

June 24, 2018

via IZIS

Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: BZA Application No. 19768 – Opposition to Party Status Request

Dear Chairman Hill and Members of the Board:

I am writing on behalf of the Applicant in the above-referenced case to oppose the untimely party status request of Mr. Timothy States. Mr. States failed to show good cause why the Board should waive the 14-day filing deadline, and such a waiver will prejudice the rights of the Applicant. Mr. States has known about the Application for well over two months and he has attended numerous meetings relating to the Application.

Nevertheless, Mr. States is now asking the Board to waive the 14-day filing deadline of Subtitle Y, Section 404.3, claiming that he should be exempt from the strict requirements of this provision because he “did not dutifully grasp” the 14-day deadline. This is not an instance of “good cause,” as is required for the Board to waive Section 404.3. In addition, waiving 404.3 would prejudice the Applicant, possibly jeopardizing the success of the project, which is a “vacant to vibrant” workforce housing project.¹

The Applicant has discussed its Application in multiple public meetings and has undertaken significant outreach in addition to the standard notice and posting requirements. Mr. States was present at no less than five (5) of those public meetings, including two meetings of the French Street Neighborhood Association, two monthly meetings of ANC 6E, and one HPRB hearing.²

In part because of the Applicant’s extraordinary level of outreach, this Application enjoys significant support, including that of ANC 6E (unanimous), the President of the French Street Neighborhood Association, and a directly adjacent neighbor (who noted the applicant’s level of outreach to the community). Despite this level of outreach and support, Mr. States claims, through his attorney, that the “affected community did not receive due and appropriate notice about the development.” This statement is clearly meant to mislead this Board into thinking that the Applicant is in some way responsible for Mr. States’s late filing. This is simply not true, as Mr. States has been aware of this project for well over two months. Therefore, Mr. States has not and cannot show good cause for his untimely filing.

Pursuant to the Zoning Regulations, Section Y-101.9, the Board cannot waive the 14-day filing requirement without good cause shown. To waive the requirement without a solid showing of good cause does damage to the integrity of the Zoning Regulations. Mr. States still has ample opportunity to express his opposition, both in writing and in person, as a *person* in opposition, if he so chooses. For him to be able to do so as a party opponent, however, would violate the 14-day filing requirement and prejudice the Applicant. Therefore, the Applicant respectfully requests that the Board deny the party status request as not timely filed.

¹ See Exhibit A for an explanation of the DHCD “vacant to vibrant” program.

² See Exhibit B for a summary of the various project meetings attended by Mr. States.

Sincerely,

Martin P Sullivan

Martin P. Sullivan, Esq.
Sullivan & Barros, LLP
Date: June 24, 2018

Cc: Matt Jesick, Office of Planning
ANC 6E
Donald M. Temple, Esq.

Exhibit A – DHCD Vacant to Vibrant Program

Vacant to Vibrant DC:

The DC Department of Housing and Community Development (DHCD) placed approximately half of the over 90 sites currently in its [Property Acquisition and Disposition Division \(PADD\)](#) inventory in some form of disposition between January 2015 and December 2017. On December 15, 2017, a five-point Vacant to Vibrant DC initiative was launched to transform the balance of that inventory into vibrant and productive solutions, such as workforce housing and creative green space, and spur economic development.

This program was initiated by Mayor Bowser and being run by DHCD. The city offered 32 vacant or blighted properties at auction in January of 2018 through Alex Cooper auctioneers. They expect this part of the program to produce upwards of 50 Workforce Housing units and help improve each neighborhood these properties are in by developing a vacant or blighted piece of land.

<https://dhcd.dc.gov/page/vacant-vibrant-dc>

For our project we are required to provide 50% of units (2) as Workforce housing with the sales price being capped based on number of bedrooms and the buyers earning no more than 120% of AMI.

Exhibit B – Summary of Public Meetings and Outreach

1735 & 1737 10th St NW Meeting Timeline:

- 4/2/18: Marc Laurent knocked on doors and left letters for all residents who were not home. Mr. States was not home so a letter was left in his mailbox. The letter stated our intentions to develop the two lots, gave brief information about the Vacant to Vibrant program, and gave my contact information.
- 4/2/18: Charles Warren and Marc Laurent attended the French Street Neighborhood Association monthly meeting where Mr. States was present. Charles gave a complete overview of our project and handed out the 1st draft of the plans.
- 4/3/18: Charles Warren and Marc Laurent attended the monthly ANC meeting where Mr. States was in attendance. Charles gave a complete overview of our project and we received ANC support pending we work with HPO staff to address the façade design.
- 4/5/18: The Vacant to Vibrant program held a public hearing at DHCD headquarters for 12 of the properties that were auctioned in the program. Notice was posted online and in the local papers. Mr. States did not attend this hearing.
- 5/3/18: HPRB hearing at 441 4th St NW Room 220-S. Charles Warren and Marc Laurent attended. Charles presented our project to the board. We received HPRB approval with the expectation we continue to work with HP staff on design details. Mr. States attended and spoke at this hearing.
- 6/4/18: Charles Warren and Marc Laurent attended the French Street Neighborhood Association monthly meeting. Charles detailed the latest rendering of our project and outlined our BZA case. He also notified everyone in attendance of the date of our hearing. FSNA took a vote on the proposed RPP restriction for our development. They voted to have no parking restriction for the project. Mr. States was in attendance.
- 6/5/18: Charles Warren and Marc Laurent attended and presented at the monthly ANC meeting. We received full support of our project and our BZA case from the ANC. Mr. States was in attendance.
- 6/8/18: Charles Warren sent Mr. States an email containing the revised architectural drawings that are part of the BZA record. He also requested a meeting with Mr. States. Mr. States refused to meet with us.

CERTIFICATE OF SERVICE

I certify that on June 24, 2018, I served, via E-mail, a copy of this Opposition to Party Status Request, and Letter of Authorization, to the following:

Matthew R. Jesick
D.C. Office of Planning
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