

Item #26

10-4-11

Letter from 90 yr. old neighbor
across the street 1111 Stearns Dr. submitted to CAPC 8/23/11

Eric came over to talk to me about a month ago because he wanted to convince me to support him. He talked and talked so much and told me things that didn't pertain to what the petition was for. He told me about all the work he did on his place with his greenery, the plants, painting the place, with his roof and the new solar panels - everything to make the place look nice.

He told me that he talked with all the other neighbors, but he didn't tell me if they agreed with him or not. He talked and talked so much that it got me confused and I thought I would just sign his petition.

But eventually as time went by I was thinking about it and I was thinking he wasn't right after all, but he is a good talker and a good neighbor too.

But the problem is that I sit in my window every day and I see all the traffic and congestion now. In fact two days ago someone wanted to turn around and used the driveway opposite my house and backed into the side of the car parked in front of my house and dented it!

I've been here for 62 years and I know what it was like years ago; no traffic and quiet. But of course things change. If we have more traffic it will be terrible.

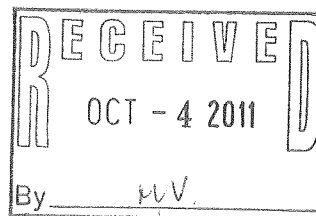
I have seen the change and how things are getting worse.

This is an R-1 street and I don't think anyone should get special privileges, even if he is a really nice man.

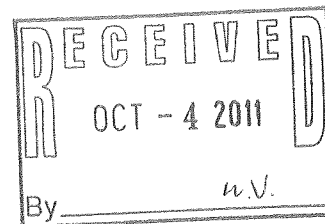
Rose Iskenderian
1111 Stearns Dr.

This is what I told to my neighbor so she could write it for me. It is too hard for me to write so much now, but I can still talk. I am almost 90 years old.

Rose Iskenderian



David I. Schulman
1111 S. Point View St.
Los Angeles, CA 90035
(323) 931-3380



January 10, 2011

Item # 26
10-4-11

D. Solaiman Tehrani
Zoning Investigator
Department of City Planning
City of Los Angeles
200 North Spring St., Room 763
Los Angeles CA 90012

Re: ZA-2009-2026-ZV-ZAA; 1100-1102 Stearns Drive

Dear Mr. Tehrani,

I am writing to withdraw my signature from the approval petition gathered by the owners of the above-referenced property and to explain why.

I live adjacent to the above referenced property immediately to the east. Thus, our backyards are adjacent to each other. While I have always been curious why a building on that property came up flush to my fence, it has neither caused me difficulty or concern, and since I bought my property in November 1997 have had positive relationships with each of the owners.

I have had the most contact with at least one of the two current owners when we both participated in neighborhood meetings seeking an Historical Preservation Overlay Zone ("HPOZ") for our neighborhood. I appreciated his care and expertise regarding historic preservation, and was grateful for the professional expertise I recall him bringing to those meetings as I believe he is an architect. (I am embarrassed not to recall his name.)

Thus, when he and the co-owner approached me to sign their approval petition I was predisposed to be as cooperative as possible. My only concern at the time was whether the changes they were proposing would alter the structure as I see it in my backyard, or increase any noise. They assured me neither would occur, and since the structure was already there and I understood they were petitioning to get the structure up to code I was sympathetic and happy to sign their petition.

It was only yesterday that I was approached by their neighbors immediately to the south, Matt and Donna Chazanov, and provided a copy of their attorney, Valerie Sacks's letter dated January 5, 2011. I am an attorney myself, though

January 10, 2011

none of the legal fields involved in the issue before you – land use or zoning – are within my expertise. Three things concerned me once I had had a chance to review the letter carefully. The first was that my 1100-1102 Stearns Drive neighbors had not been as forthcoming as they should have been regarding the issues affected by the change they sought. The second was the point made in Ms. Sacks's letter about the change of use sought and the parking exception it would require. And the third stemmed from my visit to the Chazanov's backyard.

While the issue before you is not about mitigating the structure's abutting their property, I was dismayed to see how intrusive it was, and to learn how fully it fills up what would otherwise be the backyard area of the location. Thus, any variance that would further affect the Chazanov's quality of life seemed to me a fundamental issue.

As to their attorney's letter, I found the argument that my 1100-1102 Stearns Drive neighbors were on constructive notice about the structure and its limitations to be persuasive, and thus found my willingness to agree to such changes to be further reduced. But most importantly, I found Ms. Sacks's argument about increasing residential density to be the most persuasive of all.

I happen to be in favor in principle in recognizing the changed demographic and economic circumstances in the City's urban core that suggest that increased residential density is not only necessary, but when planned effectively, a positive good to the vibrancy of a neighborhood. What makes me uncomfortable about the proposed variance only to my neighbor's structure is that the issue of permitting garages for use as residential units – the fundamental issue, even though this particular structure is not a garage but a "rec room" – should be one that results from a vigorous and wide-ranging set of discussions, not a carve-out for one residence. My feeling about the unfairness in my neighbors' application for *this* structure to be re-purposed for residential use was increased further when I learned that it is only there to begin with because of a *previous* exception that permitted it for use as a "rec room," only. There is something fundamentally inappropriate about building an exception on top of an exception when doing so (1) further negatively affects an adjacent neighbor – the Chazanovs, and (2) creates an exception that many others in our zone might like to have, as well, but have less of a basis for seeking because we have no third structure – the rec room – on our property.

Finally, I am opposed to creating an exception "in this case" because of the way it erodes away the purpose of zoning regulations in the first place: to maintain consistency and fairness in the rules governing a planning zone. This exception as I now understand it is even more concerning given that the 1100-1102

D. Solaiman Tehrani

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Re: ZA-2009-2026-ZV-ZAA; 1100-1102 Stearns Drive

January 10, 2011

Stearns Drive property is *itself* a grandfathered-in exception to the single family zoning of the area. Had there been less of a due diligence argument, as made in Ms. Sacks's letter, or less intrusiveness of the structure in question on the Chazanov's property, or the "grandfathered-in" exception to their multi-unit structure in a single family zoned area, I would be more sympathetic.

But these concerns, bundled together, do strongly suggest to me that an exception would not be fair, and should not be granted, to my regret, because again, I have had nothing but positive and friendly relationships with the 1100-1102 Stearns Drive owners.

Should you have any questions, please do not hesitate to contact me at the number listed above, or on my cell phone at 213-925-3970.

Sincerely,

David I. Schulman

June 13, 2011

Mr. David Schulman
1111 S. Point View St.
Los Angeles, CA 90035

Dear Mr. Schulman,

As you rear neighbors at 1100 / 1102 Stearns Dr, we would welcome the opportunity to meet with you to discuss the circumstances that resulted in your change of heart from supporting our efforts to legalize the long-standing Guest House at the rear of our property to opposing it.

We take great pride in the up-keep of our home and the quality of tenants we attract. Over the last 5 years we have taken great strides in upgrading the property including the recent removal of the storage shed that abutted our property lines as well as a recent re-roofing of the Guest House and a total property re-painting.

Our goal in meeting would be to gain a better understanding of your concerns and discuss what steps we can take to overcome them. Being good neighbors and maintaining a high quality of life within the neighborhood is a top priority.

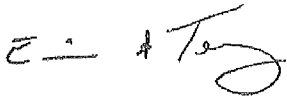
We will try to stop by on Sunday evening, June 19. If there is a different time that day that works best for you or if another day might work better, please let us know.

Contact information:

Email: 1100Stearns@gmail.com

Phone: 310-497-1331

Your neighbors,



Eric Hammerlund & Terry Villines
1102 Stearns Dr.
Los Angeles, CA 90035

From: **David Schulman** <davidschulman2@ca.rr.com>

Date: Fri, Jun 17, 2011 at 11:18 AM

Subject: Your 6/13/11 note

To: 1100stearns@gmail.com

Dear Eric and Terry,

Thanks for your June 13, 2011, note asking to meet to discuss the reasons why I changed my position regarding your request for a variance for your property. I appreciate your concern but would like to decline your invitation because the reasons why I changed my position were fully expressed in the letter I filed with the administrative law judge.

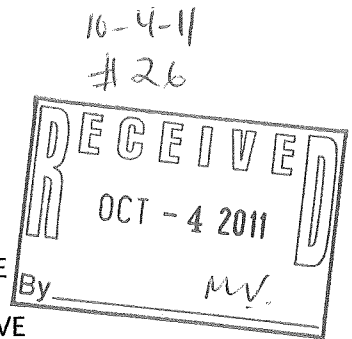
I was disappointed in both of you as good neighbors once I read the documents the Chazinovs provided me. When you came by, you led me to believe that what you were seeking was very pro forma, was about bringing your property up to as conscientious new owners. My stance towards friends and neighbors is to presume trust and good will until proven otherwise. Thus, I had no problem signing your petition without conducting my own due diligence.

After reading the Chazanov attorney's appeal, and your own attorney's application, it was crystal clear to me that there was much more to the issue than you had led me to believe, and that you perfectly well understood that yourselves when you had approached me. Thus, there is no point in our meeting because there is nothing more I could say that would help you understand what steps you could take to meet my concerns. You weren't candid and transparent with me, and that was not appreciated.

I believe in the importance of master planning and effective zoning policy to promote the quality of life needed in Los Angeles. I don't believe that is accomplished by the carving out exceptions – precisely what a variance is – without significant good reason. I could not find one once I reviewed your attorney's and the Chazanov's attorney's letters, apparently neither could the ALJ, whose office sent me a copy of his decision. To tell you the truth, I was particularly bothered by your lawyer's attempt to frame your application as improving the neighborhood's quality of life. If the neighborhood should permit more back units – an issue with substantial merit in an era emphasizing the need to make the urban core more dense – than that should be decided through the front door of a re-zoning application, not on a case by case basis founded on individual claims that this is better for all.

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SUMMARY OF ARGUMENT IN OPPOSITION TO VARIANCE
 FOR TRIPLEX ON R-1 ZONED LOT AT 1100 STEARNS DRIVE
 CITY COUNCIL FILE NO. 11-¹⁸⁵⁶~~1156~~

A. THE REQUIRED VARIANCE FINDINGS CANNOT BE MADE IN THE AFFIRMATIVE.

1. "Strict application of the Code would NOT result in practical difficulties or **unnecessary hardships** inconsistent with the general purpose and intent of the zoning regulations"

- THERE IS NO HARDSHIP – IGNORANCE OF READILY ASCERTAINABLE FACTS IS NOT GROUNDS FOR A VARIANCE
- **ALL the relevant public records show that this is a duplex:**
 - ZIMAS
 - Navigate LA
 - County Assessor's office
 - City building permits
- **Appellant Eric Hammerlund is in the architecture and design field** and knew or should have known how to read these documents
- Appellants would have gotten a **title report upon purchase, which would have shown that it was a legal duplex**
- Appellants claim the MLS said otherwise, but have not presented corroborating evidence
 - This might give them cause to sue the seller or realtor, but is not grounds for a variance;
- **APPLICANTS CAN LEAVE THE UNIT AS A RECREATION ROOM OR STORAGE AND DO NOT NEED TO DEMOLISH IT.**
- The Applicant has still failed to produce an explanation as to how this finding can be made in the affirmative with respect to either the parking issue or the use of a driveway for multiple dwelling units.

2. **THERE ARE NO special circumstances** applicable to the subject property such as **size, shape, or topography that do not apply generally** to other property in the same zone and vicinity;

- Applicants claim their property is unique by deceptively citing a variety of duplexes, triplexes, and fourplexes that are nearby but **NOT IN THE SAME ZONE**
 - Almost every example Appellants cite is located in a different zone

Location	# of units	Zone
Stearns Drive S. of Packard	Multiple	R2
Point View Dr. between Whitworth and Packard	Multiple	R2
1178 Hi Point	Triplex	R2
1167 Crescent Heights	Triplex	R2

- Applicants distort the facts and ignore crucial distinctions:

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- In their revised findings, they state: "Multiple 3 unit properties currently exist in the R2 zone in the immediate areas surrounding the properties." BUT THEIR PROPERTY IS NOT IN THE R2 ZONE. Therefore, these other properties are irrelevant.
 - Appellants state that most of the other properties on the block "are 1000 s.f. smaller." (p. 3, revised findings.) **NOT TRUE:** All the properties on the same side of the street are only about 600 s.f. smaller. Regardless, the minimum lot size per dwelling unit in the zone is 5000 s.f. – they could not have even TWO units if they were not grandfathered. They could not have 3 units on their 7100 s.f. lot even if this were still zoned R2. (See Chart.)
 - Applicants claim their property is unique by deceptively citing a variety of duplexes, triplexes, and fourplexes that are nearby but NOT IN THE SAME ZONE
 - The Applicant has still failed to produce an explanation as to how this finding can be made in the affirmative with respect to either the parking issue or the use of a driveway for multiple dwelling units.
3. **The variance is NOT necessary for the preservation and enjoyment of a substantial property right** or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question;
1. The 2002 APC case is not controlling precedent:
 - a. *Stolman v. City of Los Angeles* requires the precedential cases to be in the same zone and vicinity, not 15 miles away. (8 Cal. Rptr.3d at 188)
 2. The case cited by the ZA is controlling precedent, not Webster.

Address	1100-1102 Stearns	445 N. Croft	1729 Webster
Location	S of Olympic, E of Crescent Heights	W of Crescent Heights, N of Beverly	Silver Lake
Distance from Site	n/a	2.14 miles (1.6	8 miles
Community Plan area	Wilshire	Wilshire	Silver Lake- Echo Park- Elysian Valley
Zone at time of request	R1	R1	R1
Prior zone	R2	R2	R2
Legal use	Duplex	Duplex	Duplex
Request-density	Permit recreation room to be used as a rental unit	Permit storage space to be used as a rental unit	Permit unpermitted space to be used as a rental unit
Request-parking	To allow 0 parking spaces for 3 rd unit	To allow 0 parking spaces for 3 rd unit	
Size of lot	7100 s.f.	6500 s.f.	6620 s.f.
Total habitable space if triplex permitted	4146 + 790	4,153 s.f.	3283 s.f.

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Shape of lot	Rectilinear	Rectangular	Irregular; hillside
Mansionization ordinance precludes legalization of floor area for 3 rd unit	Yes	yes	No (because request preceded ordinance's effective date)

4. The Granting of the Variance **Will Be Materially Detrimental** to the Public Welfare and Injurious to the Property or Improvements in the Same Zone or Vicinity in Which the Property Is Located.
 - The Applicants would have this Council think it's a popularity contest. That's not what the law says.
 - The Applicants have over 40 letters from project opponents.
 - The South Carthay Neighborhood Association opposes it.
 - The case never went before the official Neighborhood Council -- never.
 - The Chair of the homeowners' group that purportedly supports the variances made her decision without giving the neighbors notice or an opportunity to be heard.
 - As the Chair of the Area Planning Commission stated, permitting this space to be used as a dwelling unit when it has many improvements which have not been reviewed by a building inspector may mean the City's approval of an **unhabitable and unsafe unit**.
 - To permit cars for 3 units to back out onto a street as busy as Whitworth is **dangerous**.

5. The granting of the variance **will adversely affect** any element of the **General Plan**.
 - The Wilshire Community Plan designates the property **for low density residential with corresponding zones of RS, R1, RD6 and RD5 and Height District No. 1.**
 - **To permit a third unit here would create a land use that is inconsistent with the Plan-** A General Plan Exception must be requested in order to legalize a triplex here.

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B. EVEN IF THE FINDINGS FOR THE THIRD UNIT COULD BE MADE, THE CITY STILL CANNOT ALLOW THIS USE BECAUSE OF OTHER LEGAL IMPEDIMENTS.

1. Applicant Still Has Not Presented Findings for Parking and Backing Out– The Applicant’s attorney has still provided only the vaguest of findings in support of the parking variance and the variance from the code section prohibiting cars for more than 2 units backing onto Whitworth, which is a moderately busy street rather than just a neighborhood street.

2. Baseline Mansionization Ordinance applies if the recreation room is used as a dwelling unit, triggering the need for an additional round of variances. The Applicant has not applied for these variances.

3. General Plan Exception or Amendment. Approval of a 3rd unit in clear contravention of the General Plan designation requires a General Plan Exception or Amendment. The Applicant has not applied for an Exception or Amendment.

4. CEQA requires at minimum that an Environmental Assessment be filed and an initial study be done. This was never done. Because the proposed use is in conflict with the general plan and would lead to cumulative impacts, an Environmental Impact Report might be required to approve the use.

C. THE CITY JUST LOST AN ANALOGOUS CASE - THE CHABAD CASE - AND THE CITY CAN ILL AFFORD TO WASTE SCARCE HUMAN AND FINANCIAL RESOURCES DEFENDING A MERITLESS VARIANCE CASE SUCH AS THIS ONE.

1100-1102 Stearns compared to properties on adjacent streets in R-1 zone

	Address	Lot Size	Diff. from 1100 Stearns	S.f. of legal improvements	Diff. from 1100 Stearns	# of legally existing units
1	1100-1102 Stearns	7185.4	n/a	4146	n/a	2
2	1108Stearns	6504	-681	2118	-2028	1
3	1112-1114 Stearns	6504	-681	2947	-1199	2
4	1118Stearns	6504	-681	1367	-2779	1
5	1122Stearns	6504	-681	1693	-2453	1
6	1128Stearns	6504	-681	2589	-1557	1
7	1132Stearns	6504	-681	1476	-2670	1
8	1136Stearns	6504	-681	3240	-906	1
9	1142Stearns	6504	-681	1919	-2227	1
10	1148Stearns	6504	-681	1905	-2241	1
11	1152Stearns	6504	-681	3223	-923	1
12	1158Stearns	6504	-681	1936	-2210	1
13	1162Stearns	6504	-681	2206	-1940	1
14	1168Stearns	6504	-681	1905	-2241	1
15	1174Stearns	6534	-651	1905	-2241	1
16	1105Stearns	4752	-2443	1831	-2315	1
17	1111Stearns	6005	-1180	1673	-2473	1
18	1115Stearns	6005	-1180	1901	-2245	1
19	1121-23 Stearns	6006	-1179	5522	-1376	4
20	1125Stearns	6006	-1179	1683	-2463	1
21	1131Stearns	6007	-1178	1781	-2365	1
22	1135Stearns	6008	-1177	1797	-2349	1
23	1141Stearns	6008	-1177	1652	-2494	1
24	1145Stearns	6009	-1176	1704	-2442	1
25	1151Stearns	6010	-1175	1973	-2173	1
26	1155Stearns	6010	-1175	1925	-2221	1
27	1161Stearns	6011	-1174	1747	-2399	1
28	1165Stearns	6011	-1174	1905	-2241	1
29	1171Stearns	6012	-1173	1680	-2466	1
30	1173Stearns	5830	-1355	1905	-2241	1
31	1081Stearns	7090	-95	1765	-2381	1
32	1077Stearns	6000	-1185	1660	-2486	1
33	1073Stearns	6000	-1185	1803	-2343	1
34	1067Stearns	6000	-1185	1736	-2410	1
35	1063Stearns	6000	-1185	2067	-2079	1
36	1057Stearns	6000	-1185	3942	-204	1
37	1053Stearns	6000	-1185	1739	-2407	1
38	1049Stearns	6000	-1185	1632	-2514	1
39	1043Stearns	6000	-1185	1744	-2402	1
40	1039Stearns	6000	-1185	2571	-1575	1
41	1035Stearns	6000	-1185	1987	-2159	1
42	1029Stearns	6000	-1185	1839	-3693	1
43	1025Stearns	6000	-1185	1500	-2646	1
44	1021Stearns	5280	-1905	1947	-2199	1
45	1017Stearns	4820	-2365	1470	-2676	1
46	1014Stearns	6270	-915	1773	-2373	1
47	1018Stearns	6500	-685	1767	-2379	1
48	1024Stearns	6534	-651	1872	-2274	1
49	1028Stearns	6500	-685	1736	-2410	1
50	1034Stearns	6500	-685	2264	-1882	1
51	1038Stearns	6500	-685	1762	-2384	1

52	1042Stearns	6500	-685	1954	-2192	1
53	1048Stearns	6500	-685	2460	-1686	1
54	1052Stearns	6500	-685	1632	-2514	1
55	1056Stearns	6500	-685	1390	-2756	1
56	1062Stearns	6500	-685	1967	-2179	1
57	1066Stearns	5850	-1335	1685	-2461	1
58	1072Stearns	5850	-1335	1663	-2483	1
59	1076Stearns	5850	-1335	1462	-2684	1
60	1080Stearns	6122	-1063	2061	-2085	1
61	1100Pt.View	4260	-2925	1727	-2419	1
62	1108Pt.View	6500	-685	1544	-2602	1
63	1112Pt.View	6490	-695	3334	-812	2
64	1122Pt.View	6490	-695	2885	-1261	2
65	1128Pt.View	6490	-695	2305	-1841	2
66	1132Pt.View	6500	-685	2907	-1239	1
67	1138Pt.View	6500	-685	2126	-2020	1
68	1142Pt.View	6500	-685	2130	-2016	1
69	1146Pt.View	6500	-685	2718	-1428	1
70	1152Pt.View	6500	-685	2127	-2019	1
69	1153Pt.View	6490	-695	2480	-1666	1
70	1162Pt.View	6500	-685	1400	-2746	1
71	1166Pt.View	6500	-685	1950	-2196	1
72	1172Pt.View	5184	-2001	1473	-2673	1
72	1176Pt.View	5247	-1938	1948	-2198	1
72	1105Pt.View	5015	-2172	1883	-2263	1
73	1111Pt.View	5850	-1335	1592	-2554	1
74	1115Pt.View	5850	-1335	1568	-2578	1
75	1119Pt.View	5850	-1335	1568	-2578	1
76	1123Pt.View	5850	-1335	1596	-2550	1
77	1127Pt.View	6490	-695	3936	-210	2
78	1133Pt.View	6500	-685	1819	-2327	1
79	1137Pt.View	6500	-685	1905	-2241	1
80	1143Pt.View	6500	-685	1905	-2241	1
81	1147Pt.View	6500	-685	1905	-2241	1
82	1153Pt.View	6500	-685	1941	-2205	1
83	1153Pt.View	6500	-685	1941	-2205	1
84	1157Pt.View	6500	-685	1905	-2241	1
84	1163Pt.View	6500	-685	2083	-2063	1
85	1167Pt.View	6500	-685	1935	-2211	1
86	1173Pt.View	6500	-685	1905	-2241	1
87	1175Pt.View	6384	-801	2031	-2115	1
88	1016Pt.View	7181	-4	2362	-1784	1
89	1020Pt.View	6500	-685	1535	-2581	1
90	1024Pt.View	6500	-685	1882	-2264	1
91	1030Pt.View	6500	-685	1727	-2419	1
92	1036Pt.View	6500	-685	1698	-2448	1
93	1040Pt.View	6500	-685	1626	-2520	1
94	1044Pt.View	6500	-685	1824	-2322	1
95	1048Pt.View	6500	-685	1753	-2393	1
96	1054Pt.View	6500	-685	2854	-1292	1
97	1058Pt.View	6500	-685	1784	-2362	1
98	1064Pt.View	6500	-685	1828	-2318	1
99	1068Pt.View	6500	-685	2356	-1790	1
100	1072Pt.View	6500	-685	3799	-347	1
101	1078Pt.View	5503	-1602	1888	-2258	1
102	1017Pt.View	5472	-1713	1331	-2815	1

1100-1102 Stearns compared to properties on adjacent streets in R-1 zone

103	1021Pt.View	5200	-1985	1570	-2576	1
104	1025Pt.View	6500	-685	1913	-2233	1
105	1029Pt.View	6500	-685	2289	-1857	1
106	1033Pt.View	6500	-685	3277	-869	1
107	1039Pt.View	6500	-685	1705	-2441	1
108	1043Pt.View	6500	-685	1887	-2259	1
109	1047Pt.View	6500	-685	1933	-2213	1
110	1053Pt.View	6500	-685	1844	-2572	1
111	1057Pt.View	6500	-685	2278	-1868	1
112	1063Pt.View	6500	-685	1656	-2490	1
112	1067Pt.View	6500	-685	2253	-1893	1
113	1071Pt.View	6500	-685	1964	-2182	1
114	1077Pt.View	6500	-685	1603	-2543	1
115	1081Pt.View	7181	-4	1932	-2214	1