

**DISTRICT OF COLUMBIA COURT OF APPEALS  
430 E STREET, NW  
WASHINGTON, DC 20001**

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**Jo Anne & Jimmie Boykin, *Pro se***  
**Marie K. Hoffman, *Pro se***  
**Cynthia Carson, *Pro se***  
**Linwood Norman, *Pro se***  
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**John & Debby Hanrahan, *Pro se***  
**Robin Diener, *Pro se***  
**Joy Ann Grune, *Pro se***  
**Carole Lewis Anderson, *Pro se***  
**Andrea Rosen, *Pro se***  
**Megan Kearns, *Pro se***

v.

**District of Columbia  
Office of Administrative Hearings  
Respondent**

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**Appeal of District of  
Columbia Office of  
Administrative Hearings  
(OAH) Order dated 3/18/21**

**in OAH Case No.  
2019-DCRA-00135**

**JOINT *PRO SE* PETITION FOR REVIEW**

The thirty-one above District residents seek review of the highly capricious Final Order, on reconsideration, issued by the Office of Administrative Hearings (OAH) in OAH Case No. 2019-DCRA-00135, dated, Thursday, March 18, 2021.

The OAH order doesn't meaningfully consider and evaluate evidence as to how the DC Department of Consumer and Regulatory Affairs (DCRA) fails their duty under the prescriptive requirements of the DC Construction Codes and interwoven regulations of the DC Environmental Protection Act and DC Historic Preservation Act. Moreover the OAH issues an order that arbitrarily makes conclusions without reliance on the record threatening the well-being of petitioners and that of the drinking water supply here in the District of Columbia.<sup>1</sup>

The government has argued that prior DC Zoning Commission review of environmental concerns regarding the proposed demolition of 20-acres of historic assets at McMillan Park bypasses any required safety analysis by DCRA when considering applications for demolition permits. But, unlike the Zoning Commission, DCRA is not governed by the zoning code and is rather supposed to follow the much more rigorous and prescriptive construction codes and its inter-related clean air and water regulations. DCRA did not pursue the safety requirements of the construction codes and the OAH unfairly lets DCRA slide, going as far as to raise a critical question of law as to whether safety planning is a ripe claim when DCRA issues construction and demolition permits in our city.

1 Petitioners put on the OAH record affidavits showing the likelihood that asbestos is woven into the 1.3 million cubic feet of concrete water filtration cells at McMillan Park now being threatened with demolition. DCRA has prematurely issued permits to demolish and tear out these concrete structures without the required safety planning in writing and on file before demolition may begin. Petitioners have already shown that the Applicant's preliminary work has plumed fugitive dust off the site and into the surrounding community air. The McMillan reservoir, part of DC's municipal water supply is located across 1<sup>st</sup> Street, adjacent to the proposed demolition site. See Lockett Affidavit, dated, October 25, 2020, [www.tinyurl.com/mcmillan-expert-testimony1](http://www.tinyurl.com/mcmillan-expert-testimony1)

Petitioners ask the Court to answer this important question of law, as we believe safety planning is required in writing and on file at DCRA before permits can be issued so to ensure there are certified testing documents and a real written safety plan in place seeking to protect the well being and health of the public before demolition activities begin. For if there is asbestos in the McMillan Park structures as we surmise, it would be too late for our health and safety of DC's drinking water supply to come find out after demolition begins and these toxins are plumed into the air. There are other safety issues at hand as well, such as Tiber Creek and flooding that went overlooked unlawfully by DCRA and then by the OAH as well.

We ask the Court to remedy the imminent injury by vacating the OAH Order as unlawful and arbitrary, and hold the status quo until the legally required basic safety planning is in writing and bonded before any demolition and construction activities may commence at McMillan Park.

A copy of the OAH Order is attached hereto and incorporated by reference. The required Court filing fee of \$100.00 to submit this Joint Petition for Review was promptly put in the mail/and or will be hand delivered to the Court, as written and delivered by one of the Joint *Pro se* Petitioners, per the Court's emergency Covid rules.

**PARTIES TO THE AGENCY PROCEEDINGS:**

- RESPONDENT :: District of Columbia Office of Administrative Hearings (OAH), Administrative Law Judge Claudia Crichlow, Marion Barry Sr. Building, 441 4th Street NW Suite 450N, Washington, DC 20001, 202-442-9094
- ADDITIONAL PARTIES :: Deputy Mayor's Office for Planning and Economic Development (DMPED), c/o Mr. Andrew J. Saindon, Esq., 441, 4th Street, N.W., Sixth Floor, Washington, DC, 20001, (202) 724-6643, DC Department of Consumer and Regulatory Affairs (DCRA), c/o Mrs. Esther Yong McGraw, Esq., 1100 4<sup>th</sup> Street, SW, 5<sup>th</sup> Floor, Washington, DC, 20024, Friends of McMillan Park (FOMP), c/o Andrea Ferster, Esq., 2121 Ward Ct NW, Washington, DC 20036.

As submitted to the DC Court of Appeals on this the 22nd day of March, 2021 by,

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## CERTIFICATE OF SERVICE

Pursuant to the Court's emergency rules during Covid, I, Peter Stebbins, one of the joint *Pro se* Petitioners, attest that copies of the included Joint Petition for Review and OAH Order dated March 18, 2021, was authorized by all Joint *Pro se* Petitioners to be sent to the DC Court of Appeals, as well as served upon the Respondent and all parties at the agency hearings below, by email, on March 22, 2021, as follows:

### **RESPONDENT**

District of Columbia Office of Administrative Hearings (OAH)  
c/o Administrative Law Judge Claudia Crichlow  
Marion Barry Sr. Building  
441 4th Street NW Suite 450N  
Washington, DC 20001

Served by email to:  
***oah.filing@dc.gov***

### **Intervenors:**

Deputy Mayor's Office for Planning and Economic Development (DMPED)  
c/o Mr. Andrew J. Saindon, Esq.,  
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Served by email to:  
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DC Department of Consumer and Regulatory Affairs (DCRA)  
c/o Mrs. Esther Yong McGraw, Esq.,  
1100 4<sup>th</sup> Street, SW, 5<sup>th</sup> Floor,  
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Served by email to:  
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*Courtesy copy to:*  
Hugh Green, Esquire (DCRA attorney)  
Served by email to:  
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### **Other Parties:**

Friends of McMillan Park  
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