



## **ADVISORY NEIGHBORHOOD COMMISSION 3E**

TENLEYTOWN AMERICAN UNIVERSITY PARK FRIENDSHIP HEIGHTS  
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[www.anc3e.org](http://www.anc3e.org)

### **Resolution Calling for Board of Zoning Adjustment to Develop and Implement Clearer Requirements for Signatory Parties**

**Whereas**, the Zoning Commission (ZC) and Board of Zoning Adjustment (BZA) <sup>/1</sup> 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 Zoning Commission, in Case 16-23, reaffirmed the discretion granted them in the Commission's Rules of Practice and Procedure by asking of an organization petitioning for party status in the case, Citizens for Responsible Development, to provide a membership list <sup>/6</sup>, as well as the Chair's remarks to another party that "our rules do ask for it." <sup>/7</sup>; 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 notice of the meeting given to the voting body and the applicant at least 7 days before the date of the meeting; 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**, the DCMR sections governing nonprofit corporations states that "*A person shall not be admitted as a member without the person's consent*"<sup>13</sup>; and

**Whereas**, during a Zoning Commission hearing on January 25th, 2018 to which ANC 3E was **party**, an organization granted **party status** by the ZC, Spring Valley Wesley Heights Citizen's Association, declared that all residents of the geographical area described by its articles of incorporation are members whether they've consented to that membership or not<sup>14</sup>, in direct contradiction to section § 29-404.02(b)<sup>13</sup> of the DC Nonprofit Corporation Act under which it is incorporated, which states, "*A person shall not be admitted as a member without the person's consent*". In addition, a reference was made at the same hearing where it was revealed that 64 residents of the area SVWHCA described had made emphatically clear in a petition that they were not members of SVWHCA and did not consider themselves affiliated with SVWHCA. Another organization that was also part of SVWHCA's claimed jurisdiction, Westover Place Homes Corporation, an organization of 149 homes that is represented by the Board of Directors of Westover Place, communicated directly to SVWHCA that it unequivocally and formally rejects SVWHCA has any mandate and jurisdiction over WPHC and that it refrain from asserting such claims (see attachment); and

**Whereas**, SVWHCA had been dormant for a number of years, having failed to renew its articles of incorporation and failing to maintain its membership in the Federation of Citizens Associations<sup>18/9/10</sup>, and yet still continued to maintain its party status in a number of cases before the ZC, Historic Preservation Review Board and membership in the American University Campus Plan Community Liaison Committee; and

**Whereas**, SVWHCA eventually renewed its nonprofit incorporation in May of 2017 but with drastically altered bylaws that, in fact, violated the nonprofit law governing its incorporation and yet was still granted party status at the January 11th, 2018 16-23 ZC hearing, despite the applicant's opposition and without being questioned about its particulars; and

**Whereas**, organizations may be granted party status under current BZA rules, such as the organization cited above, 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 the leadership members of an organization with other organizations or persons involved in a proceeding; and

**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 and constituted in roughly the same structure at any given time; and

**Whereas**, it would be beneficial to the BZA and ZC to know who the parties before them represent, the structure of those parties, if that structure is roughly consonant with its original party status application,

whether those parties are still active, 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 clarify its requirements for organizations before them desiring party status in the following manner <sup>/5</sup>:

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, if any
  - d. If the organization claims to represent a geographical area, certify that membership is open to any person residing in that geographical area
  - e. Certify that its membership is a consensual relationship that is the result of a conscious, volitional choice by said members
  - f. How many members the organization has
  - g. The organization's form of governance
  - h. 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
  - i. 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.

**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 March 15th, 2018, at which a quorum was present, with Commissioners Bender, McHugh, Hall, Quinn, and Ehrhardt in attendance.

## REFERENCES

### DCMR

[ZC Pre-hearing and Hearing Procedures](#)  
[DC Nonprofit Corporations](#)  
[DCMR Zoning Party Status Rule](#)  
[ZC Party Status Form](#)

### ABRA

[ABRA Regulations](#)  
[ABRA Community Association Registration Form](#)

### ZC

[ZC Case 16-23](#)

### ANC3E

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

## ENDNOTES

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

<sup>2/</sup> DC Code Sec. 25-601(3)

<sup>3/</sup> DC Code Sec. 29–404.02(b)

<sup>4/</sup> Reference from the transcript of ZC Case 16-23 Hearing on January 25th, 2018. Mr Kravitz is an ANC 3D Commissioner and Mr Smith is Treasurer of Spring Valley Wesley Heights Citizen's Association.

*1 MR. KRAVITZ: I'm sorry, the question was are all*

*2 residents of Spring Valley members of the SVWHCA?*

*3 MR. SMITH: We consider all residents of Spring --*

*4 as we have always done -- we have always since 1952 when the*

*5 organization was established. I'm going to answer it my way,*

*6 Troy.*

*7 Okay, we have since 1952, we have considered that*

*8 all residents of Spring Valley and Wesley Heights are members*

*9 of the Spring Valley-Wesley Heights Citizens Association.*

<sup>5/</sup> These requirements are also already a subset of those that govern any DC Nonprofit Corporation (§ 29–413.01. Corporate records)

<sup>6/</sup> Transcript ZC Hearing November 13, 2017

COMMISSIONER TURNBULL: Yeah, we never really got

21 a list of who's a member or anything to clarify. It was such

22 a generic term. It just says we're -

23 MR. DONOHUE: Right, so what we attempted to do

24 was to talk about the number of folks that were represented

25 by the group, and then we gave you the list of those folks

6

1 that we anticipate calling as witnesses, at least the

2 preliminary witnesses.  
3 COMMISSIONER TURNBULL: Could you submit for the  
4 record then a list of people in the organization?  
5 MR. DONOHUE: Each of the members? Sure.  
6 COMMISSIONER TURNBULL: Yeah.  
7 MR. DONOHUE: Sure.  
8 COMMISSIONER TURNBULL: Okay, thank you.

7/ Transcript of ZC Hearing January 25<sup>th</sup>, 2018

6 CHAIRMAN HOOD: Hold on, hold on, hold on. Let  
7 me say this, let me save some time. **I think our rules do ask**  
8 **for it, Mr. Smith**, so if you can give that, whatever you can  
9 give us.  
10 But let me ask you this. **Are you the, are you all**  
11 **under the Citizen's Association of the Charter, here in the**  
12 **District?**  
13 **MR. SMITH: Yes, sir.**  
14 CHAIRMAN HOOD: Okay, so to me I think that  
15 carries weight. But I think our rules do, and CRD did do it.  
16 So, that request, if you can do it, or have members you can  
17 get, that would be good. Okay. Next question.

8/ Email exchange between Mr Earl Williams of the Federation of Citizens Associations and  
Commissioner Troy Kravitz of ANC 3D02

Dear Troy,

I know they are not currently members of the Federation of Citizens  
Associations, [dccitizensfederation.org](http://dccitizensfederation.org). I am reaching out for institutional memory to see when  
last they were members.

Our impact on issues that affect our city is substantially increased with new member  
organizations. Please let me know if we can be of assistance.

Regards,  
Earl Williams

Dear Earl,

Thank you for speaking with me today. As I mentioned, I will send along information about the  
Federation of Citizens Associations of the District of Columbia to a newly formed community  
group in my neighborhood. Any additional information you could provide would be much  
appreciated as well.

As we discussed, please kindly confirm that the Spring Valley - Wesley Heights Citizens  
Association is not currently a member of the Federation.

Many thanks,  
Troy

Troy Kravitz  
ANC Commissioner 3D02 (Spring Valley)

9/ FCA Membership as of April 2017

Chevy Chase Citizens Association	Cleveland Park Citizens Association
Columbia Plaza Tenants Association	Concerned Neighbors Inc.
Congress Heights Community Association	Deanwood Civic Association
Dupont Circle Citizens Association	Empower DC
Forest Hills Citizens Association	Fort Gaines Civic Association
Glover Park Citizens Association	Hillcrest Community Civic Association
Kalorama Citizens Association	Michigan Park Citizens Association
Palisades Citizens Association	Penn Branch Citizens/Civic Association
River Terrace Community Organization	Shepherd Park Citizens Association
Tenleytown Neighbors Association	West End Citizens Association

DRAFT

10/ Partial Listing of DC Community Organizations

Name	Eligible or Nonconsensual?	Attempts to Include Community Organization	Conforms to DC Nonprofit Corporation Law*	Application?	Dues	No longer member if dues outstanding	Asks for Address and Name?	Bylaws Public	Member of FCA of DC	Member of DCF of CA	IRS 990
Spring Valley Wesley Heights Citizen's Association [as of May 2017]	Non-consensual	Yes	No	No	No	No?	?	No	No	No	No
Spring Valley Wesley Heights Citizen's Association [circa 1978 Incorporation]	Eligible	No	Yes	Yes	Yes	Yes	Yes	?	Yes	No	No
Fort Gaines Citizen's Association	Eligible	No	Yes	Yes	Yes	Yes	Yes		Yes	No	No
Palisades Citizen's Association	Eligible	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Foxhall Community Citizen's Association	Eligible	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Michigan Park Citizens Association	Eligible	No	Yes	Yes	?	?	Yes	No	Yes	No	?
Woodbridge Civic Association	Eligible	No	Yes	Yes	Yes	Yes	?	No	No	Yes	No
Shepherd Park Citizen's Association	Eligible	No	Yes	Yes	Yes	Yes	?	No	Yes	Yes	Yes
Hillcrest Community Civic Association	Eligible	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
River Terrace Community Organization	Eligible	No	Yes	Yes	Yes	Yes	?	Yes	Yes	Yes	No
Chevy Chase Citizen's Association	Eligible	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Glover Park Citizen's Association	Eligible	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes