



October 1, 2024

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Frederick L. Hill, Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, DC 20010

**Re: BZA Case No. 21177
Applicant's Motion to Strike Non-Germane Arguments and Limit ANC 2G's
Presentation Time**

Chairperson Hill and Members of the Board:

On behalf of Applicant D.C. Department of General Services (the "**Applicant**") and the D.C. Department of Corrections, please find enclosed a Motion to Strike attached at **Tab A**. The Applicant respectfully requests the Board to:

- Strike two non-germane arguments raised by Advisory Neighborhood Commission 2G ("**ANC 2G**") and
- Limit ANC 2G's hearing presentation to 60 minutes.

In ANC 2G's report (Ex. 97) two arguments are raised that are not germane to the special exception relief requested by the Applicant. Under Subtitle Y § 408.1(d-e), the Board has the authority to rule on "offers of proof and receive relevant evidence," and "exclude unduly repetitious, immaterial or irrelevant testimony..."

First, ANC 2G notes that it requested an inspection of "transportation area of the current Central Cellblock," (the "**CCB**") which was not granted by the Applicant. The Applicant is under no obligation to allow an inspection of property not subject to this Application. The Daly Building is the current location of the CCB but not the subject property for this Application. The Board's review must be limited to the subject property and restrict testimony regarding other sites as their operations, facilities, and conditions are not the same and thus irrelevant. As such, ANC 2G's ability to inspect the Daly Building has no bearing on the special exception standard.

Second, ANC 2G asserts that the Applicant did not present to the community a "cost analysis" or "alternative candidates and reasons for their rule-out" for the temporary location of the CCB. As noted in the Applicant's prehearing statement (Ex. 52, pg. 10), the Applicant's process of selecting the subject property for the temporary location of the CCB is not a condition of the special exception relief and, therefore, not relevant to the Applicant's burden of proof.

Since both of these arguments are not germane to the special exception standard, the Applicant requests the Board to strike the arguments and exclude any hearing testimony in support of these arguments, as permitted under Subtitle Y § 408.1(d-e).

Further, ANC 2G has requested a presentation of 1.5 hours at the October 9th hearing. Under Subtitle Y § 408.2, the Applicant and parties in support are entitled to a 60-minute presentation, and all parties in opposition are collectively entitled to a 60-minute presentation. Notably, an “affected ANC” is excluded from this time restriction. Nonetheless, under Subtitle Y § 408.4, the Board has the authority to grant additional or lesser time to any “party,” including an ANC, to present a case, provided there is a “reasonable balance in the allocation of time between proponents and opponents.”

ANC 2G is functioning as a party in opposition to this Application, with legal representation and an extensive list of witnesses. Yet, by opposing the case under the ANC’s name, ANC 2G is circumventing the standard 60-minute time restriction for opposition parties and instead requesting 90 minutes to present. As has long been the Board’s practice, ANC 2G’s presentation should be limited to no more than 60 minutes. The Applicant’s presentation will be 60 minutes and, therefore, it is also reasonable to limit ANC 2G’s presentation to 60 minutes pursuant to Subtitle Y § 408.4.

We thank the Board for its consideration of this Motion and look forward to presenting the Application to the Board on October 9, 2024. Thank you for your attention to this matter.

SINCERELY,

COZEN O’CONNOR



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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2024, a copy of the foregoing Motion to Strike with attachments was served, via electronic mail, on the following:

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