

**Before the Board of Zoning Adjustment of the District of Columbia**

**Case No. 19659, 2118 Leroy Pl. NW, Washington, DC 20008**

**AFFIDAVIT OF FREDERICK W. GUINEE**

**District of Columbia**

**BEFORE ME**, the undersigned Notary, Leslie B. Perez, on this 30<sup>th</sup> day of January, 2018, personally appeared Frederick W. Guinee, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

1. I am a United States citizen, age 58, and resident of the District of Columbia.
2. I oppose the application of the Federation of State Medical Boards for a special exception and/or a use variance with respect to the property that is the subject of Case No. 19659, 2118 Leroy Place, NW. I oppose the application because the requested relief lacks harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will substantially and significantly adversely affect the use and of the neighboring property, including my family residence. I further oppose the application because the applicant has misrepresented a number of factual matters to the BZA and other planning and zoning authorities that must be corrected and suggest that the zoning authorities should not grant any relief that is based on conditions that would burden the neighbors with enforcing them against the applicant.
3. Those factual issues include (a) the actual prior use of the subject building by the military attache of the Republic of Colombia; (b) the current actual residential, non-commercial character of the neighborhood and Leroy Place in particular; and (c) the actual lack of any likelihood that the subject property would become dilapidated or destroyed if the requested relief were not granted, in light of the actual conversions of properties that have occurred in the neighborhood. Additional factual issues are that residential purchasers, such as myself, actually rely on the R3 designation of the Zoning Maps, do not seek homes that are across the street from or near office buildings, and do not purchase family homes in mixed office-residential areas.
4. My wife and I own the home at 2121 Leroy Place, NW, Washington, DC 20008. We acquired the home in February 2014 and have resided in it since May 2014. Our older daughter (age 23) currently resides with us, and our younger daughter (age 18) is enrolled at a residential university but resides with us when she is not at college. Our younger daughter resided at the home during more than three of her four years of high school in Washington, DC (2014-2017).
5. Our home on Leroy Place is directly across the street from the property that is the subject of Case No. 19659, 2118 Leroy Place, NW. Our home is less than fifty (50) feet from the subject property. I can see the entirety of the front of the property facing Leroy Place from each of the front windows of my home as well as from the entire front yard and driveway, which enters onto Leroy Place.
6. The applicant has attempted to portray my family home as non-residential by labelling it in its Prehearing Statement materials as "the filming location for a season of Bravo TV's Top Chef-DC."

My home is a home. I have always used it as a home, and I bought it from a couple with 7 children who used it as a home. My understanding is that the home was briefly used in 2010 as the location where the contestants on Top Chef lived, but they did not compete in cooking challenges there. The series was filmed in commercial kitchens around DC as well as in Singapore. The labelling of my home by the applicant as somehow “commercial” is indicative of its attempt to deceive and mislead the BZA and other zoning authorities.

7. Prior to moving to 2121 Leroy Place, we resided on Tilden Street NW, in a single-family home in the Spring Valley neighborhood of Washington, DC. We undertook an active search to purchase a new home from approximately September 2013 until December 2013, when we learned of the availability of 2121 Leroy Place. I estimate that our real estate agent identified more than 200 properties that might interest us and that I physically toured more than 30 houses and condominiums.
8. Not a single one of those houses that we toured was located on a mixed office and residential street. We would not have been interested in a home across the street from an office building, next to an office building, or on a street with an office building in the middle of the block. I believe that many families seeking single-family homes in the District of Columbia would not consider homes on such a mixed office-residential street. Having an office building mid-block changes the character of a street from residential to mixed.  
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9. All the homes that I toured were located in residential neighborhoods of Washington, DC, including Kalorama-Sheridan, Adams Morgan, Georgetown, Glover Park, Woodley Park, Cleveland Park, Wesley Heights, Observatory Circle, Foxhall, Spring Valley and Kent. My wife and I first resided in the District of Columbia together in 1988, so we are very familiar with the residential character of these neighborhoods.
10. My wife and I have been familiar with the Kalorama neighborhood since friends moved to it (Bancroft Place, one block away from our current home) in approximately 1990.
11. During our home search in late 2013, we toured and considered many properties in the Kalorama neighborhood, including single-family houses on Kalorama Circle, Kalorama Road, Bancroft Place, 24<sup>th</sup> Street and, of course, Leroy Place. None of those homes were on streets with office buildings mid-block.
12. By the time we learned that 2121 Leroy Place was being offered for sale, we were very familiar with the neighborhood. The primarily residential character of the neighborhood, being separate and apart from the nearby commercial and business districts, was a compelling factor in our decision to pursue the purchase of the property.
13. By the time we learned that 2121 Leroy Place was being offered for sale, we were also familiar with the presence of residential-style buildings that were being used for various diplomatic purposes in the Kalorama neighborhood. The diplomatic uses include embassies, ambassadorial residences, and

chanceries. We understood that diplomatic usage was permitted under the relevant laws and rules for those particular buildings.

14. When we considered making an offer to acquire 2121 Leroy Place, we were aware that it was within an area zoned for R3 use. The limitations of R3 use were substantial reasons that we made an offer to acquire 2121 Leroy Place. We relied on complete compliance with those limitations in making our offer. We would not have made an offer on the property if it had not been in an R3 zone (or similar fully residential zone). We would not have made an offer on the property if the surroundings properties, including 2118 Leroy Place (directly across the street), had not been in an R3 (or similar residential) zone.
15. Prior to making an offer to acquire 2121 Leroy Place, I personally studied the neighborhood to ensure it had the character that we sought – one in which we would feel comfortable raising our younger daughter during her high school years and where afterwards we would live as “empty nesters.” Prior to making the offer, I became comfortable that, aside from limited diplomatic uses and the houses of worship, all the properties in the neighborhood (other than on the commercial thoroughfares like Connecticut Avenue) retained an entirely residential character. We would not have made an offer to acquire our home if my study of the neighborhood had revealed a character that was not fully residential.
16. Prior to making an offer to acquire 2121 Leroy Place, I personally observed that there was absolutely no commercial or business use of any property on Leroy Place (other than the properties that are on the corner, on Connecticut Avenue.) I would not have made an offer to acquire my home if there had been any commercial or business use on Leroy Place, in the R3 zone. I would not have been comfortable with the residential character of the neighborhood had there been commercial or business uses of the buildings on Leroy Place.
17. Similarly, there were no trade associations or similar organizations using any of the properties in the R3 zone on Leroy Place when we made our offer an offer, and there have been none at any time since we acquired our home.
18. Prior to making an offer to acquire 2121 Leroy Place, I personally observed the activities at the Colombian chancery that then occupied 2118 Leroy Place. My observations satisfied me that use of the building was extremely limited. The limited diplomatic use did not substantially detract from the residential character of the neighborhood. After making the offer but before it was fully ratified and all the contingencies cleared, I continued to observe the activities at the Colombian chancery, and I continued to be satisfied that the use of the building was extremely limited. If I had not been satisfied, we could have exercised our rights under our purchase contract to cancel the contract.
19. We closed on the acquisition of our home in February 2017. Thereafter, we undertook some repair, renovation and redecorating prior to moving into the home in May 2017. During that interim period, I visited the home regularly to supervise contractors and move our property into the home.

20. The rooms of our home that look toward 2118 Leroy Place include our entry hallway, our living room, and our master bedroom. Professionally, throughout the period of our ownership of 2121 Leroy Place, I have been retired, with my professional activities limited to teaching as an adjunct faculty member at Georgetown University during the fall semesters, with teaching responsibilities twice a week. The ingress and egress to our home is always directly from Leroy Place; there is no alley behind our house. I personally maintain the gardens in the front of my home, directly across from the subject property, and I personally clear leaves, debris and snow from the front steps, driveway and sidewalk. Since February 2014, I have been able to observe and have observed the comings and goings at 2118 Leroy Place regularly, throughout both the business day and at other times.
21. The applicant has told the BZA on pages 9-10 of its Prehearing Statement that “the Applicant does not have first-hand knowledge of the exact level of use by the Colombian government.” I have first-hand knowledge, based on personal observation.
22. The applicant has represented that its proposed use of the property at 2118 Leroy Place would be no greater than the prior use by the Colombian chancery. This is a misrepresentation to the BZA and other zoning authorities.
23. While the Colombian government was using the building for chancery purposes, I personally observed extremely limited use of the property. I never observed lines of people waiting to get into the chancery. I never observed large numbers of people coming or going. I never observed people wandering down the street seeming to be looking for the Colombian embassy. All activity was very limited diplomatic use, and I never observed activities consistent with or similar to any business uses.
24. At all times during my residency directly across the street from the Colombian chancery building, there appeared to be only a handful of workers using the building. Many of the workers were readily identifiable, since they were uniformed military personnel. There was also a minivan with a driver and diplomatic license plates that parked in the designated diplomatic spots. I estimate that perhaps 5 or 6 people worked at the chancery.
25. I note that the Colombian government ceased to use the building because it no longer needed so much space for such a small staff and such limited use, which were consolidated into other space in the District of Colombia.
26. The applicant’s representations concerning the relative level of its proposed activity compared to the actual Colombian government use are not supported by any evidence and are false. To the extent the applicant asserts that the proposed office use will likely have less impact on the neighborhood, my personal and essentially daily observations contradict the applicant’s unsupported conjecture. The BZA and other zoning authorities should not rely on any of the applicant’s assumptions, conjectures or representations unless supported by ample, competent evidence.

27. Most glaringly, the applicant on page 4 of its Prehearing Statement has told the BZA and other zoning authorities that the subject property was used for – and I quote – “commercial purposes for 70 years.” This of course is false. During the entirety of my residence across the street, the property has never been used for commercial purposes. It has been used for limited, non-intrusive diplomatic purposes only.
28. Simply put, Leroy Place is an entirely residential neighborhood. Unlike neighborhoods such as Georgetown (and particularly the areas near Georgetown University), Leroy Place experiences no significant non-residential uses once passing the buildings that are on Connecticut Avenue.
29. Two of the buildings are houses of worship, and those are entirely consistent with residential areas. Indeed, each of those building also serves as the rectory where the clergy and clergy’s family reside.
30. The homes, diplomatic missions and rectories on Leroy Place create a wonderful residential character suitable for raising families, relocating to be near grandchildren, walking dogs, enjoying neighborhood gatherings, and engaging in similar activities that are the purposes of an R3 residential zoning designation. I understand that evidence has been presented about the number of children who live on the block. Empty-nesters live in some of the other houses. My neighbors purchased their home to be near their grandchildren. There is very limited vehicular or pedestrian traffic related to the 3 houses used as diplomatic missions. People in Washington, DC, appreciate that special character of diplomatic missions and how they can enhance a neighborhood, including in terms of diversity and providing our children with exposure to global cultures.
31. There are numerous examples of increased use and adverse effects on the residential quality of life on Leroy Place posed by the existence of an office building mid-block. Leroy Place is a narrow one-way street, with parking on both sides of the street and only a single lane for through traffic. A delivery truck has no where to park whatsoever on Leroy Place, and a delivery invariably blocks the street and cannot necessarily be controlled by the occupants of the properties. While the Colombian governmental use was very limited, they did receive deliveries of water from Deer Park Spring Water. On one occasion, when I asked the delivery truck to move so that I could exit my driveway and proceed to drive on Leroy Place, I was told by the delivery personnel to “Fuck off.” (I complained to the company.) Delivery trucks would similarly block the alley if they were required to use it. And of course, they would only use the alley if they were uniformly and consistently instructed in advance not to use it, and if they uniformly complied with those instructions. As normal, observant members of society, we know that will not be the case. For example, there is a sign at the entrance to Leroy Place that says bus traffic is not permitted, yet buses sometimes attempt to travel on the street. Delivery is easier and faster by stopping on Leroy Place to make a delivery rather than maneuvering in and out of the alley, so the zoning authorities should act in a manner that reflects that reality. If ongoing office use were permitted at the subject building, we could expect delivery traffic to increase.
32. Other traffic, parking and blockage issues are likely to increase as well. For example, a business user of the property could expect to have a daily outside cleaning service for the building, which brings in its own cleaning equipment and supplies. This was not the case with the Colombian government, and this is not the case with people who have their family homes on Leroy Place. In my experience, cleaning service personnel engaged in only periodic service of residences (not daily service) have

ignored parking restrictions, even blocking my driveway, perhaps knowing that they will leave before 311 will be called and Parking Enforcement will come to ticket or, much later, tow.

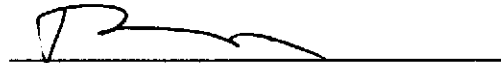
33. As paid ride-sharing increases in popularity, people no longer walk to or from Connecticut Avenue for drop-off or pick-up. Rather, Uber, Lyft and similar cars stop mid-block, in the middle of the single through lane, and this can be expected to occur more frequently if 8 or 25 or 118 workers use the building across the street from my home, and if visiting Board members and other personnel come to the office for meetings or other gatherings.
34. Tobacco smoking will not be allowed inside the building, so smokers will likely exit it onto Leroy Place to smoke.
35. Currently, we recognize most of the people who walk along Leroy Place. Workplaces have shifting workforces; office buildings have visitors that even the office employees have never met before; office buildings utilize outside contractors to provide services at a higher level of intensity than homes, with greater turnover. There will be far more unfamiliar faces on Leroy Place with an office building in the middle of it.
36. These are examples that I and my neighbors hope the zoning authorities will recognize and appreciate as reality. The zoning authorities should appreciate that they would be placing a large office building in the middle of a residential block.
37. The applicant concedes that the only reason that the District of Columbia allows for a special exception for office use in an R3 zone is because that might be a risk of a building's dilapidation or destruction. There is absolutely no risk that 2118 Leroy Place will become dilapidated or destroyed. It was marketed for sale as a residence, because realtors know that residential buyers abound. In my neighborhood, other former residential buildings that were temporarily used for institutional purposes have been purchased and returned to residential use. I have been in some of these homes. Granting a special exception would destroy the intent and purpose of the Zoning Regulations and the Zoning Maps, which clearly designate the subject property as smack dab in the middle of an R3 zone for residential use with no risk of the deterioration that is the only reason that the regulations provide for the possibility of a special exception.
38. I am deeply concerned about the applicant's veracity and its reliability as a custodian of public trust should its requested relief come with conditions. I attended the Advisory Neighborhood Council meeting at which the applicant presented its proposal for the subject property, because I could not understand why an association would buy a \$4 million property and incur additional renovation expenses to house a mere 8 employees, which is what the applicant represented to the zoning authorities and the community in its initial application. At the ANC meeting, the applicant repeated that it expected to have only 8 employees at the building. Then, in its Prehearing Statement, we heard for the first time that the applicant proposes that up to 25 people can work at the building, and the applicant concedes that, as an office building, as many as 118 people could work there. The applicant's story shifts in other ways as well. At first, the applicant – through its counsel, who is supposed to verify the truthfulness and accuracy of what he tells the authorities and the community – represented that the Gross Floor Area of the subject building was far less than 10,000 square feet, so that a variance was required, and the applicant's actual employees repeated this at the ANC meeting. Only after losing at the ANC did the applicant come up with a new measurement for its

Prehearing Statement, even though for 6 months (July-December) the Applicant itself knew and told everyone that the property had only about 8000 square feet of Gross Floor Area. Frankly, it seems that the applicant will do or say anything to gain zoning approval.

39. I am concerned that the community cannot rely on the applicant. The only way for the community to enforce any conditions that might be imposed on the applicant is through time-consuming, burdensome procedures. It is not fair to impose these burdens on the neighbors, in particular given the track record of the applicant before the community.

40. If the action requested by the applicant is approved, my family residence mid-block on Leroy Place will be opposite a large office building where certainly 25 people will work and where up to 118 people could be authorized to work. The residential character of the area where my family lives – and where many other families and retired people live – will deteriorate and perhaps be destroyed. The use of a former residence in the middle of a block as a large office structure is incompatible with a residential neighborhood. I believe that deterioration of the residential character will result in decrease in the value of my residential property and the residential properties throughout the neighborhood. Like me, potential residential purchasers will not be interested in relocating to a mixed residential-office street.

I declare under penalty of perjury under the laws of the District of Columbia that the foregoing is true and correct.




Frederick W. Guinee  
2121 Leroy Pl., NW  
Washington, DC 20008

Subscribed and sworn to before me, this 30<sup>th</sup> day of January , 2018.

[Notary Seal:]

My Commission Expires January 14, 2020  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
LESLIE B. PEREZ



[signature of Notary]

[Name of Notary]

NOTARY PUBLIC

My commission expires: 01/14, 2020.

CERTIFICATE OF SERVICE

CASE NO. 19659

I hereby certify that on January 30, 2018, I had served a copy of this Affidavit of Frederick W. Guinee In Case No. 19659 via e-mail, to the following:

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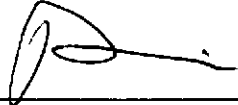
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