

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

SUPERIOR COURT
NO. 02-3071

MOHAMED HANIF BUTT)
)
VS)
)
ZONING BOARD OF APPEALS)
OF THE CITY OF SOMERVILLE,)
etals)

**DEFENDANT EMERALD DEVELOPMENT GROUP INC.'S MOTION FOR LIMITED
REMAND TO THE ZONING BOARD OF APPEALS**

Now comes the defendant, Emerald Development Group Inc., and moves this Honorable Court to remand this matter to the Zoning Board of Appeals of the City of Somerville (herein the "ZBA") for the limited purpose of clarifying certain conditions in its decision granting a special permit with site plan review. As grounds therefore, defendant states that, in the interests of judicial economy, there is substantial likelihood the ZBA will be able to narrow the issues of justifiable fact. Defendant further requests that in the event the Court grants this motion, that it retain jurisdiction and schedule a speedy trial immediately after the reconsideration by ZBA.

Plaintiff would, of course, reserve the right to challenge any new issues raised by any actions of the ZBA by amending his complaint in this action should he deem it necessary.

By its attorney,

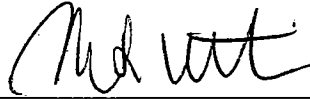


Mark A. White, BBO #525520
O'Brien & White, P.C.
50 Congress Street, Suite 936
Boston, MA 02109
617 248-2345

Dated: December 10, 2003

CERTIFICATE OF SERVICE

I, Mark A. White, attorney for the named defendant, hereby certify that on December 10, 2003, the within Motion and supporting Memorandum were served on the parties in accordance with Superior Court Rule 9A by mailing a copy hereof, postage prepaid to Douglas H. Wilkins, Anderson & Kreiger, LLP, 43 Thorndike Street, Cambridge, MA 02141, David Shapiro, Legal Department, Somerville City Hall, 93 Highland Avenue, Somerville, MA 02143 and to Legal Department, Massachusetts Bay Transportation Authority, Ten Park Plaza, Boston, MA 02116, attorneys of record..



Mark A. White