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January 15, 2026

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 Equal Homeownership Act"

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 Equal Homeownership Act" ("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) (emphasis added).

- 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" 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 authorize District agencies to develop residential housing units constructed on District-owned land, which could be sold with no required down payment and could be priced to target a monthly housing payment substantially below prevailing market rents, but only upon "Council authorization" and "Council action." Thus, by its own terms, the Proposed Initiative establishes only a nonbinding statement of policy, which would have no legal effect without separate legislative action by the Council.

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

The Proposed Initiative is not a proper subject of initiative because it does not propose a law. As the District of Columbia Court of Appeals

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[2] D.C. Official Code § 1-1001.16(b)(1).
[3] *Dorsey v. District of Columbia Bd. of Elections & Ethics*, 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 v. District of Columbia Bd. of Elections & Ethics*, 648 A.2d at 677.

has recognized, an initiative must be "legislative in character" in order to qualify as a "law" within the meaning of the Home Rule Act's restrictions on the power of initiative.[10] An initiative will be deemed legislative in character if it "clearly includes an action which adopts a policy affecting the public generally and sets in motion the effectuation of that policy."[11] Here, the Proposed Initiative states policy objectives, but expressly provides that "[n]o provision has independent legal effect without separate Council action." As a result, even if the electorate were to vote in favor of the Proposed Initiative and the Council elected to allocate funding to implement the Proposed Initiative, it would still have no effect.[12] Because the Proposed Initiative does not propose a "law" within the meaning of the Home Rule Act, it 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

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[10] *See Convention Ctr. Referendum Comm. v. Bd. of Elections and Ethics*, 441 A.2d 889, 897 (D.C. 1981)
[11] See *Hessey v. Burden*, 615 A.2d 562, 578 (D.C. 1992) (internal citation omitted).
[12] *See* In Re: "University Incubator Initiative," Admin. Hearing No. 18-012 of the District of Columbia Board of Elections, at 5, *available at* https://dcboe.org/CMSPages/GetFile.aspx?guid=c1356788-5ebc-4323-b9b3-eac09fa295f5.