

SPRING VALLEY • WESLEY HEIGHTS
Citizens Association
WASHINGTON, D.C.

July 19, 2017

Ms. Linda Argo
Assistant Vice President, External Relations
And Auxiliary Service
American University
4400 Massachusetts Avenue NW
Washington, D.C. 20016

Dear Ms. Argo:

We are in receipt of your letter of June 23, 2017 in response to the grievance filed by the Spring Valley-Wesley Heights Citizens Association (SVWHCA) on June 9, 2017. Your letter raises many issues. Among them is the assertion that this is neither a proper subject matter for a grievance under the Community Liaison Committee (CLC) Mediation Program Guidelines nor a matter yet ripe even if a grievance was to be acknowledged by American University (AU).

As you will recall, the working committee with respect to the development of the mediation guidelines was made up of AU counsel, a representative of the SVWHCA, and a representative of Neighbors for a Livable Community (NLC). We have downloaded the "Community Liaison Committee (CLC) Mediation Program Guidelines" from the CLC community website maintained by AU. Consequently, we are puzzled by your assertion that the grievance filed by SVWHCA is not a proper subject matter for a grievance.

You state that the guidelines require that "any grievance must allege the University has violated an express condition of the Zoning Commission's Order." The guidelines, with an effective date of March 19, 2013, contain no such requirement. The only restriction on the subject matter of such a grievance is set forth in Article I, "Purpose," which states that if the community organization and the University "cannot reach agreement on a specific issue or set of issues related to the 2011 Campus Plan, the parties agree to the following procedure to address their differences."

Since the Collaborative was envisioned to be an arm of the CLC with a reporting obligation to the CLC of all issues and given that the CLC was mandated by the 2011 Campus Plan, clearly this is an issue or set of issues "related to the 2011 Campus Plan." In fact, AU's assertion that this grievance concerning the Collaborative falls outside "an express condition of the Zoning Commission's Order" is in direct conflict with AU's November 16, 2016 submission to the Zoning Commission (ZC) in Z.C. 11-07F in which AU positioned and justified the

establishment of the Collaborative as a “reworking of the CLC” which is mandated in Z.C. Order 11-07. We believe the Collaborative as it is constituted and operated is in direct conflict with the requirements in Z.C. Order 11-07 as it relates to the CLC and its overall objectives and reason for existence. Nevertheless, the Mediation Program Guidelines are quite clear that a violation of a condition of the Order was not a prerequisite for the mediation process.

The next procedural issue which you raise is the requirement that “the parties will make every effort to resolve disputes during the regularly scheduled meetings of the Community Liaison Committee.” (At least we agree that this language is contained in the guidelines.) The issues underlying the grievance have been a subject of discussion at a number of different CLC meetings, as reflected in the CLC’s minutes, without resolution. As to the last meeting to which you reference in your June 23 letter, you will recall that during the last CLC meeting the subject of the CLC and the Collaborative dominated so much of the meeting that your facilitator cut off discussion on that subject in order to complete the agenda before the end of the meeting time. Representatives of SVWHCA objected to terminating the discussion in the meeting and having it addressed after scheduled adjournment. That objection was ignored. Although Dr. Kraskin had to leave the meeting for a previously scheduled professional commitment, Mr. Smith, the SVWHCA Treasurer, was present until the agenda items were completed; and Mr. Bill Krebs, the First Vice President of the Association, who also helped develop the mediation guidelines, remained throughout the full discussion following completion of the formal agenda items. Mr. Krebs was extensively and aggressively questioned by members of the CLC concerning the Association’s position. The Association made every effort to resolve the dispute during that meeting and in previous meetings.

However, the key to the matter, which to some extent underlies the overall grievance, is the following: Are you able to say that the University is willing to discuss with an open mind the issues raised in the grievance and to change its position on the basis of those discussions at another CLC meeting?

We thank you for the detailed summary of events leading up to the agreement although we may have a few quibbles with your summary. Of particular significance, however, contrary to your assertion in Paragraph 15, the Association has no opinion as to whether the decision of the University to hire Justice and Sustainability Associates as a facilitator for the Collaborative was done in good faith or bad faith. The significant aspect of the retention of Justice and Sustainability Associates is summarized in the very revealing sentence in your letter that states the following: “The University then informed its neighbors that it would retain Don Edwards of Justice and Sustainability Associates, the professional facilitator Georgetown University used, to help get the Collaborative off the ground.” Even today the University does not understand why that was objectionable to the Association. The University and the Association along with ANC 3D signed two agreements with respect to the formation of the Collaborative. During the months leading up to those agreements, there were a number of meetings in which AU had the opportunity to indicate what, if any, plans it had with respect to the ongoing nature of the Collaborative. Not a word was said to the Association in those meetings and nothing was reserved in the agreement for such an insertion into the process. Yet after the Zoning

Commission met and approved AU's request with respect to the student housing issues, largely on the basis that the neighbors had worked with the University in reaching agreement, AU then "informed its neighbors that it would retain Don Edwards..."

To this day the Association does not understand why the University so informed its neighbors without first consulting with its co-signatory on the agreement which formed the basis of the Collaborative. Similarly, it is a puzzle that the University unilaterally sent out invitations for the initial meeting of the Collaborative without first consulting its co-signatory on the agreement which formed the basis of the Collaborative. That is not the behavior of the collaborative partner in a joining of equals. It is the dismissive behavior by an entity that thinks the organization belongs to it and that it can do what it wishes with it without answering to anyone.

After months of misrepresenting to the CLC, its members, and ANC 3D last year that the reason for the significant increase in undergraduate population was an anomaly relating to an increase in the percentage of persons accepted by the University who actually enrolled at AU, the University acknowledged that was untrue. In short, the University used the CLC as a forum for months to mislead the CLC about undergraduate enrollment – one of the fundamental issues relating to the Campus Plan. Eventually, AU acknowledged in its November 16, 2016 filing to the Zoning Commission – what it had acknowledged in meetings with the SVWHCA under a condition of confidentiality – that the increase in undergraduate enrollment was planned (e.g. not an anomaly) so as to compensate for the disappointing number of graduate students enrolling in the University. After receiving that acknowledgment and working with the community to address the issues of student population growth, SVWHCA was beginning to believe that a corner may have been turned in AU-community relations, and that the University would be more candid and forthright with the neighbors. That hope was dashed when the University usurped the Collaborative.

SVWHCA understands that other members of the CLC may not understand or appreciate the Association's position. But what is the purpose of entering into an agreement with the University if the University does not abide by its agreements? Instead, as evidenced at the last CLC meeting, AU continued to avoid answering questions about whether the Fall 2017 enrollment numbers are consistent with the commitments made by the University in its filings and testimony to the Zoning Commission in Z.C. 11-07F.

Instead of following through on the commitments made by AU in March 2013 when the guidelines for the CLC and the Mediation Guidelines were established, you now suggest that we attend the September 2017 meeting of the CLC to further discuss the Collaborative, including our issues relating to the hiring of Mr. Edwards, resulting in the absurd situation that Mr. Edwards will be facilitating the meeting concerning our complaints about Mr. Edwards facilitating meetings.

Our grievance has been filed in compliance with the Mediation Guidelines of the CLC established and agreed to by AU in March 2013. There is no procedure or authority for AU to screen the grievances or to unilaterally determine that a grievance is unwarranted. Instead, the

Guidelines expressly provide that upon the receipt of a grievance, the Vice President for Campus Life “will” convene a meeting. “Will” is a mandatory command, not a precatory suggestion. We look forward to the Vice President of Campus Life or designee following through to “convene a meeting to discuss the grievance with the aggrieved community organization” – the SVWHCA – in a timely way consistent with Section II of the CLC Mediation Program Guidelines.

Sincerely,

Jeffrey L. Kraskin, O.D.
President, SVWHCA

William Krebs
1st VP, SVWHCA

Benjamin Tessler
2nd VP, SVWHCA

Glenn Westley
Secretary, SVWHCA

Thomas M. Smith
Treasurer, SVWHCA

Elizabeth Trang
Board Member, SVWHCA

cc: Sylvia Burwell, President, American University
Dr. Fanta Aw, Interim Vice President of Campus Life, American University
Hisham Khalid, Associate General Counsel, American University
David Taylor, Chief of Staff, Office of the President, American University
Dennis Paul, Neighbors for a Livable Community
Sheri Lanoff, Embassy Park Neighbors Association
Staci Lee Banks, Fort Gaines Citizens Association
Susan P. Cohen, Foxhall East Condominiums
Elaine Marshall, Greenbriar Condominium
Kathy Silva, McLean Gardens Condominium Association
Claire Craik, Westover Place Homes Corporation
Gregory Ferenbach, Tenley Campus Neighbors Association
Judy Chesser, Tenley Neighbors Association
Beth Marcus, Sutton Place Condominium Association
Beverly Zweiben, Sutton Towers Condominium
Jane Waldman, Tenley Historical Society
John Wheeler, Ward 3 Vision
Steve Gardner, Chair, ANC 3D
Jonathan Bender, Chair, ANC 3E
Malachy Nugent, Chair ANC 3F