

**DC Council Performance Oversight Hearing**  
**Agency: DC Office of Zoning, February 22 2024**  
**Testimony by: Chris Otten for DC for Reasonable Development**

*Problem Scenario:* You take a bad actor developer to the BZA on appeal seeking remedy about a wrongfully issued permit or exceeding permit allowances that steps on existing zoning code and building parameters. The developer has started busting through the roof, going up taller than allowed, blowing out the back of the building, going deeper than allowed, occupying more of the lot than allowed, and starting work before all administrative reviews are complete, etc. etc. Yet another bad actor developer has started their project and are running full steam ahead.

As all of this is occurring, DC residents are made to wait 6 months, a year, how about 3 years for a decision to be issued by the BZA and to act on any rights to them granted by the law. Contrast this against the fact that when a BZA issues an order verbally in favor of developers, developers can immediately seek permits and begin work.

DC residents who are harmed have to wait for the BZA to issue a written order. But, bad actors get the BZA's verbal green light and can start immediately.

In recent times I know of at least two cases, there's likely many more that show the Office of Zoning legal team purposefully, or not, wrongly deny Admin Procedure Act rights to DC residents in some cases for more than three years.

**See BZA Case (Appeal) No. 20191: [https://app.dcoz.dc.gov/Home/ViewCase?case\\_id=20191](https://app.dcoz.dc.gov/Home/ViewCase?case_id=20191)**  
**& BZA Case No. 20069: [https://app.dcoz.dc.gov/Home/ViewCase?case\\_id=20069](https://app.dcoz.dc.gov/Home/ViewCase?case_id=20069)**

As harmed DC residents wait for an order, the developer gets to plow on with their project likely in contravention of zoning and building codes and law, especially given the penchant for zoning officials and commissioners to simply view any concerns about unlawful development as "NIMBYism" – this term created by the developer-class is deftly used to deflect real conversation and shield commissioners from truly contending with absolutely grounded contested issues and to do so in a most cursory ways as I've witnessed and many DC residents have felt.

**Regardless of one's position on any given project, denying residents law given rights to a timely decision is wholly unacceptable and criminal.**

It must be addressed by the Council as soon as possible, setting up a legislatively defined timeline for any orders to be issued within three months or ninety days. If OZ needs more legal staff to meet that reasonable deadline, then they can ask for it this budget season.

Chris Otten