

December 1, 2025

Via IZIS

Mr. Fred Hill, Chairman  
D.C. Board of Zoning Adjustment

**Re: BZA Application No. 20968A (the “Application”) – Applicant’s Request for Waiver and Justification for Timeliness of Filing**

Dear Chairman Hill and Members of the Board:

On behalf of the applicant the National Geographic Society (“NGS” or “**Applicant**”) in this case, we are filing this waiver request and justification in response to Office of Zoning staff informing us that they believe the Application for a time extension of an order was not timely filed.

Accordingly, we request that the Board of Zoning Adjustment (“**Board**”) waive Subtitle Y § 702.1 to allow the Board to accept and consider the above-referenced Application.<sup>1</sup> Pursuant to Subtitle Y § 101.9, the Board may, for good cause shown, waive any of the provisions of Subtitle Y. The good cause for granting this waiver is that NGS did, in fact, timely file the Application.

## **1. The Order Expired on November 18, 2025**

NGS filed this Application on November 12, 2025 for a two-year extension of Order No. 20968 (the “**Order**”), which approved a special exception for a rooftop bar and restaurant on an existing building proposed to be converted to a hotel for NGS. The Order became final on November 8, 2023, and, in accordance with Subtitle Y § 604.11, it became effective on November 18, 2023. Per Subtitle Y § 702.1, the Order remained valid for two years.

The Order includes the following clear language that affirms that the Order remained valid and effective until November 18, 2025 (*i.e.*, two years after the effective date):

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<sup>1</sup> Because the Applicant’s position is that the Application was timely filed consistent with the Zoning Regulations and language in the Order, it is not clear what provision should be waived; thus, the Applicant requests that the Board waive whichever provision it deems necessary for the Application to be considered if it is a provision other than that requested herein.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

In other words, the Applicant was permitted under the plain language in both the Order and Subtitle Y § 702.1 to file a building permit application with the Department of Buildings until November 18, 2025, after which date the approval in the Order would have expired.

## **2. Filing the Time Extension Application before November 18, 2025 was Timely**

Alternatively, in accordance with the above language excerpted from the Order and consistent with Subtitle Y § 705.2, the Applicant was permitted to file a time extension application until before November 18, 2025, which is what occurred in this case. Subtitle Y § 705.2 says that the Board may extend the time period of an order “upon the filing of a written request by the applicant before the expiration of the approval...” The approval in the Order expired on November 18, 2025 since that was the last date that the Applicant was able file a building permit application because the Order’s two-year validity period ran from “AFTER IT BECOMES EFFECTIVE” (*i.e.*, November 18, 2023). The Order did not expire on November 8, 2025, which was merely two years after the final order date. There is no mention in either Section 702 (Validity of Approvals and Implementation) or Section 705 (Time Extensions) of Subtitle Y that an order expires two years after its final order date, so there is no other way to read the excerpted language in the Order and § 705.2 other than that a time extension application could have been filed until before November 18, 2025. Therefore, the filing of this Application on November 12, 2025 was timely and allowed by the Order and the Zoning Regulations.

If the Board were to require that applicants, like in this case, with orders containing the above-excerpted language must file a time extension application by two years after the final order date, then it would act in disregard of the plain language of the Order and many applicants would be prejudiced. Any of these applicants would rightfully conclude that they could either file a building permit application or a time extension application until two years after the effective date of their order. It is incongruent that one could file a building permit application but could not file a time extension application during this same time period. Differentiating the deadline for filing a time extension as the final date of the order causes confusion, is inconsistent with the regulations, and contradicts the clear

language in the order; this would ultimately result in the unjustifiable loss of BZA-approved relief. Conversely, applying the same deadline for building permit application and time extension application is clear, consistent, and fair to applicants.

### 3. Conclusion

The Applicant requests that, under the authority in Subtitle Y § 101.9, the Board waive Subtitle Y § 702.1 (and/or other provisions if the Board deems appropriate) to accept and consider this Application. The good cause for this waiver is that the Applicant filed this Application on November 12, 2025, before the Order expired on November 18, 2025, as allowed by both the Order itself and Y § 705.2. No parties would be prejudiced by granting this waiver to accept and consider this Application. Conversely the Applicant would be prejudiced if the Application were not accepted as timely filed in accordance with the plain language of the Order and regulations since it would jeopardize National Geographic's planned hotel project and its significant economic benefits to downtown Washington.

Please feel free to contact the undersigned if you have any questions or comments regarding this application.

Respectfully submitted,

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Cary R. Kadlecek

**Certificate of Service**

The undersigned hereby certifies that the foregoing letter was delivered by electronic mail to the following addresses on December 1, 2025:

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\_\_\_\_\_/s/\_\_\_\_\_  
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