

BEFORE THE BOARD OF ZONING ADJUSTMENT, D.C.

PUBLIC HEARINGS - DECEMBER 18, 1968
JANUARY 15, 1969

APPEAL No. 9873 MOTION PICTURE ASSOCIATION OF AMERICA, APPELLANT.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, APPELEE.

ON MOTION DULY MADE, SECONDED AND UNANIMOUSLY CARRIED, THE FOLLOWING ORDER WAS ENTERED AT THE MEETING OF THE BOARD ON JANUARY 7 AND JANUARY 21, 1969.

ORDERED:

THAT THE APPEAL FOR A VARIANCE FROM THE USE PROVISIONS OF THE SP DISTRICT TO PERMIT PROFESSIONAL PERSONS, I.E., PUBLIC RELATIONS COUNSEL AT THE SOUTHWEST CORNER OF 16TH AND EYE STREETS, NW., LOT 803, SQUARE 186, BE DENIED.

FINDINGS OF FACT:

1. THE SUBJECT PROPERTY IS LOCATED IN AN SP DISTRICT.
2. THE PROPERTY IS UNIMPROVED BUT AN SP OFFICE BUILDING IS PRESENTLY UNDER CONSTRUCTION.
3. THE APPELLANT REQUESTS THAT APPROVAL BE GIVEN TO HILL AND KNOWLTON, INC. TO USE APPROXIMATELY 4,500 SQUARE FEET OF THE BUILDING NOW BEING CONSTRUCTED FOR OFFICES OF PROFESSIONAL PERSONS, I.E., PUBLIC RELATIONS COUNSELORS.
4. THE OCCUPANCY WILL BE BY SEVEN PUBLIC RELATIONS COUNSELORS, FIVE SECRETARIES, A CONFERENCE ROOM, A RECEPTION ROOM, A FILE ROOM AND A ROOM HOUSING A XEROX COPIER.
5. APPELLANT ALLEGES THAT ALL PUBLIC RELATIONS COUNSELORS WHO ARE TO BE LOCATED IN THE PROPOSED OFFICE ARE COLLEGE GRADUATES, SOME OF WHOM HAVE HAD POST GRADUATE EDUCATION, EACH COUNSELOR IS ALLEGED TO HAVE HAD SUBSTANTIAL EXPERIENCE IN HIS FIELD.

6. THE COUNSELORS WILL USE THEIR OFFICES TO RECEIVE AND CONFER WITH CLIENTS, TO MAKE AND RECEIVE TELEPHONE CALLS, AND TO PRODUCE SPEECHES, LETTERS, AND OTHER WRITTEN MATERIALS. HILL AND KNOWLTON, INC. REPRESENTS APPROXIMATELY 35 MAJOR CORPORATE AND INDUSTRIAL CLIENTS AND VARIOUS PUBLIC SERVICE AND EDUCATIONAL ORGANIZATIONS SUCH AS THE AMERICAN RED CROSS, THE NEW YORK STATE DEPARTMENT OF EDUCATION AND NEW YORK UNIVERSITY. SUCH COUNSELORS RECEIVE NO "WALK-IN TRADE."

7. A CODE OF ETHICS PROMULGATED BY THE PUBLIC RELATIONS SOCIETY OF AMERICA IS AVAILABLE FOR THE GUIDANCE OF PUBLIC RELATIONS COUNSELORS.

8. THE APPELLANT CONTENDS THAT BZA APPEAL NO. 9292, DECIDED SEPTEMBER 18, 1967, SUPPORTS THIS APPLICATION.

9. THE ORDER IN BZA APPEAL NO. 9085, AUTHORIZING THE ERECTION OF THIS SUBJECT SP BUILDING, IS INCORPORATED IN AND MADE A PART OF THIS RECORD.

10. OBJECTION TO THE GRANTING OF THIS APPEAL WAS REGISTERED AT THE PUBLIC HEARING.

11. THIS APPEAL WAS DENIED BY THE BZA ON JANUARY 7, 1969 AFTER PUBLIC HEARING DECEMBER 18, 1968.

12. APPELLANT MADE APPLICATION FOR RECONSIDERATION, OR IN THE ALTERNATIVE FOR A REHEARING, OR AS A SECOND ALTERNATIVE FOR REFERRAL TO THE CORPORATION COUNSEL OF THE DISTRICT OF COLUMBIA FOR A LEGAL OPINION.

13. THE APPLICATION FOR RECONSIDERATION WITH ALTERNATIVES WAS DENIED BY THIS BOARD ON JANUARY 21, 1969.

OPINION:

WE ARE OF THE OPINION THAT THIS APPEAL MUST BE DENIED. WE ARE ASKED IN THIS CASE TO RULE THAT PUBLIC RELATIONS COUNSELORS ARE "SIMILAR PROFESSIONAL PERSONS" AS THAT PHRASE IS USED IN SECTION 4101.42 OF THE ZONING REGULATIONS. THE APPELLANT HAS

OPINION CONT'D

FAILED, IN OUR VIEW, TO ESTABLISH THAT PUBLIC RELATIONS COUNSELORS ARE "SIMILAR PROFESSIONAL PERSONS" AS CONTEMPLATED UNDER THE ZONING REGULATIONS. WHILE IN APPEAL No. 9292, WE AUTHORIZED "EDITORIAL WRITERS" TO OCCUPY OFFICE SPACE IN THE SUBJECT SP OFFICE BUILDING AS "SIMILAR PROFESSIONAL PERSONS" SUCH APPROVAL WAS GRANTED "UNDER THE LIMITED FACTUAL SITUATION PRESENTED IN THIS CASE." THEREFORE, WE DO NOT ACCEPT APPELLANT'S CONTENTION THAT No. 9292 IS THE SAME AS THE CASE NOW BEFORE US AND SHOULD BE GRANTED ON THE BASIS OF THAT DECISION. EACH CASE MUST STAND ALONE AND MUST BE DECIDED ON IT OWN MERITS.

THE APPELLANT'S REQUEST FOR RECONSIDERATION AND/OR REHEARING IS DENIED. NO NEW EVIDENCE HAS BEEN SUBMITTED WHICH WAS NOT OR COULD NOT HAVE BEEN REASONABLY PRESENTED AT THE ORIGINAL HEARING.

THE SECOND ALTERNATIVE PRESENTED BY THE APPELLANT IS DENIED. THE ZONING ACT AND THE ZONING REGULATIONS AUTHORIZE THE BZA TO INTERPRET THE REGULATIONS, INCLUDING THE QUESTION OF WHO MAY BE CLASSIFIED AS PROFESSIONAL PERSONS UNDER SP DISTRICT REGULATIONS. THE ZONING ACT PROVIDES FOR APPEAL OF BOARD DECISIONS TO THE COURT. THEREFORE, IN THE OPINION OF THE BOARD, THERE IS NO STATUTORY PROVISION FOR CORPORATION COUNSEL REVIEW OF BOARD ACTION. THE BOARD HAS THE TOTAL RESPONSIBILITY FOR INTERPRETING THE REGULATIONS AND SUCH RESPONSIBILITY CANNOT BE DELEGATED.

WE DO NOT BELIEVE THAT THE CHARACTERIZATION ON PUBLIC RELATIONS COUNSELORS AS PROFESSIONALS BRINGS THEM WITHIN THE CLASSIFICATION OF "SIMILAR PROFESSIONAL PERSONS" AS USED IN THE ZONING REGULATIONS. THE SP DISTRICT WAS DESIGNED TO RESTRICT THE TENACY OF OFFICE SPACE. THE DISTRICT IS A BUFFER AND TRANSITION ZONE BETWEEN HIGH-DENSITY RESIDENTIAL AREAS AND THE CENTRAL BUSINESS DISTRICT, NOT A COMPETITOR FOR OFFICE SPACE WITH THE CENTRAL BUSINESS DISTRICT. ALTHOUGH THE DISTINCTION BETWEEN CLAIMANTS TO BE "SIMILAR PROFESSIONAL PERSONS"

OPINION CONT'D

MUST NECESSARILY BE FINE, WE THINK THAT THIS BOARD MUST INTER-
PRET SUCH PERSONS VERY NARROWLY AND RESTRICTIVELY. WE HOLD
THAT THE PUBLIC RELATIONS COUNSELORS ARE NOT "SIMILAR PRO-
FESSIONAL PERSONS" AS THAT TERM IS USED IN THE SP PROVISIONS
OF THE ZONING REGULATIONS AND THAT TO PERMIT SUCH USES WOULD
NOT BE IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE
ZONING REGULATIONS AND MAY TEND TO AFFECT ADVERSELY THE USE
OF NEIGHBORING PROPERTY IN ACCORD WITH SAID REGULATIONS.

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

ATTESTED:

By: 
CHARLES E. MORGAN
SECRETARY OF THE BOARD