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September 8, 2021

Via electronic and first-class mail

Honorable Christiana Mercer Rigby, Chairperson
Howard County Zoning Board
c/o Ashley Aguilar
George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043
aaguilar@howardcountymd.gov

**Re: Follow-up Request to Schedule a Work Session to Continue Deliberations
ZB 1119M - HRVC Ltd. Partnership, c/o Kimco Realty Corp.**

Dear Madame Chair:

Please accept this letter as a follow-up request on behalf of the Petitioner in the above-referenced case for the Zoning Board (the "Board") to schedule a work session to continue deliberations in this matter. Petitioner's initial request to continue deliberations was provided to the Board for consideration over seventy (70) days ago on June 21, 2021 (the "Initial Request").

On April 12, 2021, the Board voted to refer this case to mediation with the Mediation Conflict Resolution Center of Howard County (the "MCRC") pursuant to Section 16.204(b) of the Howard County Code. As of the date of this letter, MCRC has still not contacted the Petitioner to schedule meditation. As set forth in Petitioner's Initial Request, Petitioner's counsel has left numerous voicemails and e-mails to MCRC requesting that the Petitioner be contacted regarding the mediation. We have never received a response. It is furthermore our understanding that the Zoning Board administrator and other parties to this case have also contacted the MCRC to no avail.

On July 2, 2021, Alan Schwartz, Esq. provided a response to Petitioner's Initial Request asking that the Zoning Board *inter alia* allow additional time for the mediation process to commence. To Petitioner's knowledge, the Board has yet to act on Petitioner's Initial Request. The result of the Board's inaction has been the practical effect of granting Mr. Schwartz's request to allow more time. As noted above, however, the MCRC has not taken any action to

communicate, schedule or commence the mediation process. In fact, it is unclear whether the MCRC has even committed to serving as the mediator.

The net result is a denial of due process and an unwarranted prejudice and delay for Petitioner. Section 16.204(b) cannot be used to effect an indefinite delay of the resolution of matters pending before the Board.

This case began over two years ago on July 24, 2019. The case concluded and the record was closed on March 24, 2021. We are currently over **one hundred and sixty (160) days** since the Board voted to refer this matter to MCRC for a mediation process that is specified to be no more than 45 days. To extend the mediation process beyond 45 days only if all parties, including the Petitioner agree.

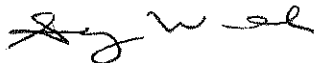
The Petitioner has been compliant with the Board's directive and supportive of the spirit of the Board's referral to MCRC. In fact, the Petitioner already engaged in extensive discussions with the Village Board prior to the filing of this application over five years ago. Through those discussions, the parties resolved many of their differences as exemplified by Specific Village Board Conditions for Approval of ZB 1119M (Hickory Ridge Community Association, Exhibit #4). The matters of difference outstanding and unresolved amongst the parties were the questions presented to the Board for its ultimate decision.

Given this history and the current untenable situation regarding MCRC, the Petitioner cannot further support efforts to mediate this matter. We ask that the Board resume its deliberations and provide finality to this long pending matter for all the parties involved.

Thank you for your time and consideration.

Very truly yours,

TALKIN & OH, LLP



Sang W. Oh

cc: Laura Parrish, Village Manager, Hickory Ridge Community Association
Alan M. Schwartz, Esq.