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CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2026-00394 DIVISION M-13

JUST SAY NIX, LLC,
CARROLLTON RIVERBEND NEIGHBORHOOD ASSOCIATION,
CENTRAL CARROLLTON ASSOCIATION, LLC
TOWN OF CARROLLTON WATCH, LLC
HISTORIC N.O. NEIGHBORHOODS, LLC

VERSUS

THE CITY OF NEW ORLEANS, THROUGH ITS DEPARTMENT OF SAFETY AND PERMITS; TAMMIE T. JACKSON OR HER YET TO BE NAMED SUCCESSOR, NEW ORLEANS BOARD OF ZONING ADJUSTMENTS AND ROBERT D. RIVERS

PETITION OF INTERVENTION AND ANSWER TO PETITION FOR WRIT OF CERTIORARI AND JUDICIAL REVIEW

NOW INTO COURT, through undersigned counsel, comes CREDC Carrollton NOLA, LLC ("Intervenor" or "CREDC"), who respectfully submits that pursuant to Louisiana Code of Civil Procedure Article 1091, it wishes to file this Petition for Intervention and Answer with regard to the *Petition for Writ of Certiorari and Judicial Review* filed by Petitioners, as follows:

1.

Intervenor CREDC Carrollton NOLA, LLC is a Louisiana limited liability company that owns the property located at 1407 South Carrollton Avenue, New Orleans, Louisiana which was issued Building Permit No. 25-04201-RNVN by the City of New Orleans Department of Safety & Permits ("Department of Safety & Permits").

2.

Petitioner's *Petition for Writ of Certiorari and Judicial Review* seeks an appeal/judicial review of a decision rendered by the New Orleans Board of Zoning Adjustments ("BZA") in BZA docket number 109-25 on December 8, 2025. BZA docket number 109-25 concerned Petitioners' appeal of a Zoning Verification issued by the Department of Safety & Permits on February 12, 2025, in connection with an application for, and eventual issuance of, building permit #25-04201-RNVN by the Department of Safety & Permits relating to Intervenor's property located at 1407 South Carrollton Avenue, New Orleans, Louisiana.

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3.

Despite the fact that Petitioners seek judicial review of a BZA decision which directly impacts Intervenor's property, and despite the fact that Intervenor filed an opposition to Petitioners' BZA appeal along with exhibits in to the record at the BZA as well as attending and participating in the appeal hearing at the BZA, Petitioners failed to include Intervenor as a party in this matter or provide any notice to Intervenor of the filing of the *Petition for Writ of Certiorari and Judicial Review.*

4.

The Louisiana Fourth Circuit Court of Appeal has specifically held that when a writ of certiorari is filed with the District Court seeking judicial review of a BZA decision, the owner of the property at issue in the BZA appeal is "truly an indispensable party" and that due process demands that the property owner be given an opportunity to defend the action of the BZA. *Lanaux v. City of New Orleans, Board of Zoning Adjustments,* No. CA-4535 (La. App. 4th Cir. 5/12/1986), 489 So. 2d 329, 331. Should the instant matter proceed without the Intervenor/property owner, any action taken by this Honorable Court in this matter would be subject to remand and retrial with Intervenor as a party to the matter. *Id.*

5.

Further, Louisiana Code of Civil Procedure Article 1091 provides that a third person having an interest in a proceeding may intervene in a pending action to enforce a right related to or connected with the object of the pending action against one or more of the parties thereto by: (1) Joining with plaintiff in demanding the same or similar relief against the defendant; (2) Uniting with defendant in resisting the plaintiff's demand; or (3) Opposing both plaintiff and defendant.

6.

La. C.C.P. Article 1091 and the jurisprudence construing it establish that the requirement for intervention is two-fold: (1) the intervenor must have a justiciable interest in, and connexity to, the principal action; and (2) the interest must be so related or connected to the facts or object of the principal action that a judgment on the principal action will have a direct impact on the intervenor's rights. *Theodore v. Johnson,* 2021-0668 (La. App. 4 Cir. 3/30/22), 366 So. 3d 211, 214, *writ denied,* 2022-00794 (La. 9/20/22), 346 So. 3d 282. A 'justiciable right' as used in

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interpreting Article 1091 means the right of a party to seek redress or a remedy against either plaintiff or defendant in the original action or both, and where those parties have a real interest in opposing it. *St. Bernard I, LLC v. Williams*, 2012-0372 (La. App. 4 Cir. 3/13/13), 112 So. 3d 922, 929, *writ denied*, 2013-1008 (La. 6/14/13), 118 So. 3d 1090. "Connexity" requires the party seeking to intervene establish that the outcome of the suit will have a direct impact on the party's rights. *Theodore v. Johnson,* supra.

7.

As the owner of property subject to the Zoning Verification and Building Permit identified in the BZA proceeding and in Petitioner's *Petition for Writ of Certiorari and Judicial Review* Intervenor has a vested right in the Building Permit and its rights will be directly impacted by any appeal of the BZA decision affecting the Zoning Verification and/or Building Permit for CREDC's property. When an intervenor's legal interest in immovable property is at issue in a suit, intervention is proper as the intervenor has a justiciable interest in the outcome of the litigation and a connexity to the principal action. *Lanaux,* Supra; See also *St. Bernard I, LLC v. Williams*, 2012-0372 (La. App. 4 Cir. 3/13/13), 112 So. 3d 922, 929, *writ denied*, 2013-1008 (La. 6/14/13), 118 So. 3d 1090; *Palace Props., L.L.C. v. City of Hammond*, 2002-1263 (La. App. 1 Cir. 6/27/03), 859 So. 2d 15, 17 (Shopping center was entitled to intervene in action brought by neighbor to compel reopening of public road across shopping center's property; shopping center had property interest that could be defeated by reopening of road, and could not protect this interest without intervention).

8.

Louisiana courts have long recognized that La. C.C.P. Art. 1091 was intended to liberally allow intervention. *Gallin v. Travelers Ins. Co.*, 323 So. 2d 908, 910 (La. Ct. App. 1975), *writ denied*, 329 So. 2d 452 (La. 1976); citing *Boyd v. Donelon,* 193 So. 2d 291 (La. App. 4 Cir. 1966). This procedure allows the intervenor to protect himself from prejudice and avoid multiplicity of actions. *Dean v. Delacroix Corp.*, 2004-0831 (La. App. 4 Cir. 5/11/05), 904 So. 2d 46, 51–52, citing *City of Natchitoches v. State,* 221 So.2d 534, 541 (La. App. 3 Cir.1969).

9.

It is appropriate for Intervenor to join in this proceeding to unite with Defendant City of

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New Orleans in defending the actions of the BZA to protect Intervenor's interests, avoid multiplicity of actions, and promote judicial economy.

10.

Louisiana Code of Civil Procedure Article 1033 provides that an incidental demand, such as this Petition for Intervention, may be filed at any time without leave of court before the answer to the principal demand is filed. Defendant City of New Orleans has not yet filed its Answer, making this Petition of Intervention timely.

WHEREFORE, Intervenor, CREDC Carrollton NOLA, LLC prays:

1. That it be permitted to intervene in these proceedings to oppose Petitioners' demands;
2. That Petitioners and Defendants in the main demand be served with certified copies of the Petition for Intervention and be cited to appear and answer same;
3. That after all legal delays and due proceedings are had, there be judgment herein denying Petitioner's request to vacate or reverse the BZA's action in BZA Docket No., 109-25
4. That there be judgment herein affirming the action of the BZA and decreeing that the Zoning Verification and Building Permit at issue were properly issued and therefore valid;
5. For all general and equitable relief including costs of these proceedings and any other relief the Court deems just and proper.

ANSWER AND AFFIRMATIVE DEFENSES TO PETITION FOR WRIT OF CERTIORARI AND JUDICIAL REVIEW

NOW INTO COURT, through undersigned counsel, comes CREDC Carrollton NOLA, LLC ("Intervenor" or "CREDC") who respectfully submits its Answer and Affirmative Defenses to Plaintiffs' *Petition for Writ of Certiorari and Judicial Review* ("Petition"), as follows:

1.

The allegations contained in Paragraph 1 of the Petition are denied for lack of information sufficient upon which to justify a belief therein, except to admit the entities and/or persons identified therein have been made plaintiffs herein.

2.

The allegations contained in Paragraph 2 of the Petition are denied for lack of information sufficient upon which to justify a belief therein, except to admit the City of New Orleans has been

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made a defendant herein.

3.

The allegations contained in Paragraph 3 are denied.

4.

The allegations contained in Paragraph 4 are denied as written.

5.

The allegations contained in Paragraph 5 are denied, except to admit that On February 12, 2025, the Department of Safety & Permits issued a Zoning Verification related to the property owned by Intervenor located at 1407 South Carrollton Avenue, New Orleans, Louisiana.

6.

The allegations contained in Paragraph 6 are denied except to admit that Intervenor owns the property located at 1407 South Carrollton Avenue, New Orleans, Louisiana. The Zoning Verification referenced, as a written document, is the best evidence of its own contents.

7.

The allegations contained in Paragraph 7 are denied as written, except to admit that the BZA held a hearing on the appeal of the issuance of a Zoning Verification related to the property owned by Intervenor located at 1407 South Carrollton Avenue, New Orleans, Louisiana on December 8, 2025.

8.

The allegations contained in Paragraph 8 are denied as written, except to admit that the BZA held a hearing on the appeal of the issuance of a Zoning Verification related to the property owned by Intervenor located at 1407 South Carrollton Avenue, New Orleans, Louisiana on December 8, 2025. The Disposition of Zoning Case issued by the BZA in the referenced matter, as a written document, is the best evidence of its own contents.

9.

The allegations contained in Paragraph 9 of the Petition are denied for lack of information sufficient upon which to justify a belief therein.

10.

The allegations contained in the prayer portion of the Petition and all other unnumbered

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portions of the Petition are denied.

FIRST AFFIRMATIVE DEFENSE

All requirements, terms or conditions of the City of New Orleans Comprehensive Zoning Ordinance were fully satisfied, complied with, and honored in connection with the issuance of the Zoning Verification and Building Permit, and by all actions of the BZA at issue herein.

SECOND AFFIRMATIVE DEFENSE

All requisite plans, specifications, documents, and applications containing accurate and complete information regarding the work to be done and the planned use of the property located at 1407 South Carrollton Avenue, New Orleans, Louisiana were provided to the City of New Orleans Department of Safety and Permits prior to the issuance of the Zoning Verification and Building Permit at issue. In reliance on the properly issued Zoning Verification and Building Permit, CREDC has spent over $1.4 million on work and materials for repairs and renovations to the property located at 1407 South Carrollton Avenue, New Orleans, Louisiana. As such, CREDC has a vested right in the Zoning Verification and Building Permit of which it cannot now be legally deprived.

THIRD AFFIRMATIVE DEFENSE

CREDC affirmatively pleads the defenses of estoppel, laches, statute of limitations, prescription, peremption, and clean hands.

FOURTH AFFIRMATIVE DEFENSE

To the extent Petitioners seek to invalidate City permits or approvals beyond the BZA decision under review, Petitioners' claims are premature and/or barred for failure to exhaust administrative remedies and to utilize the proper procedural vehicle against the proper parties.

FIFTH AFFIRMATIVE DEFENSE

Petitioners have no right of action and have stated no cause of action for any relief that is beyond the appeal of the BZA decision under review.

SIXTH AFFIRMATIVE DEFENSE

The BZA had a legal and substantial basis for its decision and did not act arbitrarily, capriciously, or with any calculated prejudicial lack of discretion.

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Intervenor CREDC reserves the right to amend its Petition of Intervention, Answer, and Affirmative Defenses, to assert such additional defenses or responses as may become known during this proceeding or otherwise.

WHEREFORE, Intervenor CREDC Carrollton NOLA, LLC, prays that this answer and affirmative defenses be deemed good and sufficient, and that after due proceedings are had that there be judgment in its favor and against the Plaintiffs, dismissing the Plaintiffs' petition with prejudice, and at the Plaintiffs' costs.

Respectfully Submitted By:

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Attorneys for Intervenor CREDC Carrollton NOLA, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was mailed and/or e-mailed to all known counsel of record.

New Orleans, Louisiana this 26th day of February 2026.

Daniel E. Davillier

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