



OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

July 2, 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 "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 "Homes Not Stadiums Act of 2025" ("Proposed Initiative") for compliance with the requirements of District law. Based on my review of the Proposed Initiative, as well as the expected content of the Fiscal Year 2026 Budget and Financial Plan that the Council will enact into law later this summer, 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 Among other bases for doing so, the Board must reject a proposed initiative if it finds that the measure would negate or limit a budgetary act of the Council or if the measure would appropriate funds.² Taken together, these prohibitions bar "interference with the

¹ D.C. Official Code § 1-204.101(a).

² See *id.*; D.C. Official Code § 1-1001.16(b)(1). See also DC Board of Elections Notice of Rescheduled Public Hearing and Receipt and Intent to Review for the "Homes Not Stadiums Act of 2025", available at <https://dcboe.org/getmedia/6fcf621b-94d3-4ada-a1b0-e249f0f49f0d/RFK-Initiative-Meeting-RESCHEDULED-Notice.pdf>.

Council's discretionary allocation of revenues among competing programs and activities.”³

The District of Columbia Court of Appeals (“Court”) has interpreted these prohibitions very broadly, holding that they “extend . . . to the full measure of the Council’s role in the District’s budget process . . .”⁴ Accordingly, the Court has deemed unlawful any initiative that: (1) blocks the expenditure of funds requested or appropriated,⁵ (2) directly appropriates funds,⁶ (3) requires the allocation of revenues to new or existing purposes,⁷ (4) establishes a special fund,⁸ (5) creates an entitlement, enforceable by private right of action,⁹ (6) directly addresses and eliminates a source of revenue,¹⁰ or (7) compels the allocation of funds to carry out mandatory provisions.¹¹

II. The Proposed Initiative

The Proposed Initiative would amend section 1(c) of An Act To grant additional powers to the Commissioners of the District of Columbia and for other purposes, approved December 20, 1944 (58 Stat. 8; D.C. Official Code § 1-301.01(c)), to prohibit the Mayor from leasing or licensing any portion of any land or building located within or on the Robert F. Kennedy Memorial Stadium Campus for use for 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. Based on the Anticipated Fiscal Year 2026 Budget and Financial Plan, the Proposed Initiative Is Not a Proper Subject of Initiative

In light of the expected content of the Fiscal Year 2026 Budget and Financial Plan (detailed below), the Proposed Initiative constitutes a law appropriating funds that will negate or limit a budgetary act of the

³ *Hessey v. District of Columbia Bd. of Elections & Ethics*, 601 A.2d 3, 15 (D.C. 1991) (en banc).

⁴ *Dorsey v. District of Columbia Bd. of Elections & Ethics*, 648 A.2d 675, 677 (D.C. 1994) (quoting *Hessey*, 601 A.2d at 20).

⁵ *Convention Center Referendum Committee v. District of Columbia Bd. of Elections & Ethics* (“Convention Center”), 441 A.2d 889, 913-14 (D.C. 1981) (en banc).

⁶ *District of Columbia Bd. of Elections & Ethics v. Jones*, 481 A.2d 456, 460 (D.C. 1984).

⁷ *Hessey*, 601 A.2d at 19-20.

⁸ *Id.*

⁹ *Id.* at 20 n. 34.

¹⁰ *Dorsey v. District of Columbia Bd. of Elections & Ethics*, 648 A.2d at 677.

¹¹ *District of Columbia Board of Elections and Ethics v. District of Columbia*, 866 A.2d 788, 794 (D.C. 2005).

Council. More specifically, the Proposed Initiative would impermissibly “block the expenditure of funds requested or appropriated as of the effective date of the initiative act.”¹²

The Mayor’s proposed budget for Fiscal Year 2026 includes a number of appropriations intended to develop the RFK Campus for use by a professional sports team, including \$500 million for horizontal infrastructure funding for a stadium, \$181 million to support parking for the new stadium, and \$202 million for roadways, utility infrastructure, and a WMATA capacity study.¹³ Although the precise content of the final approved Budget and Financial Plan for Fiscal Year 2026, which the Council currently plans to adopt on second reading on July 28, 2025, will not be known until its final passage, the Council expects that it will retain the Mayor’s proposed provisions appropriating funds to develop the RFK Campus for use by the Washington Commanders. As the committee report adopted by the Council’s Committee of the Whole on June 25, 2025 states, “[f]unding for the proposed stadium project will remain in the budget, as proposed by the Mayor.”¹⁴ Significant to the analysis here, these funds will have been appropriated by the Council “as of the effective date of the initiative act.”¹⁵ Indeed, given the necessary timeline for the initiative’s adoption by the electorate and its review by Congress,¹⁶ its effective date would not occur until well after Fiscal Year 2026 begins on October 1, 2025.

I will update the Board on the specific provisions contained in the Fiscal Year 2026 Budget and Financial Plan once it has been finally approved by the Council and signed into law by the Mayor, but in the

¹² See *Convention Center*, 441 A.2d at 913-14. See also *Hessey*, 601 A.2d at 19-20 (holding that “a measure that would intrude upon the discretion of the Council to allocate District government revenues in the budget process is not a proper subject of initiative”).

¹³ See FY 2026 Proposed Budget and Financial Plan, Volume 1 Executive Summary, May 27, 2025, available at <https://app.box.com/s/pp9llu4h8tv0m8uvvdv0snsb94dors52>.

¹⁴ Dais Print of Report and Recommendations of the Committee of the Whole on the Fiscal Year 2026 Budget and Corresponding Budget Support Act at 103, available at <https://lims.dccouncil.gov/Hearings/hearings/918> (emphasis added). See also Statement of Chairman Phil Mendelson upon Introduction of the Robert F. Kennedy Campus Redevelopment Act of 2025, as introduced on June 20, 2025 (Bill 26-288), available at <https://lims.dccouncil.gov/Legislation/B26-0288> (“No one should infer from the introduction of the bill that funding in the Mayor’s proposed budget for the Washington Commanders Football team is in jeopardy. Councilmembers have said they support leaving the funding, as proposed by the Mayor, in the budget.”).

¹⁵ *Convention Center*, 441 A.2d at 913-14.

¹⁶ D.C. Official Code §§ 1-204.103; 1-204.105.

meantime, for the foregoing reasons, the Proposed Initiative is not the 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