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VIA IZIS

D.C. Board of Zoning Adjustment
441 4th Street, N.W. - Suite 210
Washington, DC 20001

**Re: BZA Case No. 19451
Opposition to Party Status Request
850 Delaware Avenue, SW (Square 590E, Lot 800)**

Dear Members of the Board:

The District of Columbia (the “Applicant”), the owner of 850 Delaware Avenue, SW (“850 Delaware”) hereby opposes the Party Status Request filed by Square 643 Associates LLC (“Square 643”), owner of the property at 700 Delaware Avenue, SW (“700 Delaware”). The Party Status Request was filed on February 15, 2017, and is included in the record as Exhibit 43.

Pursuant to Subtitle Y § 404.13 of the Regulations, the Board of Zoning Adjustment “shall grant party status only if the person requesting party status has clearly demonstrated that the person’s interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.” As set forth below, Square 643 has not clearly demonstrated that its interests will likely be more significantly, distinctively, or uniquely affected in character or kind by development of the proposed emergency shelter at 850 Delaware than those of other persons in the general public.

1. Square 643’s Allegations of Harm

The Applicant proposes to use 850 Delaware as the Ward 6 short-term family housing (“STFH”) location (i.e., the emergency shelter), with 50 units, which can accommodate up to 166 residents. Square 643 alleges that the STFH at 850 Delaware will create direct and substantial adverse economic, environmental and social effects to their art and cultural event use of 700 Delaware, in terms of safety and security of the occupants and invitees of 700 Delaware. Square 643 also alleges that the STFH use of 850 Delaware will create cleanliness issues by “people who have

no vested interest in the property,” which will adversely affect the “tourists from around the world and those who utilize the [700 Delaware] property.”

2. Square 643’s Proposal to Locate the Ward 6 STFH at 700 Delaware

Square 643 fails to mention in its opposition party status request that it applied last year for the right to locate the Ward 6 STFH on its own property at 700 Delaware. Square 643’s application to the District of Columbia proposed a project that would include approximately 32,000 square feet of building area for the Ward 6 STFH, plus approximately 14,000 square feet of arts and cultural event space, plus a 1,300 square foot residential condominium unit for a person identified as “Steve” in the documents submitted to the District, plus an outdoor patio for the use of all building occupants except for the residents of the STFH.

Square 643’s “test-fit” plans for the STFH and arts and cultural event use and residential condominium for 700 Delaware are attached as Exhibit A. Square 643’s proposal was accepted by the District, and BZA Application No. 19286 was assigned to the project. Shortly thereafter, the Council of the District of Columbia determined instead to relocate the STFH facilities to District-owned property, and determined in this case that the Ward 6 STFH should instead be located across the street, at 850 Delaware Avenue, SW.

Square 643’s own proposal last year was to locate the Ward 6 STFH on its own site, intertwined with its arts and cultural event space, and including a residential unit for “Steve,” all at 700 Delaware. In light of these facts, Square 643’s claims of potential adverse impacts from the location of the Ward 6 STFH across the street at 850 Delaware are therefore disingenuous.

3. Proximity to 850 Delaware

700 Delaware is located on the north side of H Street, SW, across from 850 Delaware. Square 643 claims that 700 Delaware is the most impacted and nearest occupied property to 850 Delaware; that it “immediately abuts” 850 Delaware; that it is “bounded by” 850 Delaware; and that there are approximately 50 feet separating 700 Delaware and 850 Delaware (*see* Ex. 43, Sec. B. 3 and 6).

However, as shown on Figure 1, there will be approximately 210 feet between the north face of the Ward 6 STFH building at 850 Delaware and the southern-most property line of 700 Delaware. The northernmost 130 feet of 850 Delaware is former federal Reservation 220, transferred from the National Park Service to the District of Columbia for highway purposes in 1957, and thus cannot be built upon. Thus, the closest possible distance between the proposed emergency shelter at 850 Delaware and the southern property line of 700 Delaware is approximately 210 feet (80 foot H Street right-of-way plus 130 feet of undevelopable land at 850 Delaware). Square 643 therefore overstates the realistic proximity between 700 Delaware and the proposed emergency shelter.

Moreover, 700 Delaware is not “bounded” by 850 Delaware. As shown on Figure 1, 850 Delaware is bounded on three sides by public right-of-ways: to the north by H Street, SW, to the south by I Street, SW, and to the west by Delaware Avenue, SW. 850 Delaware is bounded by private property (Square 643S, Lot 801) to the east, which is known as the Randall School site. The Randall School site abuts 850 Delaware along the entire shared property line (approximately 274 feet, 10 inches). Although the Randall School site is presently unoccupied, it is the subject of an approved and vested PUD and rezoning to the C-3-C District (the MU-9 District under the 2016 Zoning

Regulations) that will have a maximum building height of 110 feet and will be developed with approximately 443,843 square feet of gross floor area devoted to residential use (520 units). See Z.C. Order No. 07-13, as amended and extended.

Figure 1



In addition, 700 Delaware is not the nearest occupied property to 850 Delaware. As stated above, the minimum possible distance between the proposed Ward 6 STFH building and 700 Delaware is approximately 210 feet. In contrast, the minimum distance between the proposed STFH building and the presently occupied Capitol Park Plaza apartment house directly across Delaware Avenue to the west of 850 Delaware (Square 540, Lot 118) is approximately 160 feet (see [Figure 2](#) and the Table of Street Widths at [Exhibit B](#)). Thus, Capitol Park Plaza is the nearest occupied property to the proposed Ward 6 STFH, and not the 700 Delaware site.

Based on the foregoing, 700 Delaware neither bounds 850 Delaware nor is it the nearest occupied property to 850 Delaware.

Figure 2



4. 850 Delaware Safety, Security and Maintenance

Square 643 claims that the safety, security, and environmental interest of 700 Delaware will be negatively affected by the proposed STFH use (*see* Ex. 43, Sec. 5). However, as described below, the Applicant has taken, and will continue to take, extensive efforts to ensure that the emergency shelter use does not create any adverse impacts to properties surrounding 850 Delaware.

Shortly after the announcement of the selection of 850 Delaware as the Ward 6 STFH site, the District established an Advisory Team made up of ten community representatives to facilitate communication during the building’s development and after it opens. The Advisory Team and the Applicant will develop a Good Neighbor Agreement, which will be an agreement between the District, the selected Service Provider, and the Advisory Team on behalf of the community to set expectations and commitments regarding exterior and landscape maintenance, safety and security, mutual codes of conduct and respect, and clear and expedient process for communication and problem solving. The agreement will also set forth clear expectations for ongoing Advisory Team engagement and coordination. The Applicant welcomes Square 643’s feedback through the Advisory Team as the Good Neighbor Agreement is developed.

Further, District-owned facilities are maintained and secured by the Department of General Services (“DGS”). DGS will maintain the emergency shelter at 850 Delaware either through a Consolidated Maintenance Contract or with employees in the Facilities Maintenance Division of DGS. These activities will include maintenance of interior, exterior, and landscaping elements. In terms of safety and security, 850 Delaware will have 24-hour security staff on-site, and will also have curfews for children and parents. The Department of Human Services’ service provider may also provide additional maintenance and security through its contract.

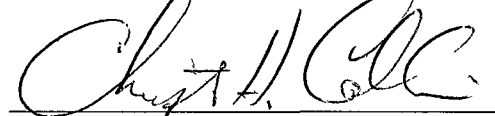
Thus, the Applicant is and will be undertaking significant steps to ensure that the safety, security, and environmental interest of Square 643 and any other nearby resident or property owner will not be negatively affected by the proposed zoning action.

For the reasons stated above, the Applicant opposes the party status request. Square 643 has not demonstrated that its interests would likely be more significantly, distinctively, or uniquely affected by the proposed zoning action than those of other persons in the general public. 700 Delaware will be located more than 210 feet from the proposed emergency shelter building at 850 Delaware, and other properties are located in closer proximity to 850 Delaware, such that Square 643's interests will not be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.

Thank you for your attention to these matters. We look forward to the Board's consideration of this application at its March 1, 2017, public hearing.

Sincerely,

HOLLAND & KNIGHT LLP



Christopher H. Collins



Jessica R. Bloomfield

Enclosures

cc: Maxine Brown-Roberts, D.C. Office of Planning (w/ enclosures via Hand Delivery)
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