



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

November 20, 2007

Deborah Spielberg
Chair
Silver Spring Advisory Board
Regional Services Center
8435 Georgia Avenue
Silver Spring, MD 20910

Dear Ms. Spielberg,

Thank you for your letter.

I appreciate very much your service and that of your fellow board members. Thank you for your support for an entertainment and community use venue in Silver Spring that will help the revitalization efforts in this important sector of our County.

We are very excited that Live Nation, a highly successful company that programs many local events and is a national and international leader in the provision of live concerts, music venues, and festivals, has agreed to locate a site in the County. Not only will this help bolster economic development in Silver Spring but it provides an array of synergies between the Fillmore and the nearby American Film Institute and Discovery Communications.

As you know, I have broadly solicited community input throughout this process and continue to do so. In fact, there has probably been more participation in this process than with any other economic development project of this type. I have held community meetings at my offices, spoken to a number of civic, business and other organizations, and solicited input individually.

Much of that input has been incorporated into the Letter of Intent we have signed with Live Nation. As we are engaged in negotiations, we are working to formulate a lease that reflects a number of the issues you raise.

Community use is very important. I want a venue that the community can use when it is not otherwise programmed by Live Nation. It could be used to help accommodate our growing need for spaces in the County for graduations, concerts, public meetings, corporate functions, and much more.

I want an array of musical choices that can appeal to the diversity that is Silver Spring – rock, jazz, country & western, folk, rhythm and blues, comedy, pop, children’s programming, salsa, and more.

And I want a Fillmore in Silver Spring that would have the flexibility to host stand-up, theatre seating, and events with tables and chairs.

We are working diligently to ensure these elements are effectively incorporated into the final agreement.

I believe that close cooperation between the community and Live Nation is essential. I have received a number of different ideas about how we could best accommodate greater community participation. It is important that this component be included in the final agreement.

As to the occupancy of the venue, the current projection is a maximum of 2000 for standing shows. Not all shows will be standing and not all standing shows will sell out. We have ample parking near the site, the Metro is three blocks away, and shows will start after rush hour and, of course, will not be every day of the week. A recent traffic study indicates the music venue can be accommodated.

And, of course, the design of the venue has not been finalized and any occupancy numbers depend on meeting the County fire code.

I look forward to continuing to work with you to address these concerns and others.

On the question of conducting discussions at the 11th hour with other musical entities, I respectfully disagree that this would be appropriate due to the fact that we have already signed a non-binding Letter of Intent with Live Nation.

As you may know, this is a three-party transaction. The Lee Development Group has offered to give the land to Montgomery County for an entertainment venue to be leased to Live Nation. To that end, Montgomery County has negotiated a Letter of Intent with Live Nation and is deeply involved in final negotiations with Live Nation and the Lee Development Group for the land documents. Montgomery County has an obligation to deal fairly in negotiations and to negotiate in good faith for a final binding contract. We have done this and will continue to do so.

For obvious reasons, it would be inappropriate for the County to enter into an agreement with one operator only to subsequently decide to engage in simultaneous negotiations with a second proposed operator that has the benefit of seeing and undercutting the signed terms of its competitor’s agreement. This is unacceptable.

Had the County originally signed a Letter of Intent with the 9:30 Club, or any other operator, and a third party inserted itself into the negotiations at the last minute by cherry-picking an existing proposal, my attitude would be the same.

Montgomery County -- or any credible entity -- cannot do business this way. After the fact -- and after careful and serious negotiations produced a Letter of Intent, any other party could claim -- plausibly or not -- that they could offer a better deal. If this was the manner in which we operated, we would be

flouting the County's established process and good government. The County's reputation as a credible negotiating partner with outside entities would be severely damaged and could cost us financially and otherwise for a considerable period of time.

The agreements with the Lee Development Group and Live Nation are real estate transactions and not procurements. The Lee Development Group is providing the land to the County for the express purpose of the County entering into a lease with Live Nation for an entertainment venue. This type of a land transaction is not covered by the County's Disposition of Property Regulations. Moreover, it is and always has been a project that is a significant economic development interest.

Even if the lease to Live Nation could be considered to be a procurement, the County's procurement provisions do not apply to obtaining entertainment services. From the very beginning, even with Birchmere as the partner, the County did not issue a "Request for Proposals" for the Silver Spring project because the idea was that the County wanted to select a unique partner for a unique project in conjunction with the deal being worked out between the donor of the land and the County. We continued that approach with Live Nation.

It should be noted that the 9:30 Club expressed no interest in a Silver Spring venue during the five years the County was in talks with Birchmere – even though there was never a letter of intent as we now have with Live Nation. The 9:30 Club also did not express interest when talks with the Birchmere were suspended in July, an event well-covered in the media. It was only on September 24 – six days after a Letter of Intent was signed with Live Nation -- that the 9:30 Club contacted the County.

As a courtesy, Montgomery County Chief Administrative Officer Tim Firestine met with the 9:30 Club on October 1, heard them out, and informed them of our obligation and our commitment to the negotiations with Live Nation and the Lee Development Group.

Please know that I very much appreciate your feedback and want to continue to work with you as we move forward with the Fillmore. Rest assured that I will never negotiate an agreement that is contrary to Silver Spring's or Montgomery County's interests.

Sincerely,


Isiah Leggett
County Executive