



**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](http://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:	450K CAP LLC		
Address:	c/o OGDEO CAP PROPERTIES, 545 MANSON AVE, NY NY 10022		
Phone No(s):	212-468-0221	E-Mail:	LSCHOALS@OGDEOCAP.COM
I hereby request to appear and participate as a party in Case No.:	BZA, 19722		
Signature:	<i>LSchoals</i>	Date:	3/17/2018
Will you appear as a(n)	<input type="checkbox"/> Proponent	<input checked="" type="checkbox"/> Opponent	Will you appear through legal counsel? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

If yes, please enter the name and address of such legal counsel.

Name:	
Address:	
Phone No(s):	
E-Mail:	

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: \_\_\_\_\_

**PARTY WITNESS INFORMATION:**

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

- A list of witnesses who will testify on the party's behalf; REPRESENTATIVE(S) OF 450K CAP LLC
- A summary of the testimony of each witness; SEE ATTACHMENT TO FORM 140
- 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 TRAFFIC ENGINEER (TRSD) RELATED TO LOADING
- The total amount of time being requested to present your case. 15 MINUTES + ACCESS

**PARTY STATUS CRITERIA:**

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

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

**450K CAP OWNERS INTERESTED**  
**PARTY STATUS CRITERIA**

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? *If the Hotel project is approved with no rear yard setback and one loading berth, our view, light and air on 24 apartments will be harmed by the proposed building erected about 8 feet away from our apartment windows. Over 40 more apartments will have their line of sight and light negatively impacted as well. Inadequate loading and traffic management for hotel services will result in round the clock noise into our building. The public alley must be kept clear as our trash/recycling haulers will need to access our loading dock. Idling vehicles or construction staging can cause for delays or missed trash/recycling picks and delays with resident moves.*
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee) *We are the sole owner of this building 450K. Our entity 450K CAP LLC bought the newly constructed building in 2015 for approximately \$105 million. We are paying approximately \$900,000 in Real Estate taxes annually. In doing our due diligence before the purchase we relied on the zoning requiring a 25' rear yard setback from neighboring development parcels in order to allow air, light and noise buffer for our residents to help justify the price we paid. Our understanding was that neighboring buildings being sold would be subject to existing setback requirements that we evaluated as part of our acquisition analysis.*
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.) *8 feet 6 inches*
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? *Should this project be approved, with out proper loading at the edge of a insufficiently wide and long rear alley, the rear access reality will be incessant truck and loading nuisance noise. The hotel use will probably result in deliveries and pick up at all hours of the day and night. If the project is approved with out a rear yard, our tenants will be living with transient hotel guests a few feet from our windows. This is incompatible with the quiet enjoyment of our resident. Indeed, the pattern of the proposed demographic young hotel resident activity may be disturbing to the living conditions of us the nearby long term residents. Likewise, the privacy that one might be reasonably expect will be 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. *Reasonable light air and view, which the code provisions are intended to insure for the benefit of neighboring property, will be denied to the residents of this building, as well as proximate other buildings. The site is not irregular and the notion that this is an urbanizing area and the residents of nearby homes should simply have expected this impact on their homes is preposterous. In fact, the zoning code was intended to provide for dense but responsible development of this area. And the matter of regulation for bulk, height and mass were written to insure that level of density didn't result in an intolerable living conditions for inhabitants as their neighborhood developed. In fact, these zoning provisions have been in place for a long time and anyone seeking to develop a hotel parcel could be expected to fully understand the development potential and limits of that site. To construe a "hardship" for a site whose geometric configuration is basically a rectangle with no*

*meaningful change in grade fails to meet any reasonable interpretation of the term as the code defines it. To further argue that such a fictitious hardship should then be cured by imposing an unfair and very real hardship on the owners of the adjoining and more importantly the residents of that property is with out merit.*

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. *Indeed, the distance with out the required rear yard setback will be one of the two largest problems. Also, the inadequate loading accommodations added to the convoluted and obstructed alley traffic will guaranty that hotel related deliveries and pickups will be a constant and eternal nuisance.*

The undersigned certifies that a copy of this Form 140 was sent by Federal Express to Meridith Moldenhauer and Alyssa Bigley, Cozen O'Connor, 1200 19<sup>th</sup> Street NW, Washington, DC 20036 and the ANC, c/o Chairman Alex Marriott, 460 L Street NW, Washington, DC 20001

/s/

Lester Schwalb  
450K CAP  
c/o Ogden CAP Properties  
545 Madison Ave, Suite 500  
New York, New York 10023

212-468-0221