



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



FORM 140 - PARTY STATUS REQUEST

Before completing this form, please go to www.dcoz.dc.gov > IZIS > Participating in an Existing Case > Party Status Request for instructions. Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.

Pursuant to 11 DCMR Subtitle Y § 404.1 or Subtitle Z § 404.1, a request is hereby made, the details of which are as follows:

Name:	LDP Acquisitions LLC		
Address:	1508 U Street, N.W., Washington, D.C. 20009		
Phone No(s):	(202) 462-1092	E-Mail:	uha@jairlynch.com
I hereby request to appear and participate as a party in Case No.:		19705	
Signature:		Date:	2-21-2018
Will you appear as a(n)	<input type="checkbox"/> Proponent	<input checked="" type="checkbox"/> Opponent	Will you appear through legal counsel? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please enter the name and address of such legal counsel.			

Name:	Vernon W. Johnson, III, Nixon Peabody LLP		
Address:	799 Ninth Street, N.W., Suite 500, Washington, D.C. 20001		
Phone No(s):	(202) 585-8401	E-Mail:	vjohnson@nixonpeabody.com

ADVANCED PARTY STATUS CONSIDERATION PURSUANT TO: Subtitle Y § 404.3/Subtitle Z § 404.3:

I hereby request advance Party Status consideration at the public meetings scheduled for: **March 7, 2018**

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness;
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts; and
4. The total amount of time being requested to present your case.

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
Contract Purchaser; Owner of Equitable Title
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.) N/A
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

Please see the attached.

Board of Zoning Adjustment
District of Columbia
CASE NO.19705
EXHIBIT NO.39

LDP Acquisitions LLC
Party Witness Information

1. List of Witnesses

Ulysses Auger will testify on behalf of LDP Acquisitions. LDP Acquisitions reserves the right to add witnesses and/or expert witnesses as needed.

2. Summary of Testimony

Mr. Auger will testify that LDP Acquisitions is under contract to acquire the property at 2118 Fourteenth Street, N.W. (Lot 10 in Square 0203) and holds equitable title to that real estate. That property is part of the parcel for which this application seeks approval. Because of LDP's superior rights in that real estate, Madison Investments LLC has no legal right to submit this application. LDP's rights and claims are presently in litigation before the Superior Court of the District of Columbia, in a case styled as *LDP Acquisitions LLC v. Felix Nelson Ayala, et al.*, Civil Action No. 2017 CA 006699 B (Calendar 13; Judge John M. Campbell). LDP's rights and interests in the affected real estate are unique. LDP is moving for appropriate injunctive and other relief from the Court, but must also voice its position and objection to this application before the other appropriate authorities, including the Board of Zoning Adjustment. LDP has also asserted its *lis pendens* rights

LDP might seek different or alternative development plans when it closes on its acquisition, and LDP's rights would be severely, irreparably, and adversely affected by an application moving forward for review and being denied or otherwise affected by comments from ANC 1B, the Historic Preservation Review Board, community members, and other interested parties. It is therefore improper for this application to proceed in this manner and at this time. Indeed, LDP's interests and rights would be more significantly, distinctively, and uniquely affected in character or kind by Madison's proposed zoning action than that of other

persons in the general public. LDP's rights of future use, enjoyment, and development would be affected by the plans pursued by Madison. Moreover, in the event that Madison's application were to be denied, LDP could be barred for as long as a year in submitting any new application or appeal.

3. Expert Witnesses

LDP does not anticipate offering any expert witness testimony at this time.

4. Total Amount of Time Being Requested to Present LDP's Case

One (1) hour.

LDP Acquisitions LLC
Party Status Criteria

Applicant/Case Name : Madison Investments, LLC

Property Address : 1400 W St. NW

Case Number : 19705

Case Status : Active

Relief Type : Special Exception/Variance

Hearing Date : 03/07/2018

ANC : 1B04

Application of Madison Investments, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle K § 813 from the height requirements of Subtitle K § 803.3, and from the lot occupancy requirements of Subtitle K § 804.1, to construct a mixed use development in the ARTS-3 Zone at premises 2122 14th Street N.W. (Square 203, Lots 96, 809, 10, and 1).

1. How will the property be owned or occupied by such person, or in which the person has an interest to be affected by the action requested of the Commission/Board?

LDP Acquisitions LLC ("LDP") intends to acquire the property at 2118 Fourteenth Street, N.W. (Lot 10 in Square 0203), in which it holds equitable title and a contract right to purchase, for investment and possible development, through plans to be developed in the future.

2. What legal interest does the person have in the property? (i.e., owner, tenant, trustee, or mortgagee)

LDP holds equitable title to and a contract right to purchase the property at 2118 Fourteenth Street, N.W. (Lot 10 in Square 0203), which is part of the real estate that is the subject of the application before the BZA.

3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board?

LDP's property is part of the property that is the subject of the application before the Commission/Board.

4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?

LDP holds superior rights in the property at 2118 Fourteenth Street, N.W. (Lot 10 in Square 0203). It would be severely and irreparably harmed if the application were allowed to proceed. If the application is permitted to move forward for review and is denied or otherwise affected by comments from ANC 1B, the Historic Preservation Review Board, community members, and other interested parties, LDP's ability to use, enjoy, and develop its property would be severely and irreparably harmed. It is therefore improper for this application to proceed in this manner and at this time. LDP's rights of future use, enjoyment, and development would be affected by the application. Moreover, in the event that the application were to be denied, LDP could be barred for as long as a year in submitting any new application or appeal.

5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.

LDP's rights and claims are presently in litigation before the Superior Court of the District of Columbia, in a case styled as *LDP Acquisitions LLC v. Felix Nelson Ayala, et al.*, Civil Action No. 2017 CA 006699 B (Calendar 13; Judge John M. Campbell). The application should not be permitted to proceed in light of the pending litigation and LDP's requests for injunctive relief from the Court. The Court, and not the BZA, has jurisdiction to decide those issues.

6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

As set forth herein, LDP has unique and irreplaceable interests in the property at 2118 Fourteenth Street, N.W. and will be affected more significantly, distinctively, and uniquely than other persons in the general public if the application is allowed to proceed.

LDP Acquisitions, LLC

1508 U Street, NW Washington, DC 20009
202.462.1092 T 202.462.1082 F

February 21, 2018

Frederick L. Hill, Chairman
Board of Zoning Adjustment
441 4th Street, NW
Suite 200S
Washington, DC 20001

2118 14 STREET, N.W.; Board of Zoning Adjustment Case No.

19705

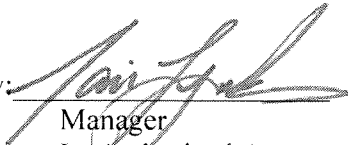
Dear Chairperson Hill and Honorable Members of the Board:

This letter serves as notice that LDP Acquisitions, LLC and/or its assigns has authorized its counsel, Vernon W. Johnson, III and Nixon Peabody, LLP, 799 Ninth Street, N.W., Suite 500, Washington, D.C. 20001, (202) 585-8000, the authority to file on its behalf and pursue its request for party status, motion to dismiss, and other objections to this application, and to otherwise act on its behalf and bind it herein.

Sincerely,

LDP Acquisitions, LLC

By:


Manager
Its Authorized Agent

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of February, 2018, I caused to be emailed a copy of this Request for Party Status and accompanying Party Witness Information, Party Status Criteria, and Letter of Authorization to the following:


Meredith H. Moldenhauer, Esq.
Cozen O'Connor
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District of Columbia Office of Planning
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1100 4th Street SW, Suite E650
Washington, DC 20024
Matthew.Jesick@dc.gov

District Department of Transportation
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Washington, DC 20003
Patrick.Reed@dc.gov

Advisory Neighborhood Commission 1B
c/o James A. Turner, Chairperson
1B09@anc.dc.gov

Advisory Neighborhood Commission 1B
c/o Jon Squicciarini, SMD Commissioner
1B04@anc.dc.gov



Vernon W. Johnson, III