

Zoning in the District of Columbia

Party vs. Person



Party vs. Person



One of the most frequently asked questions we receive at the Office of Zoning (OZ) is:

“What is the difference between **party status** and testifying as a **person**?”



A Party



Generally, a **party** is a participant in a proceeding who has an interest in the outcome that is greater than that of the general public. They have the right to present witnesses and cross-examine witnesses of other parties at a hearing. They can also submit motions, including requests for a continuance and for reconsideration.

Note: It is not necessary to be a party in order to appeal the outcome of the case.

A Person

A **person** is an individual, partnership, association, corporation, public agency, or other legal entity. Any person may submit testimony into the record or testify at a hearing, but they do not have the rights of a party. A person may also file an appeal (or petition for review) with the Court of Appeals, if they can show that they have been aggrieved by the decision.



A Contested Case

In the context of proceedings before the Board of Zoning Adjustment (BZA) and Zoning Commission (ZC), a party can participate in contested cases, which include:



- Variances and Special Exceptions (including Campus Plans)
- Appeals (non-automatic parties are called intervenors in an appeal)
- Planned Unit Developments (PUDs)
- Map Amendments heard as contested cases

Ways to Participate in a Contested Case

There are three ways in which you may participate in a contested case:



1. **Submit Written Testimony** – anyone can submit a signed letter in support or opposition into the record, as long as the record is still open.



2. **Testify as a Witness** – anyone can appear and give oral testimony in support or in opposition to a case. (Note: You may also submit your testimony in writing.)



Ways to Participate in a Contested Case

3. **Apply to be a Party** – anyone can apply to the Board of Zoning Adjustment (BZA) or Zoning Commission (ZC) for party status, by demonstrating that their interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Becoming a party is subject to approval by the BZA or ZC.



Automatic Party Status

In a contested case, the following persons **automatically** have party status:



- The Applicant or Appellant;



- The ANC for the area within which the property that is the subject of the application is located; and



- In an appeal, the DC Official whose decision is being challenged and the owner of the property, if not the Appellant.



Party Status

In a contested case proceeding, a party is afforded all the procedural rights provided in Chapters 30 and 31 of DCMR - Title 11 – Zoning Regulations, including the right to receive a copy of any:



- Documents filed by any other party in the case at the same time or before the document is filed with the BZA or ZC; and



- Written notice of any decision or order entered in the case.

Party Status

In all contested case proceedings before the BZA or ZC, a party may:



- Submit motions and requests to the Board, and respond to any motions or requests submitted to the BZA or ZC by other parties;



- Present witnesses in support of the party's position;



- Cross-examine all other persons testifying in the case;

Party Status



- Submit proposed Findings of Fact and Conclusions of Law;



- Submit a Motion for Reconsideration or Rehearing after the issuance of the final order; and



- Exercise all other procedural rights provided in Chapters 30 and 31 of DCMR - Title 11 – Zoning.

Filling out Form 140

A person who wishes to participate as a party must file Form 140 (Party Status Request form). **Please Note: You do not have to file this form if you wish to testify as a person.**

☆☆☆ BEFORE THE ZONING COMMISSION OR BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA ☆☆☆	
FORM 140 - PARTY STATUS REQUEST	
Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.	
PLEASE NOTE: YOU ARE <u>NOT</u> REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM <u>ONLY</u> IF YOU WISH TO BE A PARTY IN THIS CASE. (Please see reverse side for more information about this distinction.)	
Pursuant to 11 DCMR §§ 3022.3 or 3106.2, a request is hereby made, the details of which are as follows:	
Name:	
Address:	
Phone No(s).:	E Mail:
I hereby request to appear and participate as a party in Case No.:	
Signature:	Date:



Filling out Form 140

Will you appear as a(n)	<input type="checkbox"/>	Proponent	<input type="checkbox"/>	Opponent	Will you appear through legal counsel?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
If yes, please enter the name and address of such legal counsel.									
Name:									
Address:									
Phone No(s):					E Mail:				
<u>PARTY WITNESS INFORMATION:</u> On a separate piece of paper, please provide the following witness information:									
<ol style="list-style-type: none">1. A list of witnesses who will testify on the party's behalf;2. A summary of the testimony of each witness (<i>Zoning Commission only</i>);3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (<i>Zoning Commission only</i>); and4. The total amount of time being requested to present your case (<i>Zoning Commission only</i>).									

It is very important that you answer all of the applicable "Party Witness Information" on a separate piece of paper and submit it along with your request.



Filling out Form 140

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

The "Party Status Criteria" is critical information used by the BZA and ZC in determining whether your request will be approved. Be sure to answer each of these questions in detail, using drawings or plans, if necessary. You must clearly demonstrate that your interest would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than others in the general public.



Submitting Your Party Status Request

In order for the BZA or ZC to entertain your request for party status, you must submit Form 140 to OZ at least 14 days before the hearing. The BZA or ZC will entertain your party status request as a preliminary matter before the hearing. In the event your request is approved, **be prepared to be a party to the case.**



Please note: Party status is subject to the approval of the BZA or ZC. **If you are not granted party status, you will still be able to testify as a person.**



For more information



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