

BEFORE THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

Application of Jefferson-11<sup>th</sup> Street LLC (the “Applicant”)  
2724 11<sup>th</sup> Street, NW; Square 2859, Lot 89 (the “Property”)

PRELIMINARY STATEMENT OF COMPLIANCE WITH THE BURDEN OF PROOF

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**I. Background**

The Property is located at 2724 11<sup>th</sup> Street, NW (Square 2859, Lot 89). It is improved with a two-story apartment house with an open basement level built in 1923 (the “Building”). The Property is located in the R-4 zone district. A copy of the zoning map for this area is attached as Exhibit A. The Property has a lot area of 12,209 square feet. The Building has operated as a 24-unit apartment house since its original construction. There are 12 residential units on each floor. Since the adoption of the R-4 zone for this Property, the Building has operated as a legal structure in regard to minimum lot area, but the increase in the number of units represents a conversion which is subject to the minimum lot area restrictions of 11 DCMR § 401.3, or, the 900-foot rule. The Applicant, in an effort to bring the Building up to modern day Building Code standards, correct long-term structural concerns, and update and renovate the units, is requesting relief to be able to provide eleven (11) units within the existing basement (the “Project”).

The Project includes working only within the existing footprint and structure. There will be no addition to the Building footprint and no addition on top of the two-story building. The existing basement space will be converted to a layout and configuration similar to that of the first and second floors. As part of the Project, the Applicant is proposing a curb cut and five parking spaces (one more than the requirement of 4 spaces) for the addition of the eleven (11) units. But as the curb cut application for access to those parking spaces is being processed concurrently with this Application, the Applicant is requesting parking relief for the contingency of not receiving approval for the curb cut.

As part of the overall upgrade and renovation of the Building, the Applicant is currently processing a hardship application, the end result of which is expected to be an increase in rental rates that would still be well below the market value for apartments in this area. The Applicant is owned and managed by a family-owned company, Hartford E. Bealer Development Company, which has operated and been headquartered in the District of Columbia for over one hundred (100) years. The company has owned this Property for over fifty (50) years, and intends to continue operating the Property as apartment units. The Hartford E. Bealer Development Company’s business model is to hold properties long-term as rental units, and typically does not flip properties or perform condominium conversions.

## **II. Burden of Proof**

In order to receive variance relief, the applicant must satisfy a three-part test which requires: (1) a demonstration that the property is affected by some exceptional situation or condition; (2) without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) the requested relief can be granted without substantial detriment to the public good or substantial impairment of the zone plan.

### **A. Property Is Affected by an Exceptional Situation or Condition**

The Property is extraordinarily large for the R-4 zone district, and the Building has operated as a 24-unit apartment house since its construction in 1923. The Building has experienced significant deterioration over the years, both from the wear and tear of time, but also from specific events. The construction of a metrorail tunnel along 11<sup>th</sup> Street left a hole in the ground near the front of the Building for over ten (10) years, causing structural damage for which a temporary fix was performed. But a permanent fix is now required, along with an update of all building systems and a complete renovation of the units.

### **B. Strict Application of the Zoning Regulations Would Result in Practical Difficulty upon the Property Owner**

The Applicant needs to upgrade the Building to provide a safe and habitable home for its tenants. In addition, the units themselves are in need of a complete renovation and updating. In a building such as this, long subjected to rent control, the Applicant will not realize anything near market value, even after completing a hardship petition to request an increase in the current rental rates. The use of the vacant basement provides the opportunity to raise the revenue stream necessary to complete such an upgrade and to continue operating the Building as rental units. Due to the deteriorated condition of the Building, and the structural repairs needed, strict compliance with the Zoning Regulations (i.e., leaving the basement space unutilized) presents a practical difficulty to the Property owner.

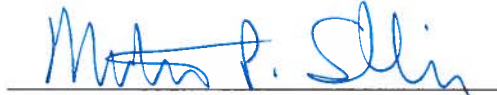
### **C. Relief Can Be Granted Without Substantial Detriment to the Public Good or Substantial Impairment of the Zone Plan**

The requested relief can be granted without substantial detriment to the public good or substantial impairment of the zone plan. The Applicant is proposing no changes to the density, footprint, or height of the Building, even though it is well below the maximum permitted height. The Building has operated as a 24-unit building since its construction in 1923. Granting relief will add another 11 units, but it will provide them as necessary rental units subject to significant rent control restrictions. Granting relief also allows the continuation of the 24 rental units which have been here for 90 years. It is not believed that the addition of 11 units will have a noticeable

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impact on the surrounding area, when compared to the benefits of restoring and upgrading the 90-year old building.

Regarding the integrity of the Zoning Regulations, the Applicant is merely asking for the ability to use all of its existing space for an expansion of a long-existing use. The lot is very large, and the Building has existed and been used as an apartment house for many years prior to 1958. Therefore, granting relief will not impair the integrity of the Zoning Regulations.



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