

# FOXHALL CRESCENTS HOMEOWNERS ASSOCIATION

June 9, 2022

Mr. Frederick L. Hill  
Chairperson  
Board of Zoning Adjustment  
441 4th Street, NW  
Suite 200S  
Washington, DC 20001

**Re: BZA Case 20636  
Letter Opposing Party Status for Godley and Sharkey**

Dear Mr. Hill:

As President of the Foxhall Crescents Homeowners Association (“FCHOA”), I am writing to you in connection with BZA Case Number 20636 by Penguin LLC (“Penguin”) to oppose Party status requests filed on behalf of Robert and Phoebe Sharkey and Gene and Patricia Godley.

The Godleys and Sharkeys, through their counsel, Andrea Ferster, have requested party status as opponents of the 20636 application to build a home on theoretical lot 4509 Foxhall Crescents. Both Godleys and Sharkeys sought party status through John Fox’s (another FCHOA homeowner) recent party status request, which was denied by the BZA on May 25, 2022. The Godleys and Sharkeys are now seeking party status independently.

Both the Godleys and Sharkeys are homeowners and members of the FCHOA. The Godleys used to own the 4509 lot and obtained BZA approval in 1994 to build a 7,500 square foot house plus three-car garage that was not similar in design to the rest of the homes of FCHOA. See BZA Order 15882, Attachment A. The Godleys assured the BZA through their experts and testimony that there was absolutely no impact on adjacent homes (their property shares a border with 4509) or storm water management issues. After obtaining BZA approval in 1994, the Godleys sold the 4509 lot and since have opposed any development on the 4509 property with claims they denied existed when they sought BZA approval.

The Sharkeys are not adjacent property owners. In the case of the Sharkeys, while a corner of the rear edge of their property might be within 200 feet of the 4509 site, the fact is that the road leading to the site takes a sharp turn to the left well before (at least 150 feet) the 4509 site, the road then goes about another 150 feet and takes another sharp turn to the left and the Sharkey home is on that corner, facing away from 4509. In other words, there will be no traffic related to the construction of the house at 4509 passing by their house.

Both the Godleys and Sharkeys raise storm water management issues. However, contrary to their claims of storm water runoff problems in the past, neighbors have already made clear these

Board of Zoning Adjustment  
District of Columbia  
CASE NO.20636  
EXHIBIT NO.63

claims are false. Furthermore, Penguin has committed to submit a Storm Water Management Plan for the DOEE approval prior to construction and to alert the FCHOA and adjacent homeowners and ANC3D01 if they intend to request any special DOEE storm water accommodations (they do not). Thus, storm water management issues have been agreed to and are within the purview of the appropriate regulatory authority, DOEE.

Both Messrs. Godley and Sharkey were serving as FCHOA Board members when they individually filed for and received party status with their wives in 2014 and opposed BZA application 18708 to build the home Arthur Cotton Moore designed for the site. The Godleys had hired a personal attorney to represent them, Meridith Moldenhauer. Mr. Godley, as FCHOA president, then had Ms. Moldenhauer file an appearance on behalf of the FCHOA and make legal filings to the ANC and BZA representing the FCHOA and opposing BZA application 18708 – all without the knowledge of the FCHOA community. Mr. Sharkey was also a FCHOA Board member during this time. Mr. Godley's and Mr. Sharkey's actions were a conflict of interest since they and their wives were personally opposing the development and they were using their Board position to advance their personal interests. Messrs. Godley and Sharkey had an agreement ready at the final BZA hearing on 18708, which made demands of the applicant and contained a provision intended to make the terms binding on all future owners of 4509. The applicant, Mr. Motlagh, was pressured into signing the agreement. Although he obtained BZA approval to build the home he proposed, he never obtained FCHOA approval and finally gave up and sold the lot to the current applicant.

This agreement was not filed with land records and the current applicant, Penguin LLC, was not aware of it when it purchased the lot. The agreement also was not signed by all the prior owners of the 4509 lot. The FCHOA community called a special meeting on March 27, 2022 for the purpose of removing Mr. Godley and Mr. Wong (who also signed the agreement as a Board member and was an opposing party of 18708) from the FCHOA Board. Rather than be forced off the Board, Messrs. Godley and Wong resigned. John Fox, then FCHOA president, also resigned. The new FCHOA Board, of which I am president, voided the agreement on March 29, 2022, because it was a conflict of interest transaction that was voidable under DC Code § 29-406.70 (Conflicting interest transactions; voidability).

Now Mr. Godley and Mr. Sharkey are trying to enforce a voided and illegal agreement (see Exhibit 4 of the Godley party status application) and are seeking BZA party status to do this. They are also intending to bring nonexistent storm water, parking, and street congestion claims to the BZA. They are individual FCHOA members who can come before the BZA and speak individually for three minutes, as is allowed for anyone.

The FCHOA opposes their party status because:

- The FCHOA has been granted party status
- The majority of the FCHOA community supports application 20636 and the building of the proposed home and variances requested
- The agreement has been voided and is not enforceable against Penguin
- The applicant Penguin LLC has agreed to storm water management requirements and other conditions that were previously imposed on Mr. Motlagh

- The BZA has approved applications for this lot twice in the past and this application is very similar to the 18708 application.

There is no need to burden the BZA hearing with the one hour of time requested by the Godleys and Sharkeys in their party status request. The FCHOA respectfully requests the BZA deny party status requests for Mr. and Mrs. Godley and Mr. and Mrs. Sharkey.

Thank you for your consideration.

Sincerely yours,

/s/

Jody R. Westby, Esq.  
President, Foxhall Crescents Homeowners Assn.

### **CERTIFICATE OF SERVICE**

**I hereby certify** that, on June 9, 2022, a copy of the foregoing Motion to Deny Party Status Request of was served upon the following:

- 1. D.C. Office of Planning**  
Matthew Jesick, AICP, Development Review Specialist  
via email: matthew.jesick@dc.gov
- 2. District Department of Transportation**  
Mr. Jonathan Rogers, DDOT  
Mr. Aaron Zimmerman, DDOT  
via email: jonathan.rogers2@dc.gov  
aaron.zimmerman@dc.gov
- 3. Neighborhood Commission 3D**  
via Email: 3D@anc.dc.gov
- 4. Advisory Neighborhood Commissioner SMD Chuck Elkins**  
via Email: 3D01@anc.dc.gov

**5. Advisory Neighborhood Commissioner SMD Jason Rao**

Via Email: 3D06@anc.dc.gov

**6. Cynthia Giordano , Saul Ewing Arnstein & Lehr**

Via Email: cgiordano@saul.com

/s/

Jody R. Westby, Esq.