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Clerk of the City Commission  
Mail Station 19  
P.O. Box 490  
Gainesville Florida 32602  
January 3, 2011

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### Notice of Appeal

Subject: To Appeal Board of Adjustment Decision re: Petition BA-10-07 APP of Nov 2, 2010 with final order being signed and transmitted December 14, 2010.

This letter is to notify the City Commission that June Bowe, owner of 1723 NW 7<sup>th</sup> Avenue in Gainesville Florida 32603 is filing an appeal to the Order handed down by the Board of Adjustments in regard to the Bruce Baber petition (Petition BA-10-07 APP filed by Sondra Randon Esquire as agent for Bruce Wayne Baber)

The petition that was presented to the Board was an appeal of an administrative decision of planning and development services that a dog sitting business is not a legal non conforming use or a use by right in the RSF-2 Zoning District located at 1713 NW 7<sup>th</sup> Avenue (as stated on front page of final order dated December 14,2010).

This was the issue before the board and after hearing the evidence presented, the board agreed that there was not sufficient proof to support the appeal. However, Mr. Harnsberger proposed an Amendment to the ruling which stated that Mr. Baber could continue to keep dogs on his premises other than his own pets as long as he was not compensated because he supposedly had been doing this service without interruption since 1987 It is my understanding that the board should only decide the petition that is being appealed. However, even if Mr. Harnsberger was within his rights to expand upon the ruling, he did so with no hard evidence that Mr. Baber had been providing this service uninterrupted since 1987.

This amendment is a clear violation of Section 5-3 that prohibits harboring any animal for use other than a pet in a residential neighborhood. There was no proof presented other than anecdotal evidence from former neighbors who stated that they once resided in Mrs. Bowe's residence for several years and upon occasion Mr. Baber would watch their cat and dog and even sometimes their son. And that over the years Mr. Baber did the same upon occasion for other neighbors. There is no evidence that he did this on an uninterrupted basis and no documentation or permitting is on file with the city that would support this proposition. To say the least, there is an enormous difference between watching your neighbor's pet and harboring between 8-12 dogs on your property 5-7 days a week! (Mr. Baber's attorney stated during the proceedings that Mr. Baber kept as many as 12 dogs on the premises on any given day) In addition, several of the supporters of Mr. Baber do not live in the neighborhood but certainly use his services as it is a convenient drop off for them as they head to the University. They obviously have a

vested interest in supporting the amendment even if they are not immediate neighbors. They do not have to suffer the consequence of living next door to this situation.

In addition, the amendment is so vague that it is extremely difficult and time consuming to enforce. My daughter(s) have lived, worked, and gone to school in this community for over 5 years. They have lives to live and can not take time out of every day to call code enforcement and then wait for their arrival. They have the right to lead a normal life in a residential neighborhood and this order as amended interferes with that right as well as their quality of life.

By invoking this amendment the board infringed upon our family's right as stated in Section 30-58 (b) which states that "its residents should expect their neighborhoods to be quiet and safe places to live and that home occupations should not be allowed to alter the primary residential character of these neighborhoods or to endanger the health, safety or morals of residents of the neighborhood."

The odors and barking on a daily basis are more than just an annoyance. They wear you out and affect your living conditions and quality of life. We can no longer use our patio because of these odors and noise. Our safety is infringed upon as anywhere from 5-10 cars turn around in our driveway as they pick up and drop off animals. We have had to deal with fleas on more than one occasion. Our expectations when we bought this home for our children have been severely diminished. In addition this amendment would contribute to the decline in value of our home. Who would choose to buy a home in a residential neighborhood with 8-12 dogs next door 5-7 days a week?

Another point of discussion and appeal:

Rolf Hummel recused himself from voting on this issue as he lived in the 300 feet area and that he had at one time filed a complaint. This according to him could pose a conflict of interest. When asked directly by the city attorney if he wished to recuse himself at the very beginning of the hearing, he replied "yes" but invoked his right to comment. He reiterated this recusal later on in the proceedings. At neither time was there any discussion on the matter. As it came time to vote and it was evident by the board's comments that the vote was 2-2 on the proposed order and therefore would not pass, Mr. Mark Goldstein suddenly approaches the microphone and demands to be heard. He proceeds to tell Mr. Hummel that he can vote as he has no conflict of interest in that he is receiving no pecuniary reward or anything of value, etc. etc. The Board acquiesced to this "Bully Pulpit" gambit and Mr. Hummel voted in favor of the proposal. (This charade is viewable on the taped proceedings at the 2 hours and 15 minutes mark.)

We find the timing of this move as very suspect and do not believe Mr. Hummel should have been allowed to vote. Although the rhetoric Mr. Goldstein espoused certainly could have some validity as we understand he has some experience in these types of proceedings, how can he say with any certainty that there is no conflict of interest? There can be conflict of interest beyond financial consideration—including political conflict of interest or peer pressure from neighborhood residents or associations just to mention two.

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Mr. Hummel should not have been allowed to vote based solely on Mr. Goldstein's rhetoric and conjecture.

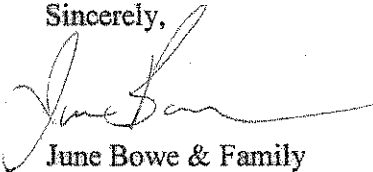
Lastly:

If you take the time to listen to the proceedings on tape you can apprise that the appeal was always presented as "unique situation" applicable only to Mr. Baber who was a nice guy. This warm and fuzzy approach may have been sincere but we firmly believe that any municipal ordinance or variance decisions should be based upon FACT not on who is the petitioner. The staff for the city of Gainesville presented a compelling case based upon and supported by facts. The petitioner and his supporters based their appeal on anecdotal evidence from former neighbors and clients and on conjecture that Mr. Baber was doing these services non stop for 23 years. No hard proof was presented to support that conjecture. No records or permits exist before 2006 and yet the board saw fit to pass this amendment to the ruling that is in clear violation of more than one of the city's codes.

The facts do not support the order and the amendment violates the code. More importantly our lives as next door neighbors have been infringed upon for the worse. Our home value is affected and our quality of life is severely diminished

Please review this appeal, watch the tape, and reverse this order. We believe the facts support such an action. Thank you for your time and service.

Sincerely,



June Bowe & Family  
1723NW 7<sup>th</sup> Avenue  
Gainesville Florida 32602