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OF COUNSEL:

HAROLD E. JORDAN

February 2, 2017

VIA IZIS

Frederick L. Hill, Chairperson  
Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW, Suite 210S  
Washington, DC 20001


**Re: Application No. 19452 –1700 Rhode Island Avenue, NE (Square 4134, Lot 800)  
Applicant's Opposition to Party Status Request**

Chairperson Hill and Honorable Members of the Board:

On behalf of the District of Columbia Department of General Services (the "Applicant"), please find enclosed the Applicant's Opposition to Party Status Request, which was filed by Citizens for Responsible Options (the "Opposition"). The Opposition's Party Status Request will be heard by the Board at an expedited hearing held on February 8, 2017. The application is scheduled to be heard before the Board on March 1, 2017.

Thank you for your attention to this matter.

Respectfully submitted,

  
George R. Keys, Jr.  
Counsel for the Applicant

**BEFORE THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**APPLICATION OF  
D.C. DEPARTMENT OF GENERAL SERVICES**

**BZA APPLICATION NO. 19452  
HEARING DATE: MARCH 1, 2017**

**APPLICANT'S OPPOSITION TO PARTY STATUS REQUEST  
OF CITIZENS FOR RESPONSIBLE OPTIONS GOVERNMENT**

The Applicant, District of Columbia Department of General Services (the "Applicant"), opposes the Request for Party Status filed by "Citizens for Responsible Options" (the "Opposition"). Of the thirteen households identified as members of the Opposition, only two of the households are within 200 feet of the proposed project. In fact, five of the listed households are located several blocks from the proposed project.

The Applicant initiated this matter to obtain the necessary zoning relief from the Board to construct a Short-Term Family Housing Emergency Shelter (the "Project") located at 1700 Rhode Island Avenue, NE. The Project is part of the District's "Homeward D.C." initiative, which seeks to make homelessness in the District rare, brief, and non-recurring. The Project is specifically designated as an emergency shelter that will provide temporary housing for families with young children who are experiencing homelessness. The Project will include wrap around services that will assist families in finding permanent housing solutions.

On January 24, 2017, the Opposition filed a Request for Party Status. The Request for Party Status was mailed to the Applicant's counsel and not received until January 27, 2017. Notably, the Opposition has requested an "expedited" hearing on the Request for Party Status to be held on February 8, 2017.<sup>1</sup> The Applicant will present the Project to the Board on March 1, 2017.

The Applicant opposes the Opposition's Request for Party Status because the Opposition has failed to meet the burden for party status. In order to be granted party status, the Opposition must demonstrate that its "interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public." *See* 11 DCMR Subtitle Y § 404.13. The "interests" of a party that must be more affected than the general public include "environmental, economic, social, or other impacts." *See* 11 DCMR Subtitle Y § 404.1(i)(4).

Simply put, the Opposition fails to meet its burden to obtain party status as set forth in the zoning regulations. The Opposition relies on a blanket statement that its members will be "much more significantly, distinctively and uniquely affected than will be the case for other persons in the general public. . ." The asserted "interests" of the Opposition are patently general ones, including traffic, parking inadequacy, overcrowding of Burroughs Elementary School, and reduced real estate values. The fact that

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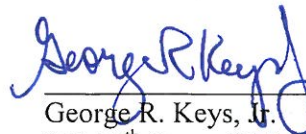
<sup>1</sup> If the Board grants party status to the Opposition, then the Applicant will request on February 8<sup>th</sup> that the Board set forth a supplemental briefing schedule. Accordingly, rather than submit a detailed response to the Opposition immediately, the Applicant will wait for the Board to formally address the request for party status and provide guidance regarding additional filings.

the overwhelming majority of households represented by the Opposition (11 out of 13) are outside of the Project's two hundred foot radius reflects that the interests of the Opposition are not distinguished from the general public. To grant party status to the Opposition based on this scant showing would render meaningless the burden of proof set forth in § Y-404.1 and § Y-404.13.

In addition to the deficiencies noted above, the Request for Party Status fails to comply with the requirement of Subtitle Y § 404.1(h) concerning designation of witnesses. In order to be granted party status, the Opposition must provide a list of witnesses who will testify on the Opposition's behalf as well as a written summary of each witness's testimony. Here, the Opposition does not do so, limiting its witness information to one named witness – the attorney for the Opposition. The Opposition lists its attorney as a witness despite common legal precedent that an attorney cannot testify on behalf of a client. Furthermore, the Opposition notes that "a few of the residents included in Exhibit A will also testify," but fails to name any witness from Exhibit A. As noted above, the Opposition cannot meet its burden through blanket statements concerning witness testimony. The Applicant must be provided the names of witnesses along with their testimony in order to properly prepare for the hearing before the Board on March 1<sup>st</sup>.

The Applicant requests 15-20 minutes at the February 8<sup>th</sup> hearing to provide a response and expand on its reasons for this opposition to the Request for Party Status. The Applicant is in the process of adding Meridith Moldenhauer and Griffin, Murphy, Moldenhauer & Wiggins, LLP as co-counsel in this matter. Accordingly, at the hearing on February 8<sup>th</sup>, Ms. Moldenhauer will be presenting as co-counsel on behalf of the Applicant. In summation, the Applicant opposes the Opposition's Request for Party Status, and requests that the Board deny the Request for Party Status.

Respectfully Submitted,  
Jordan & Keys PLLC



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**CERTIFICATE OF SERVICE**

I hereby certify that on February 2, 2017, I served a copy of this Opposition to Request for Party Status via email and/or first class mail, to the following:


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George R. Keys, Jr.