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November 25, 2025

Terri D. Stroud
General Counsel
District of Columbia Board of Elections
1015 Half Street, S.E., Suite 750
Washington, D.C. 20003

Re: Proposed Initiative, the "DC Housing Modernization and Accessibility Act of 2026"

Dear Ms. Stroud:

D.C. Official Code § 1-1001.16(b)(1A) requires that the General Counsel of the Council of the District of Columbia provide an advisory opinion to the District of Columbia Board of Elections ("Board") as to whether a proposed initiative is a proper subject of initiative. I have reviewed the "DC Housing Modernization and Accessibility Act of 2026" ("Proposed Initiative") for compliance with the requirements of District law, and based on my review, the Proposed Initiative is not the proper subject of initiative.

I. Applicable Law

The term "initiative" means "the process by which the electors of the District of Columbia may propose laws (except laws appropriating funds) and present such proposed laws directly to the registered qualified electors of the District of Columbia for their approval or disapproval."¹ The Board may not accept a proposed initiative if it finds that the measure is not a proper subject of initiative under the terms of Title IV of the District of Columbia Home Rule Act or upon any of the following grounds:

- The verified statement of contributions has not been filed pursuant to D.C. Official Code §§ 1-1163.07 and 1-1163.09;
- The petition is not in the proper form established in D.C. Official Code § 1-1001.16(a);

¹ D.C. Official Code § 1-204.101(a).

- The measure authorizes, or would have the effect of authorizing, discrimination prohibited under Chapter 14 of Title 2 of the D.C. Official Code; or
- The measure presented would negate or limit an act of the Council of the District of Columbia pursuant to D.C. Official Code § 1-204.46.²

The District of Columbia Court of Appeals (“Court”) has interpreted the prohibition on the use of the initiative process to propose “laws appropriating funds” very broadly, holding that it “extend[s] . . . to the full measure of the Council’s role in the District’s budget process . . .”³ Accordingly, the Court has deemed unlawful any initiative that (1) blocks the expenditure of funds requested or appropriated,⁴ (2) directly appropriates funds,⁵ (3) requires the allocation of revenues to new or existing purposes,⁶ (4) establishes a special fund,⁷ (5) creates an entitlement, enforceable by private right of action,⁸ or (6) directly addresses and eliminates a source of revenue.⁹

II. The Proposed Initiative

The Proposed Initiative would amend the Rental Housing Act of 1985 to establish a 2-year rent freeze, beginning the effective date of the initiative, and additional 1-year rent freezes whenever the percentage increase in the Consumer Price Index for All Urban Consumers for the Washington-Arlington-Alexandria DC-VA-MD-WV Metropolitan Statistical Area is greater than 6%.

The Proposed Initiative would also amend the Housing Production Trust Fund Act of 1988, the Affordable Housing Clearinghouse Directory Act of 2008, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, and the Inclusionary Zoning Implementation Amendment Act of 2006 to redefine certain affordable housing requirements.

² D.C. Official Code § 1-1001.16(b)(1).

³ *Dorsey v. District of Columbia Bd. of Elections & Ethics* (“Dorsey”), 648 A.2d 675, 677 (D.C. 1994) (quoting *Hessey v. District of Columbia Bd. of Elections & Ethics* (“Hessey”), 601 A.2d 3, 20 (D.C. 1991)).

⁴ *Convention Center Referendum Committee v. District of Columbia Bd. of Elections & Ethics*, 441 A.2d 889, 913-14 (D.C. 1981).

⁵ *District of Columbia Bd. of Elections & Ethics v. Jones* (“Jones”), 481 A.2d 456, 460 (D.C. 1984).

⁶ *Hessey*, 601 A.2d at 19-20.

⁷ *Id.*

⁸ *Id.* at 20 n. 34.

⁹ *Dorsey*, 648 A.2d at 677.

III. The Proposed Initiative is Not a Proper Subject of Initiative

Section 2 of the Proposed Initiative would amend the Rental Housing Act of 1985 to establish a rent freeze for all rental units in the District. Under the Rental Housing Act of 1985, the term “rental unit” is defined broadly to mean “any part of a housing accommodation . . . which is rented or offered for rent for residential occupancy and includes any apartment, efficiency apartment, room, single-family house and the land appurtenant thereto, suite of rooms, or duplex.”¹⁰ Because the Proposed Initiative would prohibit the District government, when acting as landlord, from raising rents for District-owned rental units, it would impermissibly “intrude upon the discretion of the Council to allocate District government revenues in the budget process” by eliminating a future source of revenue.¹¹ Accordingly, the Proposed Initiative is not a proper subject of initiative.

I am available if you have any questions.

Sincerely,

Nicole L. Streeter

Nicole L. Streeter
General Counsel, Council of the District of Columbia

¹⁰ D.C. Official Code § 42-3501.03(33).

¹¹ *Dorsey*, 648 A.2d at 677 (quoting *Hessey*, 601 A.2d at 19).