



District of Columbia Housing Authority

1133 North Capitol Street, NE Washington, DC 20002-7599

202-535-1000

Adrienne Todman, Executive Director

May 16, 2014

Anthony J. Hood, Chairperson
District of Columbia Zoning Commission
441 4th Street, N.W. - Room 220S
Washington, D.C. 20001

RE: ZC Case No. 03-12Q/03-13Q - Request for Hearing Fee Waiver

Dear Members of the Commission:

The District of Columbia Housing Authority ("DCHA") and the Department of Housing and Community Development ("DHCD") jointly submit this letter requesting that the Zoning Commission (the "Commission") either waive the hearing fee required in this case or reduce the hearing fee to \$1,300, which is the minimum hearing fee required pursuant to Section 3041.6 of the Zoning Regulations. Pursuant to Section 3042 of the Zoning Regulations, the Commission may waive the normal hearing fee for applications for the construction of a low or moderate income subsidized housing development. As described herein, the modification requested pursuant to this application involves the placement of public housing units.

As the Commission is aware, DCHA filed an application on January 2, 2014, seeking flexibility regarding the location and distribution of the remaining Annual Contribution Contract ("ACC") public housing units required for the Capper/Carrollburg PUD, and approval to locate 30 of the ACC units on Square 737. The requested flexibility is necessary to permit DCHA to explore multiple financing options for the delivery of the remaining ACC units as quickly as possible. Pursuant to Section 3042.4, DHCD hereby certifies that the public housing units for which the modification applies meet the definition of subsidized housing development, as referenced in Section 3042.2 of the Zoning Regulations.

Pursuant to Section 3041.6 of the Zoning Regulations, the required hearing fee for a modification to an approved PUD is 26% of the original hearing fee, or \$1,300, whichever is greater. Applying this rule in this case would lead to an inequitable fee for DCHA. The original PUD approved pursuant to Z.C. Order No. 03-12/03-13 included approximately 33 acres, 1,650 residential units including 707 public housing replacement units, approximately 732,000 square feet of new commercial space, and a new community center. The hearing fee in the original application was \$77,100.00, and thus 26% of the original fee is \$20,046.00.

Requiring DCHA to pay a hearing fee of \$20,046.00 simply to reallocate public housing units would be unduly burdensome on a District agency, and thus requests that the Commission approve a waiver of hearing fees for the following reasons:

1. As described above, a hearing fee of \$20,046.00 is disproportionate to the PUD modification requested in this application. The original hearing fee of \$77,100.00 was for an application that included approximately 33 acres, 1,650 residential units including 707 public housing replacement units, approximately 732,000 square feet of new commercial space, and a new community center. To date, DCHA has already constructed or is in the process of constructing 437 public housing units. The current modification application involves only the reallocation of the placement of the remaining 270 public housing units to be delivered as part of the project. This application only impacts four squares, and does not impact any of the approved uses or buildings. Thus, a \$20,046.00 fee is not reasonably related to the amount or degree of the requested modification.

Furthermore, DCHA is a fellow District agency that provides public housing to low and moderate income households. The hearing fee requested would essentially be a transfer of money from one District agency to another. DCHA is already impacted with limited funds, and payment of a \$20,046.00 hearing fee for this application would unnecessarily divert funds from DCHA's operating budget.

2. Section 3043.1 of the Zoning Regulations exempts District agencies from paying hearing fees when the property is owned by the agency and is to be used for a government use. DCHA is a District agency and owns the majority of the land included in this application (other than Square 737). Moreover, the public housing units that are a part of the redevelopment and subject to this modification request will be owned, managed, and operated by DCHA. Therefore, Section 3043.1 of the Zoning Regulations provides a basis for exempting DCHA from paying a hearing fee in this case.
3. Section 3041.6 of the Zoning Regulations provides that: "[i]f the Commission schedules a public hearing on an application for a modification to an approved planned unit development, air space development, or any other action where review of a specific site or building plan was required, prior to the of the hearing, the applicant shall pay a hearing fee equal to twenty-six percent (26%) of the original hearing fee or one thousand three hundred dollars (\$1,300), whichever is greater" (emphasis added). Since the Zoning Regulations were amended in 2010 to require a hearing fee of 26% of the original hearing fee for a PUD modification, instead of a flat hearing fee of \$1,000, the cases in which that fee was applied all involved changes to actual buildings, and did not involve public housing or a District agency (see, e.g. 07-13D, 08-34C, 09-03A).

In this case, the Applicant requests modifications that only affect the distribution and location of DCHA-owned public housing units. The Applicant is not seeking any changes that impact any specific building, nor does review of the pending modification request require any review of a specific site or building plan for the location of the public housing units. Thus, the application does not include "review of a specific site or building plan" and should therefore be exempted from having to pay a hearing fee for the requested modification.

Finally, this application presents a unique situation since it involves DCHA's one-for-one replacement of ACC units that were previously located on the former Capper/Carrollsborg public housing site. This case will therefore not become a precedent on which future applicants can rely.

Based on the foregoing, the Applicant respectfully requests that the Commission grant the Applicant a waiver from having to pay a hearing fee, or in the alternative, reduce the hearing fee to \$1,300 for this application.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Adrienne Todman', with a stylized, flowing script.

Adrienne Todman
Executive Director, District of Columbia
Housing Authority

A handwritten signature in blue ink, appearing to read 'Michael P. Kelly', with a stylized, flowing script.

Michael P. Kelly
Director, Department of Housing and
Community Development