board voted to grant the motion to reconsider its decision (Craig Ellis, Laura M. Richards and William L. Ensign to grant; Angel F. Clarens opposed to the motion by absentee vote, Susan Morgan Hinton not voting, not having heard the cases).

In deciding to grant the motion for reconsideration, the Board noted that after the applications were denied in 1993, there was a question about whether all of the Board members who voted on the applications either heard the cases or read the records. On the meeting tape of November 7, 1990, there is no verbal indication by former Board member Paula L. Jewell that she read the record. Also, at various times throughout the process, other Board members who did not hear the case failed to indicate on the record whether they read the record in the applications. The current Board is concerned that without such a confirmation, the decision by the Board could be reversed on appeal. In an effort to avoid this result, the Board deemed it necessary to reconsider the decision and correct this procedural deficiency.

The Board deferred further action on the request to its meeting of May 3, 1995. At the May 3rd meeting, the Board deferred the matter to a special public meeting of May 17, 1995 to allow all members who participated in the case to be present.

At the meeting of May 17, 1995, the Board re-examined the applicable Zoning Regulations and the evidence in the applications. Mr. Ellis moved for approval. This motion failed for the lack of a second.

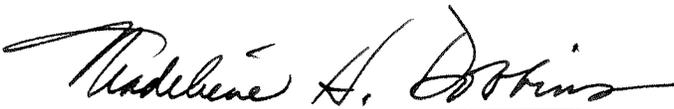
During the discussion, the Board expressed the view that the burden of proof had not been met, and that use of these condominiums for business purposes creates an adverse impact on surrounding residential units.

The Board is of the opinion that the previous decision is correct. Therefore, the Board adopts the order dated January 20, 1995, denying these applications.

VOTE: 3-1 (Laura M. Richards and William Ensign to deny; Angel F. Clarens to deny by absentee vote; Craig Ellis opposed to the motion; Susan Morgan Hinton not voting, not having heard the cases).

DECISION DATE: May 17, 1995

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

ATTESTED BY: 
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: OCT 1 1996

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15030-46

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 1 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

John T. Epting, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

John Saah
1521 Church Street, N.W.
Washington, D.C. 20005

Benny L. Kass, Esquire
Kass, Skalet, Segan & Spevack, P.C.
1050 17th Street, N.W., #1100
Washington, D.C. 20036

Jan Schneider
1301 20th Street, N.W.
Suite 1011
Washington, D.C. 20036

Richard Albert
1330 New Hampshire Ave., N.W.
Washington, D.C. 20036

Dr. Beverly Roberts
1660 Beekman Place, N.W.
Washington, D.C. 20009

David Lilling
1301 20th Street, N.W., #202
Washington, D.C. 20036

Jane Harris
1830 Embassy Drive #412
West Palm Beach, FL 33401

Dupont Circle Citizens Assn.
c/o Guido Fenzi
1824 16th Street, N.W.
Washington, D.C. 20009

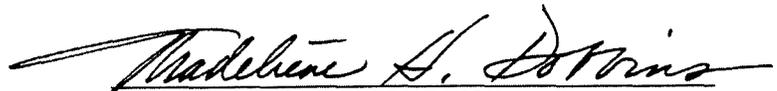
Mokhless Al-Hariri
1301 20th Street, N.W.
#101
Washington, D.C. 20036

Lauren Condominium Association
c/o Joseph Douglas
Whiteford, Taylor & Preston
888 17th Street, N.W., Suite 400
Washington, D.C. 20006

Appoline Unit Owners Assn
c/o Michael B. McGovern
1201 New York Ave., N.W.
#1000
Washington, D.C. 20005

Mr. Henry Fernandez, Chairperson
Advisory Neighborhood Commission 2B
1900 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Estate of John Gullett
1301 20th St., N.W., #113
Washington, D.C. 20036


MADELIENE H. DOBBINS
Director

DATE: OCT 1 1996