

Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Christopher H. Collins
(202) 457-7841
chris.collins@hklaw.com

February 28, 2017

VIA IZIS

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

**Re: BZA Case No. 19451
Applicant's Reply to Square 643 LLC's Response to Applicant's Opposition to
Party Status Request
850 Delaware Avenue, SW (Square 590E, Lot 800)**

Dear Members of the Board:

The Applicant responds to Square 643 LLC's February 28, 2017 (Exhibit 58) filing as follows:

1. Proposed Use of Square 643 LLC's Property as the Ward 6 Emergency Shelter

In its reply to the Applicant's opposition to Square 643 LLC's party status request, Square 643 LLC claims that its property was not previously proposed for use as the Ward 6 Emergency Shelter, and that Square 643 LLC had in essence no knowledge of any applications having been filed with any government agency for use of its property as the Ward 6 Emergency Shelter. The relevant documents for that proposal indicate the contrary.

The record in this case already includes the "test-fit" plans (Ex. 50A) submitted to the District of Columbia government for the use of Square 643's property as the Ward 6 Emergency Shelter, as well as the HPRB application and plans (Ex. 51) for use of Square 643 LLC's property as the Ward 6 Emergency Shelter. Both plans show that the 50-unit Emergency Shelter was to be housed primarily in a 5-to-7 story addition to the existing building on Square 643's property.

Attached hereto as are relevant portions of the Purchase Agreement between Square 643 LLC and 700 Delaware LLC, dated March 29, 2016, two weeks after the date of the Ex. 50A "test-fit" plans, and about three weeks before the date of the Ex. 51 HPRB plans. This Agreement was

Board of Zoning Adjustment
District of Columbia
CASE NO.19451
EXHIBIT NO.65

submitted to the District of Columbia. The Agreement was signed by Stephen M. Tanner, President of Square 643 Associates LLC. The entire document is approximately 167 pages. The relevant pages include:

- pp. 1 and 2 - These pages describe the transaction, whereby Square 643 LLC would:
 - Sell the proposed Emergency Shelter (identified in the document as the “Housing Use”), comprising 31,859 sq. ft., to 700 Delaware LLC; and
 - Donate to the Museum Operator the Museum Space, comprising approximately 4361 sq. ft. of space for studio work/live space and exhibit space; and
 - Transfer a 1,300 sq. ft. Residential dwelling unit to “Steve”.
 - The 9,674 sq. ft. Event Space is not listed as part of the property to be transferred on pages 1 and 2.
 - The uses in the building would include the Event Space, the Museum Space, the Residence for Steve, the Emergency Shelter, and parking.
- p. 31 - This page of the Agreement includes the signature of Stephen M. Tanner, President of Sq. 643 Associates LLC.
- p. 36 - Exhibit C to the Agreement is the Letter of Intent with the District of Columbia for use of the building at 700 Delaware Avenue, SW as an Emergency Shelter. This is a 17-page document. The first two pages are included but the full document can be submitted upon request.
- p. 38 - Exhibit E to the Agreement is the “test-fit” set of plans previously included as Ex. 50A in the record. Only the first two pages of the “test-fit” plans are included showing the March 16, 2016 date on the plans.

These documents, together with Exhibit 50 and 51 of the record, show that the Emergency Shelter was intended to co-exist at 700 Delaware Avenue, SW with the Museum, the Event Center. These documents further demonstrate that Square 643’s claims of adverse impact on its property are specious.

2. Square 643 LLC’s Building is Not the Closest Building to the Proposed Emergency Shelter Building at 850 Delaware Avenue, S.W.

The Applicant has already submitted a graphic in its February 22 letter (Ex. 50) demonstrating this. Square 643 LLC is attempting to claim that the approximately 150 ft. of green space separating the Emergency Shelter building from its own north property line should be included in that calculation. There are other buildings that are closer to the proposed Emergency Shelter, including the apartment building to the west, across Delaware Avenue, and the Randall School to the east, which

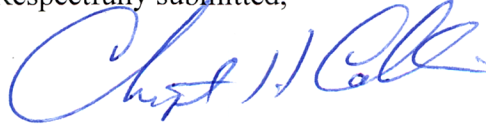
shares a property line with the Emergency Shelter site, and which is slated for a residential development of over 500 units.

3. The Advisory Team is Not Under the Control of the BZA Applicant

Square 643 LLC claims that the Applicant “failed to include a representative of Sq. 643” on the Ward 6 Advisory Team. The membership of the Advisory Team in Ward 6 is comprised of four stakeholders selected by ANC 6D, three stakeholders selected by the Southwest Neighborhood Assembly, two stakeholders selected by the Ward 6 Councilmember, and representatives of the Interagency Council on Homelessness, DGS and DHS. The Advisory Team is co-chaired by the ANC 6D Chair and a member of Mayor Bowser’s staff. The selection of the neighborhood stakeholders for membership on the Advisory Committee is not subject to the control of the Applicant in this case. However, the Applicant is willing to recommend to the Advisory Committee that they consider inclusion of a representative of Square 643 LLC as a member.

For the above reasons, as well as the reasons included in the Applicant’s prior submissions in Exhibits 50 and 51, the request for party status should be denied.

Respectfully submitted,



Christopher H. Collins



Jessica Bloomfield

CHC/jma

Enclosures

cc: Maxine Brown-Roberts, D.C. Office of Planning (w/ enclosures via Hand Delivery)
Evelyn Israel, DDOT (w/ enclosures via Hand Delivery)
Advisory Neighborhood Commission 6D (w/ enclosures via U.S. Mail)
Andy Litsky, Chairman ANC 6D (w/enclosures via U.S. Mail)
Cara Shockley, ANC 6D02 (w/ enclosures via U.S. Mail)
Lloyd Jordan, Motley Waller, LLP (w/enclosures via email & U.S. Mail)