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May 7, 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 "Use of RFK Site for Homes Not Stadiums Act of 2025"

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 "Use of RFK Site for Homes Not Stadiums Act of 2025" ("Proposed Initiative") for compliance with the requirements of District law, and based on my review, it is my opinion that the Proposed Initiative is not a 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 right of initiative is to be construed liberally, and “only those limitations expressed in law or clear[ly] and compelling[ly] implied” are to be imposed upon that right.³ Absent expressed or implied limitation, “the power of the electorate to act by initiative is coextensive with the power of the [Council] to adopt legislative measures.”⁴

II. The Proposed Initiative

The Proposed Initiative would require the Zoning Commission to create a special purpose zone encompassing the Robert F. Kennedy Memorial Stadium Campus, and to issue regulations prohibiting the use of any part of the campus for the purposes of construction or operation of any stadium or arena (including accessory buildings or structures) that has as its primary purpose the hosting of professional athletic team events.

III. The Proposed Initiative Is Not A Proper Subject of Initiative

In section 492 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 810; D.C. Official Code § 5-412), Congress expressly delegated its legislative power to zone to the Zoning Commission of the District of Columbia, providing that “[t]he Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law.” The District of Columbia Court of Appeals has recognized the zoning power as the exclusive purview of the Zoning Commission, holding in *Tenley & Cleveland Park v. Board of Zoning Adjustment*, 550 A.2d 331 (D.C. 1988), that “. . . the Home Rule Act explicitly provided that the Zoning Commission is the exclusive agency vested with power to enact zoning regulations for the District of Columbia” and that “[t]he Home Rule Act

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

³ *Convention Center Referendum Committee v. DCBOEE*, 441 A.2d 889, 913 (D.C. 1981).

⁴ *Id.* At 897.

vests the Zoning Commission with exclusive authority to amend the zoning regulations of the District of Columbia.”⁵

Here, the Proposed Initiative would intrude on the exclusive authority of the Zoning Commission by requiring it to create a specific special purpose zone in which particular uses of property are prohibited. The Proposed Initiative conflicts with Title IV of the District of Columbia Home Rule Act and would not be within the legislative power of the Council to enact. For that reason, 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

⁵ *Tenley* at 336 and 340, respectively.