

**Via Electronic & First Class Mail**

January 25, 2021

Mr. J. Peter Byrne  
Mayor's Agent Hearing Officer  
Historic Preservation Office  
1100 4th Street, SW, Suite E650  
Washington, DC 20024Re: HPA No. 21-219 – 3060 16th Street, NW  
Kenesaw-Renaissance Building Balcony Replacement

Dear Mr. Byrne:

I am writing as counsel to the DC Preservation League and Historic Mount Pleasant (collectively, "Intervenor") as party to the above-referenced matter.

The Renaissance Condominium Association and the Kenesaw-Phoenix Cooperative, Inc. (collectively, "Applicant"), have submitted a statement requesting clearance for a demolition permit to remove twenty-five (25) original balconies (collectively, the "Balconies") from the historic building located at 3060 16<sup>th</sup> Street, N.W. (Square 2594, Lot 175) and known commonly as the "Kenesaw" (the "Building"). The Balconies are damaged beyond repair due to decades of neglect by the Applicant and require replacement in order to bring the Building into operating condition and permit other maintenance on the Building. Two Balconies have already been replaced with replicas, but Applicant seeks to replace the replicas and the other Balconies with either simple railings or Juliette balconies.

Applicant seeks approval of a demolition permit for removal of the Balconies on the grounds that removal and replacement with a significantly less elaborate design is consistent with the purposes of the D.C. Historic Landmark and Historic District Protection Act (the "Act") and that failure to issue the demolition permit will result in an unreasonable economic hardship to Applicant because of the cost burden placed on a number of low-income residents of the Building.

With a hearing on this matter scheduled for January 28, 2022, Applicant has yet to demonstrate why demolition of the Balconies and replacement with lesser decorative features is consistent with the Act or will result in an unreasonable economic hardship. For the reasons further described below, we request that HPA No. 21-219 be dismissed.

In the initial hearing before the Historic Preservation Review Board (the "HPRB"), the HPRB unanimously found Applicant's plan to be inconsistent with the purposes of the Act. The Balconies were found to be character-defining features of the Building, whose removal would not enhance the Building nor sufficiently retain its fabric or character. While the Act permits some exterior changes to historic buildings, for example to permit an adaptive reuse, no such flexibility is appropriate here.

Applicant's proposal is made simply to save money. Contrary to the purposes of the Act, the changes proposed would not retain and enhance a contributing property but rather degrade it.

Applicant has not identified any flaw in the HPRB's reasoning. Instead, Applicant simply asserts that its proposal is consistent with the Act, seemingly in complete reliance on the fact that sometimes historic features may be lost over time, as if Applicant has no ability to prevent the Building from suffering such losses. Applicant provides no legal reasoning for why the Mayor's Agent might reach a different conclusion than the HPRB upon a second review. A second review on compatibility with the Act cannot be granted without a plausible reason for why the Mayor's Agent might deviate from the HPRB's analysis.

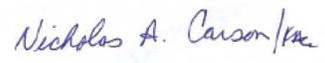
Applicant's argument that failure to approve the demolition permit will result in an unreasonable economic hardship to Applicant requires compliance with the detailed, enumerated requirements of the Act. Applicant has yet to meet any of said statutory requirements. Specifically, in the case of an application for approval due to unreasonable economic hardship on a low-income owner, Section 6-1104(g) requires Applicant to submit information on seven (7) categories at least twenty (20) days prior to the scheduled hearing. However, Applicant submitted a supplement to its initial filing on January 19, 2022, only nine (9) days prior to the scheduled hearing, significantly less than the required twenty (20) days. In the submission, Applicant noted that it intended to submit additional information by January 24, only four (4) days before the scheduled hearing, but Applicant has not done so.

Further, the information submitted is deficient and incomplete as applied to the Building, as it fails to provide the required information for any of the co-op units as required by the statute. Applicant has yet to identify any low-income unit owners that might suffer an unreasonable economic hardship from denial of the demolition permit. Applicant itself is not a low-income owner, and thus cannot qualify based on general information about the Building, even if the information were complete and timely submitted. Applicant claims that approximately one-third of the Building's residents qualify as low-income, but Applicant's failure to submit any information specifically applicable to such owners and Applicant's failure to identify such owners, render evaluation of any claim of unreasonable economic hardship impossible.

Applicant also grossly misrepresents the actual economic effect of denial of the demolition permit. Applicant claims the entire in-kind replacement cost of \$1,500,000 is a burden on each owner. However, Applicant further provides that if the permit were approved, Applicant would move forward with one of its alternative plans costing between \$750,000 and \$1,000,000. Applicant thus doubles or even triples the economic effect on each owner. Applicant's estimate is even more misleading when applied to the low-income residents of the Building, who are expected to qualify for grants made available by a grant program administered through the Historic Preservation Office for the benefit of low-income residents of the Building. A number of residents of the Building have applied and are expected to receive determinations of eligibility very soon. The grant program is specifically targeted at low-income owners and is expected to significantly decrease the burden on any such residents required to contribute to in-kind replacement of the balconies.

For the foregoing reasons, Intervenor respectfully requests that the above-referenced matter be dismissed for Applicant's failure to state grounds on which the Mayor's Agent could find the demolition permit consistent with the Act and for failure to meet the statutory requirements for claims of unreasonable economic hardship.

Very truly yours,

A handwritten signature in blue ink that reads "Nicholas A. Carson" followed by a stylized flourish.

Nicholas A. Carson