

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Attorney General
Brian Schwalb

September 15, 2025

Frederick L. Hill
Chairperson Appointee
Board of Zoning Adjustments
441 4th Street, NW, Suite 200S
Washington, D.C. 20001

Emailed to: bzasubmissions@dc.gov

Re: Letter for Consideration by the Board of Zoning Adjustments Regarding the Application of Solid Brick Ventures LLC, Case No. 20507C, Set for 9/17/2025 Hearing

Dear Mr. Hill,

The Office of the Attorney General for the District of Columbia (OAG) submits this letter pursuant to 11 D.C.M.R. 206 1 *et seq.* for consideration by the Board of Zoning Adjustments (the Board) with respect to the Application of Solid Brick Ventures LLC (Solid Brick Ventures), BZA Case No. 20507C. In its Application, Solid Brick Ventures seeks to “modify and extend for two years, Board of Zoning Adjustment Order No. 20507, and to increase the number of dwelling units from 9 to 16 units on Lots 2-7 of a previously approved new residential development in the RA-1 zone.” The Application concerns six (6) lots located between 65-85 Hawaii Avenue, NE (Square 3674, Lots 2-7) (collectively, the Properties). The Properties are in ANC 5A06.

OAG submits this letter to ensure that the Board takes into consideration the restrictive covenant executed by Solid Brick Ventures on December 8, 2022 (the Covenant) requiring the preservation of all rent-controlled units on the Properties. An executed and recorded copy of the Covenant is attached here as Exhibit 1. OAG also requests that the Board consider the enhanced tenant protection and relocation requirements to which Solid Brick Ventures is still bound under the Consent Order it entered to resolve a previously litigated matter with OAG. An executed copy of the Consent Order is attached here as Exhibit 2.

Specifically, OAG encourages the Board to include in any issued order an express condition or finding of fact or law that the Applicant remains bound under both the Covenant and the Consent Order as further described below.

Background

A. Prior Zoning Process

BZA Case No. 20507C represents a modification of a former application in BZA Case No. 20507 (the Former Application) filed by Solid Brick Ventures along with 93 Hawaii Ventures, LLC, and 98 Webster Ventures, LLC (collectively, the Former Applicants). On November 17, 2021, the Board granted the Former Application authorizing the Former Applicants to enlarge the buildings located upon each of the eleven (11) lots included in the Former Application. Specifically, the Board granted special exemption approval to enlarge each of the existing buildings with a new third-floor addition and to increase the overall number of dwelling units on the Properties by 46 units, bringing the total from 88 units to 134 units. The Former Application sought to accomplish this enlargement by adding a single additional unit to six of the buildings and eight (8) additional units to the 5 remaining buildings.¹ The present Application seeks to modify this order so that the six (6) buildings originally approved for 9 units may now accommodate 16 units each.

B. Affordable Housing Covenant

In December 2022, OAG settled *District of Columbia v. Solid Brick Ventures, LLC, et al.*, Case No. 2022 CA 000486 B, a housing conditions lawsuit filed in D.C. Superior Court against the then-owners and managers of the Properties: Solid Brick Ventures, LLC, 93 Hawaii Ventures LLC, 98 Webster Ventures LLC, and M Squared Real Estate, LLC (collectively, the Owners).

As part of the settlement of this lawsuit, OAG and the Owners executed the Covenant to preserve all 88 rent-controlled units at the Property for a period of 25 years. The Covenant restricts the use of the property for twenty-five (25) years. Paragraph 16 of the Covenant specifies that the rent-control provisions for all 88 units are not tied to any specific party, but instead, “run with the land.” As such, these rent restrictions are in full force and effect, and “no sale, redevelopment, rehabilitation, transfer or foreclosure shall affect [their] validity,” (emphasis added). Emphasizing the continuous nature of the Covenant, Paragraph 18 further states that “[a]ll Mortgages placed against the Property, or any portion thereof, shall be subject and subordinate to this Covenant.”

Under Paragraph 2 of the Covenant, the only allowable rent increases are those that are consistent with general, annual adjustments in accordance with D.C. Code § 42-3502.06, and subject to specific restrictions for elderly tenants and tenants with disabilities under D.C. Code § 42-3502.24. Rent increases for vacant units are also allowable pursuant to D.C. Code § 42-3502.13. Paragraph 3 of the Covenant prohibits the owner from seeking rent increases based on hardship claims, capital improvements, or substantial rehabilitation.

Paragraph 6 of the Covenant provides that Solid Brick Ventures and any subsequent owner may not “demolish or otherwise structurally alter an Affordable Unit or remove fixtures or

¹ The Former Application and current Application seek approval for 16 Inclusionary Zoning (“IZ”) Units at the Property. OAG understands this to be a permissive request only and requests that the Board’s order reflect that any approval or denial as to IZ requirements has no bearing on the enforceability of the Covenant’s requirements to preserve all rent-controlled units at the Properties.

appliances in an Affordable Unit other than for maintenance, repair, or replacement with equal or better quality *without the prior written approval* of [the Office of the Attorney General], which approval shall be in the *sole discretion* of the [the Office of the Attorney General],” (emphasis added). It is OAG's view that the reduction of unit sizes is a structural alteration to a unit covered under Paragraph 6 of the Covenant, for which OAG has the sole discretion to approve or deny.

The Covenant is duly recorded with the D.C. Recorder of Deeds and is enforceable against Solid Brick Ventures (and any other or subsequent owner).

C. December 2022 Consent Order

In the Consent Order, Solid Brick Ventures also agreed that “all terms governing tenant relocation in the Abatement Plan shall remain in effect during the [renovation of the Properties].” See Ex. 2, Consent Order, Paragraphs 28-29 and Paragraphs 1-5 (Exhibit A to the Consent Order). These terms, included in Paragraphs 1 through 5 of the May 13, 2022 Abatement Plan (Abatement Plan),² require Solid Brick Ventures to (i) relocate tenants only with their consent, (ii) cover the costs of relocation (both moving away from and back to their unit) and any necessary storage, (iii) maintain the amount of tenants’ rent during relocation, and (iv) provide a guaranteed right for any relocated tenant to return, at the tenants’ discretion, to either their original unit or a replacement unit on the Properties of at least the same type and amenities.

For the Board’s Consideration

OAG submits this letter to make the Board aware of these existing and separate legal obligations on the Applicant, and to ensure such obligations can be accounted for in any order the Board enters. Finally, OAG requests five (5) minutes to present statements to the Board during the hearing on September 17, 2025. At that time, we will be glad to summarize this letter and answer any questions the Board may have. Thank you for your time and careful consideration.

Date: September 15, 2025

Respectfully Submitted,

COTY MONTAG
Deputy Attorney General
Public Advocacy Division

WILL STEPHENS
Assistant Deputy Attorney General
Public Advocacy Division

BETH MELLEN
Assistant Deputy Attorney General
Public Advocacy Division

² During litigation, Solid Brick Ventures agreed to the entry of a consent Abatement Plan to avoid the appointment of a receiver at the Properties.

/s/

JOANNA WASIK
Chief, Housing and Environmental Justice
Section

/s/

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