



ADVISORY NEIGHBORHOOD COMMISSION 3E

TENLEYTOWN AMERICAN UNIVERSITY PARK FRIENDSHIP HEIGHTS
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Resolution Calling for Board of Zoning Adjustment to Develop and Implement Enhanced Requirements for Signatory Parties

Whereas, the Zoning Commission (ZC) and Board of Zoning Adjustment¹ (BZA) detail in their Regulations (11 DCMR) descriptions of persons and organizations that may testify before it on zoning matters it adjudicates, and further, distinguishes between persons and organizations testifying before the Board and persons and organizations as witnesses and those that desire to participate as parties in proceedings before the board; and

Whereas, party status confers significant rights unavailable to non-party witnesses, including the right to cross-examine witnesses, submit proposed findings of fact and conclusions of law, receive a written decision of the Zoning Commission or Board of Zoning Adjustment, submit a Motion for Reconsideration or Rehearing, and exercise any other rights of parties as specified in the Zoning Regulations; and

Whereas, per applicable regulations, approval of this party status is contingent upon the requestor clearly demonstrating that his or her interest will be more significantly, distinctively, or uniquely affected by the proposed zoning action than that of other persons; and

Whereas, the BZA requires persons and organizations desiring party status to submit a form (BZA Form 140, see attachment) that details contact information as well as criteria required to qualify for party status and requiring specific proof that an entity has authorized the persons filing the request to do so. The proof may consist of a resolution of the person's board of directors; a copy of the by-law provision authorizing the particular officer, employee, or agent to represent the person in such proceedings; a letter signed by all the members of the organization; or similar proof satisfactory to the Board (DCMR 11-Y4 404.1 (g)); and

Whereas, The Alcoholic Beverage Regulation Administration (ABRA) makes a similar distinction between persons and organizations interested in testifying before it and Community Associations that seek the right to protest liquor applications; and

Whereas, the ABRA requires a similar form to the BZA Party Status Request form (Community Association Registration Form, see attached), albeit with additional requirements, notably the requirement that organizations seeking party status be open to all community members in the affected area, and that a resolution concerning the license application has been duly approved in accordance with the association's articles of incorporation or bylaws at a duly called meeting, with

¹ Unless specifically noted otherwise, other references herein to either ZC or BZA should be read to refer to both agencies.

notice of the meeting given to the voting body and the applicant at least 7 days before the date of the meeting;² and

Whereas, although BZA and ZC decisions may be more far reaching than ABRA decisions, ABRA's requirements for party status for organizations are in some respects more strict than BZA and ZC's.

Whereas, organizations may be granted party status under current BZA rules without other parties knowing the number or identity of organization members, possibly creating misperceptions about which segments of a community support or oppose a given proposal, and preventing discovery of affiliation of members of an organization with other organizations or persons involved in a proceeding

Whereas, zoning proceedings frequently take months or even years to adjudicate, and ongoing administration of the decisions themselves can trigger further BZA or ZC action over an indefinite period, and it would be beneficial to the Commission to know the parties before them are still active at any given time; and

Whereas, it would be beneficial to the BZA and ZC to know who the parties before them represent as well as the structure of those parties and how those parties reached a decision on the matters being discussed; and

Now, therefore, in recognition of these considerations, ANC 3E adopts the following resolution.

Resolved, ANC 3E calls on the DC Zoning Commission to augment its requirements for organizations before them desiring party status in the following manner:

1. Require organizations requesting party status to document the following:
 - a. The organization's charter
 - b. The organization's mandate
 - c. The geographical boundaries the membership represents
 - d. Certify that membership is open to any person residing in that geographical boundary
 - e. State how many members the organization has and supply a membership list
 - f. The organization's form of governance
 - g. The organization's means of determining whether to support a particular position, and the vote on the organization's decision to support or oppose the matter at issue, making clear whether only a board of directors or similar subgroup voted, or all members of the organization voted
 - h. When the organization meets and the frequency it has met in the previous year
2. Require organizations with party status to update the above information on an annual basis while a case is pending, and in any action on the matter subsequent to the ZC or BZA's initial decision on the merits of the underlying case.

Be it further resolved, ANC 3E notes that the above request represents only an incremental -- though important -- change from the ZC's 2016 regulations, and at least one proposed requirement, that organizations seeking party status be open to all residents of the area, has been an ABRA requirement for years without significant complaint.

² DC Code Sec. 25-601(3)

Be it further resolved, ANC 3E does not intend that these changes affect those persons or organizations that wish merely to testify in Zoning proceedings or organize in response to matters that are affected by Zoning proceedings. These changes should affect only those organizations that wish to attain party status in zoning matters.

The resolution passed by a vote of ___-___-___ at a properly noticed meeting held on February 9th, 2017, at which a quorum was present, with Commissioners Bender, McHugh, Hall, Quinn, and Wallace in attendance.

REFERENCES

[DCMR Zoning Party Status Rule](#)

[ZC Party Status Form](#)

[ABRA Regulations](#)

[ABRA Community Association Registration Form](#)

[ANC 3E Suggested Augmented Form for Party Status](#)