

**BZA Case No. 21177– D.C. Department of General Services  
Advisory Neighborhood Commission 2G  
501 New York Avenue, N.W.**

Advisory Neighborhood Commission 2G’s Opposition to Applicant’s Motion to Strike

In its Motion to Strike dated October 1, 2024, the Applicant seeks to exclude two arguments set forth in ANC 2G’s Statement in Opposition filed on October 1, 2024: specifically, (1) the Applicant’s refusal to allow an inspection of the current site by Chair Nigro and (2) the Applicant’s failure to provide information regarding the site selection process. The ANC asserts that both of these points are both relevant and critical to any consideration and final determination of the proposed relocation’s compliance with the special exception standards mandated by the Zoning Regulations.

BZA Case No. 21040 was the impetus for this special exception application. The only reason that the proposed relocation is now before the Board is because the ANC demanded that the District government be held to the same standards as other applicants. The Board agreed. The special exception process provides a forum whereby the public can participate and weigh in on the effects of the requested relief. Applicants must appear and present to the Advisory Neighborhood Commissions so that the Commissioners can make an informed and educated recommendation to this Board that represents the best interests of their constituents. In furtherance of that goal, Chair Nigro requested to visit the site and was told by Lindsay Appiah, Deputy Mayor, in the attached email dated April 15, 2024, that she was not permitted to do so because she was a member of the public. First, the Chair is an elected official, but even if adjudged to be ‘merely’ a member of the public – this is a public process. It begs the question, why the lack of transparency?

11-X DCMR Section 901.2 states:

“The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c) Will meet such special conditions as may be specified in this title.”

Chair Nigro’s requests for an inspection of the current site and for information on the cost analysis and rule-outs of alternate options both go the heart of prongs (a) and (b) above. The ANC and its witnesses believe the relocation will not be in harmony with the purpose and intent of the Zoning Regulations and will have certain and significant adverse impacts on the surrounding community. The request for an inspection of the current premises for the Central Cellblock was based on the intent to confirm or negate these opinions with information other than the mere representations of the Applicant. If (1) no other sites were seriously considered; (2) this site is, in the informed and experienced opinion of the ANC and its witnesses, not harmonious with Zoning Regulations; and (3) the relocation will have

adverse effects, then it follows that the Applicant did not perform its due diligence in seeking a site for the relocation that would satisfy 11-X DCMR § 901.2.

The ANC is charged with preparing a recommendation for the Board and one that will be afforded great weight. Chair Nigro's dedication to ensuring that an information-based and researched opinion is delivered to the Board should not be limited or restricted by the Applicant's attempts to exclude testimony that is both relevant and germane, though it be inconvenient for the Applicant and reveal a lack of transparency on their part.

As to the time request, the ANC has a significant number of witnesses that represent the different factions of the community - all of whom have a great stake in the outcome of this hearing. We are asking for the 1.5 hours to allow for all testimony that will, in turn, comprise a complete and comprehensive record. Our witnesses will be instructed not to be repetitive so that they can move through their testimony efficiently.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on **October 3, 2024**, a copy of the foregoing Opposition for BZA Case No. 21177 was served via email, on the Applicant's counsel, Meredith Moldenhauer – [mmoldenhauer@cozen.com](mailto:mmoldenhauer@cozen.com) and Advisory Neighborhood Commission 6E – [6E01@anc.dc.gov](mailto:6E01@anc.dc.gov).

By:     /s/ Tracy L. Themak

Thank you Deputy Mayor for the response. I am not a member of the public. I am an elected official.

I look forward to some potential dates for a tour.

Have a good evening,

Rachelle

Rachelle Nigro  
Chair, 2G  
Commissioner, 2G06  
202-236-3329  
[2G06@anc.dc.gov](mailto:2G06@anc.dc.gov)

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**From:** Appiah, Lindsey (EOM) <[lindsey.appiah@dc.gov](mailto:lindsey.appiah@dc.gov)>  
**Sent:** Monday, April 15, 2024 11:28 PM  
**To:** Nigro, Rachelle (SMD 2G06) <[2G06@anc.dc.gov](mailto:2G06@anc.dc.gov)>; Faust, Thomas (DOC) <[thomas.faust@dc.gov](mailto:thomas.faust@dc.gov)>; Wilson, Michelle (DOC) <[michelle.wilson@dc.gov](mailto:michelle.wilson@dc.gov)>; Smith, Pamela (MPD) <[pamela.smith1@dc.gov](mailto:pamela.smith1@dc.gov)>  
**Cc:** Donahue, Kevin (EOM) <[kevin.donahue@dc.gov](mailto:kevin.donahue@dc.gov)>  
**Subject:** RE: Tour of CCB

CCB is not available for public tours.

Lindsey Appiah  
Deputy Mayor  
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**From:** Nigro, Rachelle (SMD 2G06) <[2G06@anc.dc.gov](mailto:2G06@anc.dc.gov)>  
**Sent:** Monday, April 15, 2024 10:07 PM  
**To:** Faust, Thomas (DOC) <[thomas.faust@dc.gov](mailto:thomas.faust@dc.gov)>; Wilson, Michelle (DOC) <[michelle.wilson@dc.gov](mailto:michelle.wilson@dc.gov)>; Smith, Pamela (MPD) <[pamela.smith1@dc.gov](mailto:pamela.smith1@dc.gov)>  
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**Subject:** Re: Tour of CCB