



***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- DC Council schedules a public oversight roundtable on the implementation of the Fiscal Year 2014 Budget and Procurement Reform Initiative at the Office of Contracting and Procurement
- Office of Tax and Revenue updates the tax sale threshold
- District Department of Transportation proposes updates to the District's open container regulations
- District Department of the Environment solicits public comment on the Municipal Separate Storm Sewer System (MS4) Report on Optimal Catch Basin Cleaning, Inspection, and Repair
- Office of the Deputy Mayor for Planning and Economic Development announces funding availability for the FY14 DC Workforce Intermediary - Hospitality Job Placement Partner Grant

# DISTRICT OF COLUMBIA REGISTER

## Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances (ODAI) publishes the *District of Columbia Register* (ISSN 0419-439X) (*D.C. Register*) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979 (25 DCR 6960). The policies which govern the publication of the *D.C. Register* are set forth in Title 1 of the District of Columbia Municipal Regulations, Chapter 3 (Rules of the Office of Documents and Administrative Issuances.) Copies of the Rules may be obtained from the Office of Documents and Administrative Issuances. Rulemaking documents are also subject to the requirements of the *District of Columbia Administrative Procedure Act*, District of Columbia Official Code, §§2-501 *et seq.*, as amended.

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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PERIODICAL POSTAGE PAID AT WASHINGTON, D.C.  
POSTMASTER: Send address changes to D.C. Register, 441 - 4<sup>th</sup> Street, N.W., Suite 520 South, Washington, D.C. 20001

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**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-315****“Child Sexual Abuse Reporting Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-647 on first and second readings November 15, 2012 and December 4, 2012, respectively. Following the signature of the Mayor on January 22, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-627 and was published in the February 15, 2013 edition of the D.C. Register (Vol. 60, page 1702). Act 19-627 was transmitted to Congress on February 26, 2013 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 19-627 is now D.C. Law 19-315, effective June 8, 2013.



PHIL MENDELSON  
Chairman of the Council

**Days Counted During the 60-day Congressional Review Period:**

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

May 1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22,23,24

June 3,4,5,6,7



## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 19-316

## "Reckless Driving Amendment Act of 2012"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-823 on first and second readings November 1, 2012 and December 4, 2012, respectively. Following the signature of the Mayor on January 22, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-630 and was published in the February 15, 2013 edition of the D.C. Register (Vol. 60, page 1713). Act 19-630 was transmitted to Congress on February 26, 2013 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 19-630 is now D.C. Law 19-316, effective June 8, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

May 1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22,23,24

June 3,4,5,6,7

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-317****“Criminal Fine Proportionality Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-214 on first and second readings October 16, 2012 and November 1, 2012 respectively. Following the signature of the Mayor on January 23, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-641 and was published in the February 22, 2013 edition of the D.C. Register (Vol. 60, page 2064). Act 19-641 was transmitted to Congress on February 27, 2013 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 19-641 is now D.C. Law 19-317, effective June 11, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Feb. 27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

May 1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22,23,24

June 3,4,5,6,7,10

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 19-318

**“Compassionate Release Authorization Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-525 on first and second readings July 10, 2012 and September 19, 2012 respectively. Following the signature of the Mayor on October 10, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-479 and was published in the November 2, 2012 edition of the D.C. Register (Vol. 59, page 12469). Act 19-479 was transmitted to Congress on March 5, 2013 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 19-479 is now D.C. Law 19-318, effective June 15, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

May 1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22,23,24

June 3,4,5,6,7,10,11,12,13,14

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 19-319

## “Re-entry Facilitation Amendment Act of 2012”

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-889 on first and second readings December 4, 2012 and December 18, 2012 respectively. Following the signature of the Mayor on January 29, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-657 and was published in the March 1, 2013 edition of the D.C. Register (Vol. 60, page 2333). Act 19-657 was transmitted to Congress on March 5, 2013 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 19-657 is now D.C. Law 19-319, effective June 15, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Mar. 5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

May 1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22,23,24

June 3,4,5,6,7,10,11,12,13,14

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-93

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 24, 2013

To amend An Act For the retirement of public-school teachers in the District of Columbia to allow for involuntary retirement for all excessed permanent status teachers without regard to whether a teacher chose to reject other options available to him or her.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Teachers' Retirement Amendment Act of 2013".

Sec. 2. Section 3(b) of An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 876; D.C. Official Code § 38-2021.03(b)), is amended as follows:

(a) The existing text is designated as paragraph (1).

(b) A new paragraph (2) is added to read as follows:

"(2) For the purposes of this subsection, the term:

"(A) "Excessing" means the elimination of a teacher's position at a particular school, when such an elimination is not a reduction in force or abolishment, due to a:

"(i) Decline in student enrollment;

"(ii) Reduction in the local school budget;

"(iii) Closing or consolidation;

"(iv) Restructuring; or

"(v) Change in the local school program.

"(B) "Involuntarily separated" includes the excessing of a permanent status teacher, without regard to whether the teacher chose to reject options available to him or her, such as finding a placement elsewhere in the public schools of the District of Columbia."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

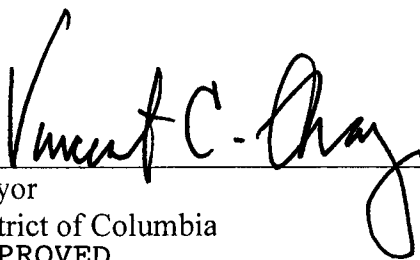
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 24, 2013

## ENROLLED ORIGINAL

## AN ACT

## D.C. ACT 20-94

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 24, 2013

To amend An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes to establish truancy procedures with inter-agency coordination, and to require the Office of the Attorney General to submit an annual truancy status report; to amend the State Education Office Establishment Act of 2000 to require that a truancy prevention resource guide be available by August 1, 2013; to require the Office of the State Superintendent of Education to submit to the Mayor and the Secretary to the Council recommendations for eliminating out-of-school suspensions and expulsions; and to amend the Safe Children and Safe Neighborhoods Educational Neglect Mandatory Reporting Amendment Act of 2010, An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children , and An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes to make technical and conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Attendance Accountability Amendment Act of 2013".

## TITLE I. ENHANCING SCHOOL ATTENDANCE

Sec. 101. An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.*), is amended as follows:

(a) Section 1 of Article I (D.C. Official Code § 38-201) is amended as follows:

(1) Paragraph (1) is repealed.

(2) A new paragraph (2A) is added to read as follows:

"(2A) "Educational institution" means a school in the District of Columbia Public Schools system, a public charter school, an independent school, a private school, a parochial school, or a private instructor."

(3) Paragraph (3A) is redesignated as paragraph (3B).

(4) A new paragraph (3A) is added to read as follows:

"(3A) "Parent" means a parent, guardian, or other person who resides in the District and who has custody or control of a minor 5 years of age or older."

(b) Article II is amended as follows:

(1) Section 6 (D.C. Official Code § 38-251) is amended by adding a new subsection (c) to read as follows:

## ENROLLED ORIGINAL

“(c) Within 2 business days of a minor student’s 10<sup>th</sup> unexcused absence during a school year, the educational institution shall, under the signature of the Chief of the Metropolitan Police Department, send the minor student’s parent a letter notifying the parent that he or she may be in violation of the school attendance requirements under this act and may be subject to prosecution.”.

(2) New sections 7 and 8 are added to read as follows:

“Sec. 7. Truancy procedures; inter-agency coordination.

“(a) If a minor student accumulates 10 unexcused absences during a school year, the educational institution shall notify the Metropolitan Police Department within 2 business days after the 10<sup>th</sup> unexcused absence.

“(b) Within 2 business days of the 10<sup>th</sup> unexcused absence, the educational institution shall notify the Office of the State Superintendent of Education which shall provide the parent with the truancy prevention resource guide created pursuant to section 3(b)(19) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602 (b)(19)); provided, that the parent has not received the truancy prevention resource guide before the 10<sup>th</sup> unexcused absence.

“(c) In addition to the requirements set forth in subsections (a) and (b) of this section:

“(1)(A) The educational institution shall refer a minor student 5 years of age through 13 years of age to the Child and Family Services Agency pursuant to section 2(a-1) of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(a-1)), no later than 2 business days after the accrual of 10 unexcused absences within a school year.

“(B) Beginning in the 2013-2014 school year, the educational institution shall refer a minor student 14 years of age through 17 years of age to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of the Attorney General Juvenile Section no later than 2 business days after the accrual of 15 unexcused absences within a school year.

“(2) Within 3 business days of the Office of the Attorney General, Juvenile Section receiving written notification pursuant to paragraph (1)(B) of this subsection, the Office of the Attorney General shall send the minor student’s parent a letter notifying the parent that he or she may be subject to prosecution for violation of the school attendance requirements under this act.

“Sec. 8. Reporting requirements.

“By July 15 of each year, beginning in 2014, the Office of the Attorney General shall submit to the Mayor and the Secretary to the Council a truancy status report on the preceding school year, which shall include the number of:

“(1) Referrals it received from each educational institution;

“(2) Cases it filed pursuant to this act, and the outcome of each;

“(3) Child-in-need of supervision cases filed pursuant to this act, and the outcome of each; and



## ENROLLED ORIGINAL

“(4) Students who were enrolled in a court diversion program, or other diversion program pursuant to this act.”.

Sec. 102. Section 3(b)(19) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(19)), is amended by striking the phrase “October 1, 2013” and inserting the phrase “August 1, 2013” in its place.

## TITLE II. SUSPENSION AND EXPULSION REPORT

Sec. 201. Within 180 calendar days of the effective date of this act, the Office of the State Superintendent of Education shall submit to the Mayor and the Secretary to the Council a report with findings and recommendations to aid each educational institution to eliminate out-of-school suspensions and expulsions, except for those students who pose a reasonable threat of death or serious bodily harm to themselves or others or violate the Expulsion of Students Who Bring Weapons Into Public Schools Act of 1996, effective April 9, 1997 (D.C. Law 11-174; D.C. Official Code § 38-231 *et seq.*).

## TITLE III. TECHNICAL AND CONFORMING AMENDMENTS

Sec. 301. Section 4 of the Safe Children and Safe Neighborhoods Educational Neglect Mandatory Reporting Amendment Act of 2010, effective October 26, 2010 (D.C. Law 18-242; 57 DCR 7555), is repealed.

Sec. 302. Section 2(a-2)(3) of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(a-2)(3)), is amended to read as follows:

“(3) This subsection shall expire upon the effective date of the Attendance Accountability Amendment Act of 2013, passed on 2<sup>nd</sup> reading on June 4, 2013 (Enrolled version of Bill 20-72).”.

Sec. 303. Article II of An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.*), is amended as follows

(a) Section 1(a) (D.C. Official Code § 38-202(a)) is amended by striking the phrase “a public, independent, private, or parochial school, or in private instruction” and inserting the phrase “an educational institution” in its place.

(b) Section 2 (D.C. Official Code § 38-203) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “public, independent, private, or parochial school and by every teacher who gives instruction privately” and inserting the phrase “educational institution” in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase “head teacher,” and insert the phrase “head teacher, teacher who gives private instruction,” in its place.

ENROLLED ORIGINAL

(B) Strike the phrase "public, independent, private, or parochial school, and each teacher who gives private instruction" and insert the phrase "educational institution" in its place.

(c) Section 4 (D.C. Official Code § 38-205) is amended by striking the phrase "principal, or head teacher of each public, independent, private, or parochial school, and each teacher who gives private instruction," and inserting the phrase "principal, head teacher, or teacher who gives private instruction of each educational institution" in its place.

TITLE IV. GENERAL PROVISIONS

Sec. 401. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 402. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman  
Council of the District of Columbia

Mayor  
District of Columbia  
APPROVED  
June 24, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-95

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 27, 2013

To amend the Fire and Casualty Act to require homeowner's and renter's insurance companies to notify applicants and provide a one-time notice to existing policyholders that homeowner's and renter's insurance does not cover losses from flood or sewer-line backup, and to explain how these policies may be obtained.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fire and Casualty Amendment Act of 2013".

Sec. 2. Chapter II of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1063; D.C. Official Code § 31-2502.01 *et seq.*), is amended by adding new sections 28a and 28b to read as follows:

"Sec. 28a. Flood insurance notice requirements for the provision of homeowner's and renter's insurance.

"(a) Within 90 days of the effective date of the Fire and Casualty Amendment Act of 2013, passed on 2nd reading on June 4, 2013 (Enrolled version of Bill 20-31), a company authorized to sell or negotiate homeowner's or renter's insurance in the District of Columbia shall provide a written notice that states that a standard homeowner's or renter's insurance policy does not cover losses from flood to:

"(1) An applicant at the time of application for a homeowner's or renter's insurance policy;

"(2) A policyholder at the time of each renewal of a homeowner's or renter's insurance policy, to accompany the renewal notice; and

"(3) On a one-time basis, a policyholder of a homeowner's or renter's insurance policy; provided, that a company shall not be required to provide the one-time notice to an existing policyholder if the renewal of that policyholder's policy comes due within 90 days of the date the company began issuing the notices required by this subsection.

"(b) The statement shall:

"(1) Be on a separate form;

## ENROLLED ORIGINAL

“(2) Be titled, in at least 12-point type, “Flood Coverage Not Included in the Standard Homeowner's or Renter's Insurance Policy”; and

“(3) Contain, at a minimum, the following information in at least 12 point type:

“(A) Advise the applicant that flood insurance may be available for an additional premium and that a claim under a flood insurance policy may be adjusted and paid on a different basis than a claim under a homeowner's or renter's insurance policy;

“(B) Advise the applicant that a separate application must be completed to purchase flood insurance;

“(C) State that flood insurance may be available through the National Flood Insurance Program or other sources;

“(D) Provide the applicant with the contact information for the National Flood Insurance Program;

“(E) Advise the applicant to consult with the National Flood Insurance Program, the District Department of the Environment, the District Department of Insurance, Securities, and Banking, or the applicant's mortgage lender about the risks of flooding and the potential costs and benefits of flood insurance; and

“(F) Advise the applicant that the statement shall not be considered a replacement for the terms of the insurance policy, shall not have the effect of altering the coverage afforded by the policy, shall not confer new or additional rights beyond those expressly provided for in the policy, and is only provided as guidance to the homeowner in understanding the terms of the insurance policy.

“(c) If an application is made by telephone, the insurer is deemed to be in compliance with this section if, within 7 calendar days after the date of application, the insurer sends by mail the notice to the insured.

“(d) If an application is made using the Internet, the insurer is deemed to be in compliance with this section if the insurer provides the notice to the applicant in a stand-alone format, similar to the notice requirements in subsection (b)(1), (2), and (3) of this section, before the submission of the application.

“(e) The insurer's failure to provide notice as required under this section does not create a private right of action.

“Sec. 28b. Sewer-line backup insurance notice requirements for the provision of homeowner's and renter's insurance.

“(a) Within 90 days of the effective date of the Fire and Casualty Amendment Act of 2013, passed on 2nd reading on June 4, 2013 (Enrolled version of Bill 20-31), a company authorized to sell or negotiate homeowner's or renter's insurance in the District of Columbia shall provide a written notice that states that a standard homeowner's or renter's insurance policy does not cover losses from sewer-line back up to:

“(1) An applicant at the time of application for a homeowner's or renter's insurance policy;

“(2) A policyholder at the time of each renewal of a homeowner's or renter's insurance policy, to accompany the renewal notice; and

## ENROLLED ORIGINAL

“(3) On a one-time basis, a policyholder of a homeowner’s or renter’s insurance policy; provided, that a company shall not be required to provide the one-time notice to an existing policyholder if the renewal of that policyholder’s policy comes due within 90 days of the date the company began issuing the notices required by this subsection.

“(b) The statement shall:

“(1) Be on a separate form;

“(2) Be titled, in at least 12-point type, “Sewer-line Backup Coverage Not Included in the Standard Homeowner's or Renter's Insurance Policy”; and

“(3) Contain, at a minimum, the following information, in at least 12-point type:

“(A) Advise the applicant that sewer-line backup insurance may be available for an additional premium and that a claim under a sewer-line backup insurance policy may be adjusted and paid on a different basis than a claim under a homeowner's or renter's insurance policy;

“(B) Advise the applicant that a separate application must be completed to purchase sewer-line backup insurance;

“(C) Advise the applicant to consult with the District Department of Insurance, Securities, and Banking or the applicant’s mortgage lender about the risks of sewer-line backup and the potential costs and benefits of sewer-line backup insurance; and

“(D) Advise the applicant that the statement shall not be considered a replacement for the terms of the insurance policy, shall not have the effect of altering the coverage afforded by the policy, shall not confer new or additional rights beyond those expressly provided for in the policy, and is only provided as guidance to the homeowner in understanding the terms of the insurance policy.

“(c) If an application is made by telephone, the insurer is deemed to be in compliance with this section if, within 7 calendar days after the date of application, the insurer sends by mail the notice to the insured.

“(d) If an application is made using the Internet, the insurer is deemed to be in compliance with this section if the insurer provides the notice to the applicant in a stand-alone format, similar to the notice requirements in subsection (b)(1), (2), and (3) of this section, before the submission of the application.

“(e) The insurer’s failure to provide notice as required under this section does not create a private right of action.”.

### Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

### Sec. 4. Effective date.

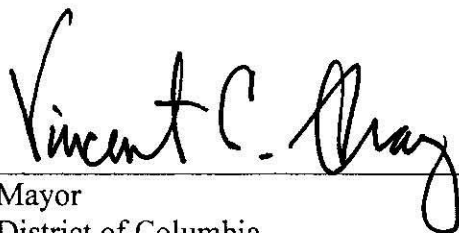
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

ENROLLED ORIGINAL

provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 27, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-96

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 27, 2013

To approve, on an emergency basis, Change Orders No. 001 through No. 005 to Contract No. DCAM-12-M-1031K-FM between the District of Columbia government and Whiting-Turner Contracting Company for design-build services for Stuart Hobson Middle School, and to authorize payment to Whiting-Turner Contracting Company in the aggregate amount of \$1,299,135 for the goods and services to be received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders No. 001 through No. 005 to Contract No. DCAM-12-M-1031K-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Orders No. 001 through No. 005 to Contract No. DCAM-12-M-1031K-FM with Whiting-Turner Contracting Company for design-build services and additional project scope as part of the Phase 1 modernization at Stuart Hobson Middle School and authorizes payment in the aggregate amount of \$1,299,135 for the goods and services to be received under these change orders.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal statement of the Office of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

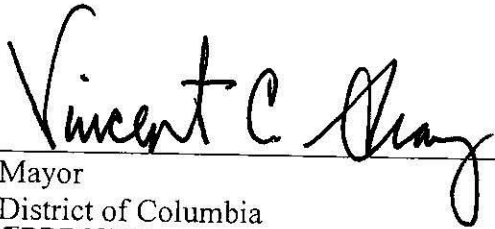
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 27, 2013



ENROLLED ORIGINAL

AN ACT  
D.C. ACT 20-97

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
JUNE 27, 2013

To approve, on an emergency basis, Modification Nos. 2 through 4 to Contract No. NFPHC-8 between the Not-for-Profit Hospital Corporation (“NFPHC”) and Morrison Management Specialists, Inc. (“Morrison”) to provide food and nutrition services and management personnel to NFPHC’s Food and Nutrition Department and to authorize payment for services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Contract No. NFPHC-8 Modification Nos. 2 through 4 Approval and Payment Authorization Emergency Act of 2013”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-252.02), the Council approves Modification Nos. 2 through 4 to Contract No. NFPHC-8 between NFPHC and Morrison to provide food and nutrition services and staffing and authorizes payment in the amount of \$2,160,000 for services received and to be received under the contract.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

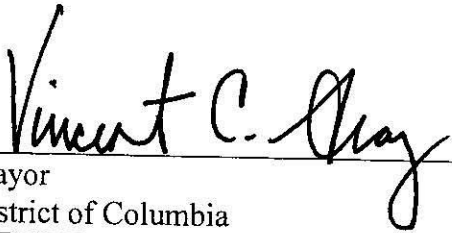
ENROLLED ORIGINAL

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 27, 2013

## ENROLLED ORIGINAL

## AN ACT

D.C. ACT 20-98

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 27, 2013

To amend, on an emergency basis, the District of Columbia Workers' Compensation Act of 1979 to match the federal statute of limitations for negligence claims brought by private-sector employees who are injured at work.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Workers' Compensation Statute of Limitations Emergency Amendment Act of 2013".

Sec. 2. Section 36(b) of the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1535(b)), is amended by adding a new sentence at the end to read as follows: "If the employer fails to commence an action against such third person within 90 days after the cause of action is assigned under this section, the right to bring the action shall revert to the person entitled to compensation."

Sec. 3. Applicability.

This act applies to causes of action for negligence for which the 3-year statute of limitations has not expired.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c))(3)).

Sec. 5. Effective date.

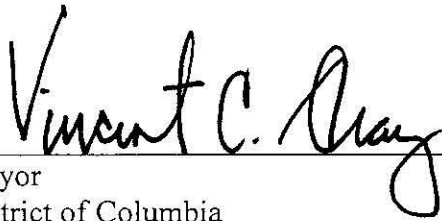
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 27, 2013



**BILLS con't**

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- B20-364      Public Charter School Historic Preservation Amendment Act of 2013
- Intro. 06-26-13 by Councilmember Graham and referred to the Committee of the Whole
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- B20-365      Underinsured Motorist Carrier Fairness Amendment Act of 2013
- Intro. 06-26-13 by Councilmembers Bowser and Orange and referred to the Committee on Business, Consumer and Regulatory Affairs
- 
- B20-366      Commission on Fathers, Men and Boys Establishment Act of 2013
- Intro. 06-26-13 by Councilmembers Barry, McDuffie, Bonds, Orange, Alexander, Grosso, and Bowser and referred to the Committee on Workforce and Community Affairs
- 
- B20-367      Department of Aging and Community Living Establishment Amendment Act of 2013
- Intro. 06-26-13 by Councilmembers Barry and McDuffie and referred to the Committee on Human Services
- 
- B20-368      Air Quality Amendment Act of 2013
- Intro. 06-26-13 by Councilmembers McDuffie, Cheh, Wells, and Grosso and referred to the Committee on Transportation and the Environment
- 
- B20-369      Truth Affordability Reporting Act of 2013
- Intro. 06-26-13 by Councilmembers McDuffie, Bowser, Grosso, Barry, Wells, Evans, Graham, Bonds, Cheh, and Alexander and referred to the Committee on Finance and Revenue
- 
- B20-370      Automated Traffic Enforcement Moratorium Act of 2013
- Intro. 06-28-13 by Councilmember Orange and referred to the Committee on Transportation and the Environment
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**PROPOSED RESOLUTIONS**

PR20-353 Family Assessments Rules Resolution of 2013

Intro. 06-24-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Human Services

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PR20-354 Contract Appeals Board Monica Parchment Confirmation Resolution of 2013

Intro. 06-24-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

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PR20-358 Board of Medicine Terrence D. Straub Confirmation Resolution of 2013

Intro. 06-25-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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PR20-360 Sense of the Council In Support of the Seal of the District of Columbia in the Library of Congress Declaration Resolution of 2013

Intro. 06-26-13 by Councilmember Evans and referred to the Committee of the Whole

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PR20-361 Board of Chiropractic Dr. Carol Hopson Confirmation Resolution of 2013

Intro. 06-27-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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**Council of the District of Columbia  
COMMITTEE ON GOVERNMENT OPERATIONS  
REVISED - NOTICE OF PUBLIC HEARING  
1350 Pennsylvania Avenue, NW, Washington, DC 20004**

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**REVISED & ABBREVIATED  
COUNCILMEMBER KENYAN R. McDUFFIE, CHAIRPERSON  
COMMITTEE ON GOVERNMENT OPERATIONS**

**ANNOUNCES A PUBLIC HEARING ON**

**B20-0059 THE “DC RESIDENT POINT PREFERENCE AMENDMENT ACT OF 2013”;**

**B20-0116 THE “BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY AMENDMENT ACT OF 2013”;**

**B20-0117 THE “PROHIBITION ON GOVERNMENT EMPLOYEE ENGAGEMENT IN POLITICAL ACTIVITY  
AMENDMENT ACT OF 2013”;**

**B20-0235 THE “FUNERAL AND MEMORIAL SERVICE LEAVE AMENDMENT ACT OF 2013”;**

**AND**

**PR20-0182 THE “OFFICE OF EMPLOYEE APPEALS VERA ABBOTT CONFIRMATION RESOLUTION OF 2012”**

**July, 8 2013, 10:00 AM  
Room 120 John A. Wilson Building  
1350 Pennsylvania Ave., NW  
Washington, D.C. 20004**

On July 8, 2013, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Government Operations, will convene a public hearing on B20-0059 The “DC Resident Point Preference Amendment Act of 2013,” B20-0116 The “Board of Ethics and Government Accountability Amendment Act of 2013,” B20-0117 The “Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013,” B20-0235 the “Funeral and Memorial Service Leave Amendment Act of 2013,” and PR20-0182 the “Office of Employee Appeals Vera Abbott Confirmation Resolution of 2012.” This public hearing will be held in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave, NW at 10:00 AM.

This notice has been revised to reflect the removal of B20-0251 the “Government Managers Accountability Amendment Act of 2013,” from the agenda. This notice has been abbreviated to provide timely notice to the public.

The purpose of this hearing is to give the public the opportunity to comment on these measures. The following is an outline of the stated purpose of each bill scheduled to be considered at this hearing:



- The stated purpose of the “DC Resident Point Preference Amendment Act of 2013” is to amend the Jobs for D.C. Residents Amendment Act of 2007 to require that all agencies and instrumentalities give qualified District resident applicants a 20-point preference over qualified non-District resident applicants.
- The stated purpose of the “Board of Ethics and Government Accountability Amendment Act of 2013” is to amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to allow the Board of Ethics and Government Accountability to issue advisory opinions upon its own initiative; and expand the range of penalties that may be imposed for a violation of the Code of Official Conduct of the Council of the District of Columbia.
- The stated purpose of the “Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013” is to amend the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to add definitions, clarify that the Board of Ethics and Government Accountability shall enforce its provisions, to address non-District elections, and to provide enforcement of the act through the Code of Conduct.
- The stated purpose of the “Funeral and Memorial Service Leave Amendment Act of 2013” is to amend the District of Columbia Municipal Regulations and the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to permit government employees to take three days of leave without loss of pay to make arrangements for, or attend the funeral or memorial service of, an immediate relative.
- Finally, the stated purpose the “Office of Employee Appeals Vera Abbott Confirmation Resolution of 2012” is to confirm the reappointment of Vera Abbott to the Office of Employee Appeals.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify at the hearing should contact Mr. Ronan Gulstone, Committee Director at (202) 724-8028, or via e-mail at [rgulstone@dccouncil.us](mailto:rgulstone@dccouncil.us), and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Wednesday July, 3 2013. Representatives of organizations will be allowed a maximum of five (5) minutes for oral presentation and individuals will be allowed a maximum of three (3) minutes for oral presentation. Witnesses should bring 10 copies of their written testimony and if possible submit a copy of their testimony electronically to [rgulstone@dccouncil.us](mailto:rgulstone@dccouncil.us).

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to the Committee, or to Ms. Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on July 23, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE**  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

on

**Implementation of the Fiscal Year 2014 Budget and Procurement Reform Initiative  
at the Office of Contracting and Procurement**

on

**Thursday, July 11, 2013  
12:00 p.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public oversight roundtable of the Committee of the Whole on the Implementation of the Fiscal Year 2014 Budget and Procurement Reform Initiative at the Office of Contracting and Procurement. The public roundtable hearing will be held Thursday, July 11, 2013 at 12:00 p.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of this oversight roundtable is to receive testimony from the Office of Contracting and Procurement (OCP) on its preparations for implementing of the Fiscal Year 2014 budget. The Council-approved budget contain a \$2.76 million increase over the current fiscal year budget which will support full implementation of the Procurement Practices Reform Act of 2010, additional staff, and investment in training. In addition, earlier this year, OCP began implementation of a procurement reform initiative aimed at improving the procurement process. According to testimony during its budget and oversight hearings, OCP has begun implementation of this initiative which will also be supported by the additional funds provided in the budget.

Testimony at this roundtable is limited to government representatives. Questions can be directed to Evan Cash, Committee Director, at [ecash@dccouncil.us](mailto:ecash@dccouncil.us). Witnesses are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on July 11, 2013, the testimony will be distributed to Councilmembers before the hearing.

Written comments are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Thursday, July 25, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA****CONSIDERATION OF TEMPORARY LEGISLATION**

**B20-358**, “Washington Metropolitan Area Transit Authority Board of Directors Temporary Amendment Act of 2013” was adopted on first reading on June 26, 2013. This temporary measure was considered in accordance with Council Rule 413. A final reading on this measure will occur on July 10, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Notice of Reprogramming Requests**

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 5 Washington, D.C. 20004. Copies of reprogramming requests are available in Legislative Services, Room 10.  
Telephone: 724-8050

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**Reprog. 20-68:** Request to reprogram \$1,034,110 of Fiscal Year 2013 Local funds budget authority within the Department of Corrections (DOC) was filed in the Office of the Secretary on June 25, 2013. This reprogramming is needed to upgrade the culinary equipment at the Central Detention Facility and the Central Treatment Facility.

RECEIVED: 14 day review begins June 26, 2013

**Reprog. 20-69:** Request to reprogram \$2,500,000 of Fiscal Year 2013 Special Purpose Revenue funds budget authority from the District Department of the Environment (DDOE) to the Pay-as-you-go (Paygo) Capital Account was filed in the Office of the Secretary on June 25, 2013. This reprogramming is needed to allow DDOE to continue the implementation of capital projects that retrofit public land with environmentally supportive (green) storm water runoff mitigation.

RECEIVED: 14 day review begins June 26, 2013

**Reprog. 20-70:** Request to reprogram \$7,542,675 of Fiscal Year Local funds budget authority within the Department of Health Care Finance (DHCF) was filed in the Office of the Secretary on June 25, 2013. This reprogramming ensures adequate funding to support Medicaid provider payments for Personal Care Aid services.

RECEIVED: 14 day review begins June 26, 2013

**Reprog. 20-71:** Request to reprogram \$3,066,000 of Fiscal Year 2013 Local Funds budget authority within the Department of General Services (DGS) to support higher-than-expected costs for the Electricity fixed cost commodity was filed in the Office of the Secretary on June 25, 2013. This reprogramming ensures adequate funding to support Medicaid provider payments for Personal Care Aid services.

RECEIVED: 14 day review begins June 26, 2013

**Reprog. 20-72:** Request to reprogram \$1,550,000 of Fiscal Year 2013 Local Funds budget authority within the District of Columbia Fire and Emergency Medical Services Department (FEMS) was filed in the Office of the Secretary on June 26, 2013. This reprogramming is needed to cover the cost of Supplies, Materials, and Equipment, as well as the information technology upgrades that will support the operational needs of FEMS through the remainder of the fiscal year.

RECEIVED: 14 day review begins June 27, 2013

**Reprog. 20-73:** Request to reprogram \$750,000 of Fiscal Year 2013 Special Purpose Revenue funds budget authority from the District Department of the Environment (DDOE) to the Pay-As-You-Go Capital Account was filed in the Office of the Secretary on June 26, 2013. This reprogramming is needed to implement the Anacostia Clean-Up Protection Act of 2009 (Bag Bill Law).

RECEIVED: 14 day review begins June 27, 2013

**Reprog. 20-74:** Request to reprogram \$803,385 of Fiscal Year 2013 Local funds budget authority within the Department of Parks and Recreation (DPR) was filed in the Office of the Secretary on June 26, 2013. This reprogramming ensures that DPR will be able to properly align personal services expenditures for their Summer Youth Employment Program.

RECEIVED: 14 day review begins June 27, 2013

**Reprog. 20-75:** Request to reprogram \$2,652,506 of Fiscal Year 2013 Local funds budget authority within the Office of the Chief Financial Officer (OCFO) was filed in the Office of the Secretary on June 26, 2013. This reprogramming covers the payment of software licenses for computer system users throughout the agency.

RECEIVED: 14 day review begins June 27, 2013

**Reprog. 20-76:** Request to reprogram \$3,303,137 of Fiscal Year 2013 Local funds budget authority within the Department of Youth Rehabilitation Services (DYRS) was filed in the Office of the Secretary on June 26, 2013. This reprogramming ensures that DYRS will be able to fund security services at the New Beginnings and Youth Services Center, digitize youth records, fund services to support Jerry M. Consent Decree requirements, and fund equipment purchases for DYRS youth.

RECEIVED: 14 day review begins June 27, 2013

**Reprog. 20-77:** Request to reprogram \$889,288 of Fiscal Year 2013 Local funds budget authority within the Department of Health (DOH) was filed in the Office of the Secretary on June 26, 2013. This reprogramming ensures that the DOH will be able to support personal services, breast and cervical cancer screening contract, immunization and oral health contracts, gold systems contract, peer review contract, office supplies and the replenishment of aged equipment for pharmacy, food and rodent programs for FY 2013.

RECEIVED: 14 day review begins June 27, 2013

**Reprog. 20-78:** Request to reprogram \$893,429 of Local Funds Budget Authority within the Department of Parks and Recreation (DPR) was filed in the Office of the Secretary on June 27, 2013. This reprogramming ensures that the DPR will be able to properly align the budget with expenditures to support summer programming and other operational needs.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-79:** Request to reprogram \$800,000 of Local Funds Budget Authority from the Department of Corrections to the Fire and Emergency Medical Services Department (FEMS) was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed to support the newly established Ambulance Billing Contract within FEMS' operations.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-80:** Request to reprogram \$10,466,139 of Capital Budget Authority within the District Department of Transportation was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed to support the costs of constructing the Parkside Pedestrian Bridge, creating a new pedestrian connection between two Ward 7 neighborhoods.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-81:** Request to reprogram \$896,280 of Local Funds Budget Authority within the Department of Motor Vehicles (DMV) was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed to support the costs related to DMV's daily operations, in particular, operating the Destiny system.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-82:** Request to reprogram \$1,008,291 of Local Funds Budget Authority within the Department of Health Care Finance was filed in the Office of the Secretary on June 27, 2013. This reprogramming ensures adequate funding to support contracts required by the Centers for Medicare and Medicaid Services.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-83:** Request to reprogram \$870,000 of Local Funds Budget Authority from the Department of Corrections was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed for the purchase and installation of fixtures, furniture and equipment needed to operate the new Inmate Processing Center, as mandated by the federal District Court. The funding will also be used to train correctional staff to use the purchased equipment and technology.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-84:** Request to reprogram \$789,155 of Local Funds Budget Authority within the Department of Health Care Finance was filed in the Office of the Secretary on June 27, 2013. This reprogramming ensures adequate funding to support contracts required by the Centers for Medicare and Medicaid Services.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-85:** Request to reprogram \$6,000,000 of Local Funds Budget Authority from the Child and Family Services Agency to the Department of Mental Health (DMH) was filed in the Office of the Secretary on June 27, 2013. This reprogramming ensures that DMH will have adequate funding to support the revised FY 2013 forecast of eligible individuals for Medicaid benefits under the Mental Health Rehabilitation Services division.

RECEIVED: 14 day review begins June 28, 2013



**Reprog. 20-86:** Request to reprogram \$1,636,250 of Local Funds Budget Authority within the District of Columbia Public Schools was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed to cover costs associated with contractual services and IT-related equipment needed for the summer months in anticipation of the upcoming school year.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-87:** Request to reprogram \$378,573 of Federal Capital Fund and \$408,528 of Non-Participating Highway Trust Fund Budget Authority within the District Department of Transportation was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed to align the Federal Fund and Non-Participating Highway Trust Fund budgets for the C Street, N.W. project with the Federal Highway Administration's obligation approved for the project.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-88:** Request to reprogram \$814,454 of Capital Funds Budget Authority and Allotment within the Department of Housing and Community Development (DHCD) was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed to support the acquisition and maintenance of District real estate by the DHCD Property Acquisition and Disposition Program (PADD).

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-89:** Request to reprogram \$15,263,882 of Capital Funds Budget Authority and Allotment from Various District Agencies to the District of Columbia Public Schools (DCPS) for School Modernization Projects was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed to support the cost of School Modernization projects. The reprogrammed budget will enable the Department of General Services to complete the FY 2013 school modernization plan within the scopes of work specified for the DCPS education program.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-90:** Request to reprogram \$2,183,513 of Capital Funds Budget Authority and Allotment from the Office of the Deputy Mayor for Planning and Economic Development to the Department of General Services was filed in the Office of the Secretary on June 27, 2013. This reprogramming is needed for the improvements to the Lincoln Theater, located at 1215 U Street, N.W., which has developed significant deficiencies and requires work to make the building's architectural, life safety, mechanical, plumbing, fire protection and electrical systems functional.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-91:** Request to reprogram \$7,138,774 of Capital funds budget authority and allotment from various District agencies to the Office of the Chief Technology Officer (OCTO) was filed in the Office of the Secretary on June 27, 2013. This is needed to support the costs of advancing critical information technology capital projects throughout the District of Columbia.

RECEIVED: 14 day review begins June 28, 2013

**Reprog. 20-92:** Request to reprogram \$1,300,000 of Fiscal Year 2013 Special Purpose Revenue funds budget authority from the Office of Cable Television (OCT) to the Pay-As-You-Go (Paygo) Capital Account was filed in the Office of the Secretary on June 28, 2013. This is needed to support the costs of advancing critical information technology capital projects throughout the District of Columbia.

RECEIVED: 14 day review begins July 1, 2013

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, JULY 10, 2013  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S,  
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson  
Members:

Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

<b>Protest Hearing (Status)</b>	<b>9:30 AM</b>
<b>Case # 12-PRO-00081</b> , 2007 14th Street Productions, LLC, t/a Marvin, 2007 14th Street NW, License #76166, Retailer CT, ANC 1B	
<b>Substantial Change (Expansion to the 2nd Floor &amp; Additional 87 seats)</b>	
<b>Protest Hearing (Status)</b>	<b>9:30 AM</b>
<b>Case # 13-PRO-00063</b> ; SST Management, LLC, t/a Bin 1301 Wine Bar, 1301 U Street NW, License #91682, Retailer CT, ANC 1B	
<b>New Application</b>	
<b>Protest Hearing (Status)</b>	<b>9:30 AM</b>
<b>Case # 13-PRO-00038</b> ; Black Salt Fish, LLC, t/a Black Salt Fish & Market 4883 MacArthur Blvd NW, License #60748, Retailer CR, ANC 3D	
<b>Renewal Application</b>	
<b>Protest Hearing (Status)</b>	<b>9:30 AM</b>
<b>Case # 13-PRO-00048</b> ; Dunmore, LLC, t/a Sonoma, 223 Pennsylvania Ave SE License #72017, Retailer CR, ANC 6B	
<b>Renewal Application</b>	
<b>Protest Hearing (Status)</b>	<b>9:30 AM</b>
<b>Case # 13-PRO-00047</b> , Restaurant Seki, LLC, t/a Izakay Seki, 1117 V Street NW, License #88274, Retailer CR, ANC 1B	
<b>Renewal Application</b>	
<b>Protest Hearing (Status)</b>	<b>9:30 AM</b>
<b>Case # 13-PRO-00033</b> ; Multi-Management, Inc., t/a Habana Village, 1834 Columbia Road NW, License #24197, Retailer CR, ANC 1C	
<b>Renewal Application</b>	
<b>Fact Finding Hearing</b>	<b>9:30 AM</b>
To Be Determined (formerly-Club Rendezvous), Retailer CN	
<b>License in Safekeeping</b>	

Board's Calendar

Page -2- July 10, 2013

**Fact Finding Hearing** **9:30 AM**

L'Enfant Enterprises, LLC, t/a L'Enfant Café & Bar; 2000 18th Street NW  
License #60658, Retailer CR, ANC 1C

**One Day Substantial Change Application, Date of Event: July 13, 2013**

**Show Cause Hearing** **10:00 AM**

**Case # 12-CMP-00431;** Beg Investments, LLC, t/a Twelve Restaurant & Lounge, 1123 H Street NE, License #76366, Retailer CT, ANC 6A  
**Violation of Settlement Agreement, Failed to Comply With the Terms of Board Order No. 2011-289**

**Fact Finding Hearing** **11:00 AM**

**Case # 13-251-00047 # 13-251-00046 and # 13-251-00045;** Superclub Ibiza, LLC, t/a Ibiza, 1222 1st Street NE, License #74456, Retailer CN, ANC 6C  
**Assault Occurred Inside of the Establishment, Sale to Minor, Interfered with an Investigation, Failed to Follow Security Plan**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA**

**1:00 PM**

**Show Cause Hearing** **1:30 PM**

**Case # 12-CMP-00456;** Mama Chuy DC, Inc., t/a Mama Chuy, 2620 Georgia Ave NW, License #86892, Retailer CR, ANC 1B

**Failed to File Quarterly Statements (1st Quarter 2012)**

**Protest Hearing** **2:00 PM**

**Case # 13-PRO-00011,** Lee's Mini Market, Inc., t/a Lee's Mini Market, 3853 Alabama Ave SE, License #84939, Retailer B, ANC 7B

**Substantial Change (Change from Class B (market) license to Class A (liquor store) license)**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

7/5/2013

Notice is hereby given that:

License Number: ABRA-090488

License Class/Type: C Restaurant

Applicant: BAR DI BARI, LLC

Trade Name: BAR BARI

ANC:

Has applied for the renewal of an alcoholic beverages license at the premises:

1401 R ST NW, WASHINGTON, DC 20009

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

8/19/2013

HEARING WILL BE HELD ON

9/3/2013

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	6:30am - 1am	8:30am - 1am	-
Monday:	6:30am - 1am	8:30am - 1am	-
Tuesday:	6:30am - 1am	8:30am - 1am	-
Wednesday:	6:30am - 1am	8:30am - 1am	-
Thursday:	6:30am - 1am	8:30am - 1am	-
Friday:	6:30am - 2am	8:30am - 2am	-
Saturday:	6:30am - 2am	8:30am - 2am	-

Days	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe
Sunday:	6:30am - 11pm	8:30am - 11pm
Monday:	6:30am - 11pm	8:30am - 11pm
Tuesday:	6:30am - 11pm	8:30am - 11pm
Wednesday:	6:30am - 11pm	8:30am - 11pm
Thursday:	6:30am - 11am	8:30am - 11pm
Friday:	6:30am - 12am	8:30am - 12am
Saturday:	6:30AM - 12am	8:30AM - 12am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Posting Date: July 5, 2013  
Petition Date: August 19, 2013  
Hearing Date: September 3, 2013  
Protest Hearing Date: October 23, 2013

License No.: ABRA- 92541  
Licensee: BRRCO Mass Ave LLC  
Trade Name: Bolt Burger  
License Class: Retailer's Class "C" Restaurant  
Address: 1010 Massachusetts Avenue NW  
Contact: Andrew J. Kline, 202-686-7600

WARD 2      ANC 2C      SMD 2C01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm on October 23, 2013.

**NATURE OF OPERATION**

New restaurant serving burgers and fries with seating for 79 patrons, Total occupancy load 137. Sidewalk Café with seating for 48 patrons. No entertainment, no dancing.

**HOURS OF OPERATION FOR INSIDE PREMISES AND SIDEWALK CAFE**

Sunday through Thursday 7am-2am; Friday and Saturday 7am-3am

**HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFÉ**

Sunday through Thursday 8am-2am; Friday and Saturday 8am-3am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Posting Date: July 5, 2013  
Petition Date: August 19, 2013  
Hearing Date: September 3, 2013

License No.: ABRA-090192  
Licensee: Cause Operation, LLC  
Trade Name: Cause DC  
License Class: Retailer "C" Restaurant  
Address: 1926 9<sup>th</sup> Street NW  
Contact Information: Nicholas Vilelle 202 588-5220

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a substantial change to the License under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 2000 14th Street, NW, 4<sup>th</sup> Floor, Washington, D.C. 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF OPERATION:

Licensee requests substantial changes to add a Summer Garden.

CURRENT HOURS OF ALCOHOLIC BEVERAGE OPERATIONS, SALES AND CONSUMPTION:

Sunday through Thursday 11am to 1:30pm; Friday and Saturday, 11 am- 2:30 am

HOURS OF ALCOHOLIC BEVERAGE OPERATIONS, SALES AND CONSUMPTION FOR SUMMER GARDEN:

Sunday through Thursday 11 am to 11 pm; Friday and Saturday, 11 am-12 am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION****ON****7/5/2013**

Notice is hereby given that:

License Number: ABRA-060806

License Class/Type: C Restaurant

Applicant: MST Enterprises, Inc.

Trade Name: Churreria Madrid Restaurant

ANC: 1C

Has applied for the renewal of an alcoholic beverages license at the premises:

**2505 CHAMPLAIN ST NW, Washington, DC 20009**

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

**8/19/2013**

HEARING WILL BE HELD ON

**9/3/2013**

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

**ENDORSEMENTS:**

<b>Days</b>	<b>Hours of Operation</b>	<b>Hours of Sales/Service</b>	<b>Hours of Entertainment</b>
<b>Sunday:</b>	11 am - 2 am	11 am - 2 am	-
<b>Monday:</b>	11 am - 2 am	11 am - 2 am	-
<b>Tuesday:</b>	11 am - 2 am	11 am - 2 am	-
<b>Wednesday:</b>	11 am - 2 am	11 am - 2 am	-
<b>Thursday:</b>	11 am - 2 am	11 am - 2 am	-
<b>Friday:</b>	11 am - 3 am	11 am - 3 am	-
<b>Saturday:</b>	11 am - 3 am	11 am - 3 am	-



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 5, 2013
Petition Date: August 19, 2013
Roll Call Hearing Date: September 3, 2013

License No.: ABRA-088290
Licensee: Soloman Enterprises, LLC
Trade Name: Climax Restaurant & Hookah Bar
License Class: Retailer's Class "C" Restaurant
Address: 1006 Florida Avenue NW
Contact: Solomon Yegzaw 202-403-9504

WARD 1

1B

1B02

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE:

Request is for a new Summer Garden with a total of 24 seats. The establishment has a total of 122 seats.

APPROVED HOURS OF OPERATION

Sunday through Thursday 10 am – 2 am; Friday and Saturday 10 am – 3 am

APPROVED HOURS FOR SALES/SERVICE/CONSUMPTION

Sunday through Thursday 11 am – 2 am; Friday and Saturday 11 am – 3 am

APPROVED HOURS FOR ENTERTAINMENT:

Sunday through Thursday 8 pm – 2 am; Friday and Saturday 8 pm - 3 am

HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR THE SUMMER GARDEN:

Sunday through Thursday 11 am – 2 am; Friday and Saturday 11 am -3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 5, 2013
Petition Date: August 19, 2013
Hearing Date: September 3, 2013

License No.: ABRA-089877
Licensee: DB Adams Morgan, LLC
Trade Name: Doner Bistro
License Class: Retailer's Class "D" Restaurant
Address: 1654 Columbia Road, NW
Contact: Andrew Kline, Agent 202-686-7600

WARD 1 ANC 1C SMD 1C06

Notice is hereby given that this licensee has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date.

Applicant requests an entertainment endorsement to allow entertainment with DJ, occasional live music with no more than 2 musicians at a one time.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 11 am – 11 pm and Friday & Saturday 11 am – 3 am

HOUR OF ENTERTAINMENT

Sunday through Thursday 6 pm – 11 pm, Friday and Saturday 6 pm – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 28, 2013
Petition Date: August 12, 2013
Roll Call Hearing Date: August 26, 2013
License No.: ABRA-090823
Licensee: Brilliant LLC
Trade Name: Flash
License Class: Retailer's Class "C" Tavern
Address: 645 Florida Ave., NW
Contact: Andrew J. Kline: 202-686-7600

WARD 1 ANC 1B SMD 1B01

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Requesting permission to operate 24 hours a day.

APPROVED HOURS OF OPERATION :

Sunday through Thursday: 8am-2am, Friday and Saturday: 8am-3am

APPROVED HOURS OF ALCOHOLIC BEVERAGE SALES AND CONSUMPTION

Sunday: 10am -2am, Monday through Thursday: 8am - 2am, Friday and Saturday: 8am-3am

APPROVED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND

CONSUMPTION FOR SUMMER GARDEN AND SIDEWALKA CAFÉ

Sunday through Thursday: 8am - 2am, Friday and Saturday: 8am - 3am

ENTERTAINMENT ENDORSEMENT HOURS OF OPERATION

Sunday through Thursday: 6pm-2am, , Friday and Saturday: 6pm - 3am

REQUESTED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND CONSUMPTION

Sunday through Saturday: 24 hours a day

REQUESTED HOURS OF ENTERTAINMENT ENDORSEMENT

Sunday through Saturday: 24 hours a day.

REQUESTED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND CONSUMPTION FOR SUMMER GARDEN AND SIDEWALK CAFÉ

Sunday through Saturday: 24 hours a day

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Posting Date: July 5, 2013  
Petition Date: August 19, 2013  
Hearing Date: September 3, 2013

License No.: ABRA-090634  
Licensee: Neighborhood Restaurant Group, LLC  
Trade Name: GBD Fried Chicken & Doughnuts  
License Class: Retailer’s Class “C” Restaurant  
Address: 1323 Connecticut Ave., NW  
Contact: Erin Sharkey, Agent 202-686-7600

WARD 2                      ANC 2B                      SMD 2B07

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date.

**NATURE OF SUBSTANTIAL CHANGE**

Request for sidewalk café w/12 seats.

**CURRENT HOURS OF OPERATION FOR PREMISE**

Sunday through Thursday 7:00am – 2:00am Friday and Saturday 7:00am – 3:00am.

**CURRENT HOURS OF ALCOHOL SALES/SERVICE/CONSUMPTION FOR PREMISE**

Sunday through Thursday 8:00am – 2:00am Friday and Saturday 8:00am – 3:00am.

**PROPOSED HOURS OF OPERATION FOR SIDEWALK CAFÉ**

Sunday through Thursday 7:00am – 2:00am Friday and Saturday 7:00am – 3:00am.

**PROPOSED HOURS OF ALCOHOL SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ**

Sunday through Thursday 8:00am – 2:00am Friday and Saturday 8:00am – 3:00am.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 5, 2013
Petition Date: August 19, 2013
Hearing Date: September 3, 2013
Protest Hearing Date: October 23, 2013

License No.: ABRA- 92452
Licensee: Hill Country DC, LLC
Trade Name: Hill Country Home Stand
License Class: Retailer's Class "C" Tavern
Address: 101 Tingey Street SE
Contact: Stephen J. O'Brien, 202-625-7700

WARD 6 ANC 6D SMD 6D07

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm on October 23, 2013.

NATURE OF OPERATION

Seasonal outdoor tavern at Tingey Plaza Southeast Federal Center serving barbecue food and beverages. Live entertainment with patrons dancing. Seating capacity is 299, total occupancy is 499.

HOURS OF OPERATION AND SALES/SERVICE AND CONSUMPTION OF ALCOHOLIC BEVERAGES

Sunday through Saturday 11am-12am

HOURS OF ENTERTAINMENT

Sunday through Thursday 6:30pm-11:30pm; Friday and Saturday 6:30pm-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
7/5/2013

Notice is hereby given that:

License Number: ABRA-081997

License Class/Type: C Restaurant

Applicant: Adams Morgan F&B, LLC

Trade Name: Jack Rose

ANC:

Has applied for the renewal of an alcoholic beverages license at the premises:

**2007 18TH ST NW, Washington, DC 20009**

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

**8/19/2013**

HEARING WILL BE HELD ON

**9/3/2013**

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Cover Charge, Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	10 am - 2 am	7 am - 2 am
Monday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Wednesday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Thursday:	7 am - 2 am	8 am - 2 am	7 am - 2 am
Friday:	7 am - 3 am	8 am - 3 am	7 am - 3 am
Saturday:	7 am - 3 am	8 am - 3 am	7 am - 3 am

Days	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	7 am - 2 am	10 am - 2 am
Monday:	7 am - 2 am	8 am - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am
Wednesday:	7 am - 2 am	8 am - 2 am
Thursday:	7 am - 2 am	8 am - 2 am
Friday:	7 am - 3 am	8 am - 3 am
Saturday:	7 am - 3 am	8 am - 3 am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Posting Date: July 5, 2013  
Petition Date: August 19, 2013  
Hearing Date: September 3, 2013  
Protest Date: October 23, 2013

License No.: ABRA-008511  
Licensee: B J Enterprises, Inc.  
Trade Name: J P's  
License Class: Retailer's "C" Nightclub  
Address: 2412 Wisconsin Avenue, NW  
Contact Information: Paul Kadlick 202 333-7607

WARD 3 ANC 3B SMD 3B02

Notice is hereby given that this licensee has applied for a substantial change to the License under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 2000 14th Street, NW, 4<sup>th</sup> Floor, Washington, D.C. 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 4:00 pm on October 23, 2013.

**NATURE OF OPERATION**

Nightclub transferring from Safekeeping. Occupancy load of 100.

**HOURS OF OPERATON**

Sunday 12 pm – 2 am; Monday through Thursday 11 am – 2 am, Friday and Saturday 11 am – 3 am.

**HOURS OF SALES/SERVICE/CONSUMPTION**

Sunday 12 pm – 2 am; Monday through Thursday 11 am – 2 am, Friday and Saturday 11 am – 3 am.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Posting Date: July 5, 2013  
Petition Date: August 19, 2013  
Hearing Date: September 3, 2013  
Protest Date: October 23, 2013

License No.: ABRA-092421  
Licensee: WTY & MYINT, Inc.  
Trade Name: Mandalay  
License Class: Retail Class "C" Restaurant  
Address: 1501 9<sup>th</sup> Street, N.W.  
Contact: Saw Myint, (301)384-7450

WARD 6            ANC 6E            SMD 6E01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Hearing Date at 10:00 am, 2000 14<sup>th</sup> Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30 pm on October 23, 2013.

**NATURE OF OPERATION**

New Restaurant. Serving Asian (Burmese) cuisine. Occupancy load is 85.

**HOURS OF OPERATON**

Sunday through Thursday 11 am – 11 pm; Friday and Saturday 11 am – 12am

**HOURS OF SALES/SERVICE/CONSUMPTION**

Sunday through Thursday 11 am – 11 pm; Friday and Saturday 11 am – 12am

**HOURS OF OPERATON/ SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE'**

Sunday through Thursday 11 am – 11 pm; Friday and Saturday 11 am – 12am



**\*\*CORRECTION\*\***

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Posting Date: June 28, 2013  
 Petition Date: August 12, 2013  
 Hearing Date: August 26, 2013  
 Protest Hearing Date: October 16, 2013

License No.: ABRA- 092484  
 Licensee: Pal the Mediterranean Spot, LLC  
 Trade Name: Pal the Mediterranean Spot  
 License Class: Retailer’s Class “C” Restaurant  
 Address: 1501 U Street NW  
 Contact: Haile Azanach 202-232-7108

WARD 1      ANC 1B      **\*\*SMD 1B12**

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30PM on October 16, 2013.

NATURE OF OPERATION

New - restaurant which serves Mediterranean food i.e., Shawarma Sandwiches, Gyro, Falafel, salads and soups. In addition, we will be soon serving Brick Oven Pizzas. Seating Capacity 32 and total Capacity 50 with 3 tables and 8 chairs on the Sidewalk Café.

HOURS OF OPERATION INSIDE AND THE SIDEWALK CAFÉ

Sunday through Saturday: 10 am to 12 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION INSIDE AND THE SIDEWALK CAFÉ

Sunday through Saturday: 11 am to 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 5, 2013
Petition Date: August 19, 2013
Hearing Date: September 3, 2013
Protest Date: October 23, 2013

License No.: ABRA-087961
Licensee: PTC, Inc.
Trade Name: Pelican's Rum
License Class: Retailer's "C" Restaurant
Address: 928 U Street NW
Contact Information: Andrew Harris 202 368-1948

WARD 1 ANC 1B SMD 1B02

Notice is hereby given that this licensee has applied for a substantial change to the License under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, D.C. 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30 pm on October 23, 2013.

NATURE OF OPERATION

Restaurant Transfer to New Location. Transferring from 2101 Benning Road, NE (Safekeeping) Summer Garden. Occupancy Load is 60.

HOURS OF OPERATON

Sunday through Thursday 7 am - 2 am; Friday and Saturday 7 am - 4 am

HOURS OF SALES/SERVICE/CONSUMPTION

Sunday through Thursday 10 am - 2 am; Friday and Saturday 10 am - 3 am

HOURS OF OPERATON FOR SUMMER GARDEN

Sunday through Saturday 7 am - 2 am

HOURS OF SALES/SERVICE/CONSUMPTION OF SUMMER GARDEN

Sunday through Saturday 10 am - 2 am

HOURS OF ENTERTAINMENT

Sunday through Saturday 7 am - 4 am

HOURS OF ENTERTAINMENT FOR SUMMER GARDEN

Sunday through Saturday 7 am-2 am

**\*\*CORRECTION\*\*****ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Posting Date: June 21, 2013  
Petition Date: August 5, 2013  
Hearing Date: August 19, 2013  
Protest Date: October 09, 2013

License No.: ABRA-092423  
Licensee: Simple Bar and Grill, LLC  
Trade Name: Simple Bar and Grill  
License Class: Retailer's Class "C" Tavern  
Address: 5828 Georgia Ave., NW  
Contact: Wilfredo Guzman (202) 957-7848

WARD 4            ANC 4C            SMD 4C01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on October 09, 2013.

**NATURE OF OPERATION**

Tavern serving American burgers, wings, mix of Mexican and Italian fare with seating capacity for 95 patrons and total occupancy load of 95. Sidewalk café with 8 seats.

**\*\*HOURS OF OPERATION FOR INSIDE PREMISES AND SIDEWALK CAFE**

Sunday 9am-12am; Monday through Wednesday 9am-2am; Thursday through Saturday 9am-3am

**\*\*ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFE**

Sunday 9am-12am; Monday through Thursday 9am-2am; Friday and Saturday 9am-3am

**\*\*HOURS OF ENTERTAINMENT**

Sunday 9 am – 12 am, Monday through Wednesday 6 pm – 2 am; Thursday through Saturday 6pm-3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 5, 2013
Petition Date: August 19, 2013
Hearing Date: September 3, 2013
Protest Date: October 23, 2013

License No.: ABRA-092298
Licensee: Shoreditch Cooperative LLC
Trade Name: TBD
License Class: Retail Class "C" Restaurant
Address: 1513 17th Street N.W.
Contact: Daniel E. Kramer (202)905-2903

WARD 2 ANC 2B SMD 2B05

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 4:00pm on October 23, 2013.

NATURE OF OPERATION

New East London-style café, restaurant and market serving coffee, sandwiches, salads, local produce, and seasonal dinner plates. Occupancy load is 95.

HOURS OF OPERATON

Sunday through Thursday 7 am – 2 am; Friday and Saturday 7 am – 3am

HOURS OF SALES/SERVICE/CONSUMPTION

Sunday through Thursday 8 am – 2 am; Friday and Saturday 8 am – 3am

HOURS OF OPERATON FOR SIDEWALK CAFÉ

Sunday through Thursday 7 am – 11 pm; Friday and Saturday 7 am – 12 am

HOURS OF SALES/SERVICE/CONSUMPTION OF SIDEWALK CAFÉ

Sunday through Thursday 10 am – 11 pm; Friday and Saturday 10 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 28, 2013
Petition Date: August 12, 2013
Roll Call Hearing Date: August 26, 2013

License No.: ABRA-088785
Licensee: HGH 1610 LLC
Trade Name: The Ghibellina
License Class: Retailer's Class "C" Tavern
Address: 1610 14th Street, NW
Contact: Andrew J. Kline:202-686-76000

WARD 2

ANC 2F

SMD 2F01

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Requesting to add a Sidewalk Café Endorsement with 12 seats to license.

APPROVED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND CONSUMPTION:

Sunday through Thursday: 11am – 1am, Friday and Saturday: 11am – 2am

ENTERTAINMENT ENDORSEMENT HOURS OF OPERATION

Sunday through Thursday: 6pm-1am, Friday and Saturday: 6pm – 2am

SIDEWALK CAFÉ' PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND CONSUMPTION

Sunday through Thursday: 11am – 1am, Friday and Saturday:11am- 2am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**ON**

**7/5/2013**

Notice is hereby given that:

License Number: ABRA-060650

License Class/Type: C Convention C

Applicant: Service America Corporation

Trade Name: Washington Convention Center

ANC: 2F

Has applied for the renewal of an alcoholic beverages license at the premises:

**801 MT VERNON PL NW, WASHINGTON, DC 20001**

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

**8/19/2013**

HEARING WILL BE HELD ON

**9/3/2013**

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

**ENDORSEMENTS:**

<b>Days</b>	<b>Hours of Operation</b>	<b>Hours of Sales/Service</b>	<b>Hours of Entertainment</b>
<b>Sunday:</b>	10 am - 2 am	10 am - 2 am	-
<b>Monday:</b>	8 am - 2 am	8 am - 2 am	-
<b>Tuesday:</b>	8 am - 2 am	8 am - 2 am	-
<b>Wednesday:</b>	8 am - 2 am	8 am - 2 am	-
<b>Thursday:</b>	8 am - 2 am	8 am - 2 am	-
<b>Friday:</b>	8 am - 3 am	8 am - 3 am	-
<b>Saturday:</b>	8 am - 3 am	8 am - 3 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 5/24/2013  
PETITION DATE: 7/8/2013  
HEARING DATE: 7/22/2013

License Number: ABRA-088282  
License Class/Type: D Restaurant  
ANC: 3B

Applicant: Nimellis Pizzeria, LLC  
Trade Name: Wise Eats Cafe/Wiseats  
Premise Address: 2132 WISCONSIN AVE NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	11 am - 12 am	11 am -12 am	11 am - 12 am	11 am - 12 am	-
MON:	11 am - 3 am	11 am - 2 am	11 am - 3 am	11 am - 2 am	-
TUE:	11 am - 3 am	11 am - 2 am	11 am - 3 am	11 am - 2 am	-
WED:	11 am - 3 am	11 am - 2 am	11 am - 3 am	11 am - 2 am	-
THU:	11 am - 3 am	11 am - 2 am	11 am - 3 am	11 am - 2 am	-
FRI:	11 am - 4 am	11 am - 3 am	11 am - 4 am	11 am - 3 am	-
SAT:	11 am - 4 am	11 am - 3 am	11 am - 4 am	11 am - 3 am	-

**REAL PROPERTY TAX APPEALS COMMISSION**

**NOTICE OF FINAL RULEMAKING**

The Real Property Tax Appeals Commission for the District of Columbia (Commission), pursuant to the authority set forth in D.C. Official Code § 47-825.01a(b)(2) (2012 Supp.), hereby gives notice of final rulemaking action to amend Chapter 20 (Board of Real Property Assessments and Appeals) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR). The rulemaking will repeal Chapter 20 in its entirety and replace it with a new Chapter 20 entitled “Real Property Tax Appeals Commission.” The rulemaking establishes Commission meeting and tax appeal hearing procedures.

The final rulemaking action is necessary to protect and promote the public welfare by creating procedures that will be immediately applied to real property tax appeals that will come before the Commission for the first time. Without the hearing procedures, members of the public and businesses seeking reconsideration of recent real property tax assessments will not have a procedure to obtain timely reconsideration of their assessments.

The first emergency and proposed rulemaking was published on November 30, 2012 at 59 DCR 13953. The emergency rules were adopted by the Commission on October 3, 2012, became effective immediately, and expired on February 6, 2013. Additionally, comments were received in response to the rulemaking. The second emergency and proposed rulemaking, published on April 26, 2013 at 60 DCR 6239, contained revisions in response to the comments received. The emergency rules were adopted by the Commission on March 13, 2013 and became effective immediately. Comments were received in response to the second proposed rulemaking and were considered.

The final rulemaking was adopted by the Commission on June 7, 2013, and will become effective immediately upon publication in the *D.C. Register*.

**Chapter 20 (Board of Real Property Assessments and Appeals) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR) is repealed in its entirety.**

**A new Chapter 20 entitled “Real Property Tax Appeals Commission” is added to read as follows:**

**CHAPTER 20 – REAL PROPERTY TAX APPEALS COMMISSION**

Secs.

- 2000 GENERAL PROVISIONS
- 2001 MEETINGS AND QUORUM
- 2002 MEMBERS AND STAFF
- 2003 PANEL ASSIGNMENTS, MEETINGS, AND DECISIONS
- 2004 PROHIBITIONS ON COMMISSIONERS
- 2005 FILING OF A PETITION



2006 SUPPLEMENTAL ASSESSMENTS  
 2007 ASSIGNMENT OF PETITION; SCHEDULING OF HEARING  
 2008 SUPPLEMENTAL PETITION  
 2009 NOTIFICATION TO OTR; OTR’S RESPONSE  
 2010 PETITIONER’S REBUTTAL  
 2011 HEARING NOTICES  
 2012 FAILURE TO APPEAR FOR A HEARING AND CONTINUANCES  
 2013 BURDEN OF PROOF  
 2014 HEARING PROCEDURES  
 2015 WITNESSES  
 2016 PROHIBITION ON EX PARTE COMMUNICATION  
 2017 FIELD STUDIES  
 2018 APPEAL DECISIONS AND NOTICES OF DECISIONS  
 2019 APPEAL REHEARINGS  
 2020 APPEAL HEARING RECORDS AND TRANSCRIPTS  
 2021 APPEALS OF COMMISSION DECISIONS  
 2022 ANNUAL REPORT  
 2023 COMPUTATION OF TIME  
 2099 DEFINITIONS

**2000 GENERAL PROVISIONS**

2000.1 The provisions of this chapter establish rules of organization and procedure for the Real Property Tax Appeals Commission for the District of Columbia (“Commission”), in accordance with the provisions of D.C. Official Code § 47-825.01a(b)(2)(2012 Supp.).

**2001 MEETINGS AND QUORUM**

2001.1 The Commission shall meet at least four (4) times annually for administrative matters.

2001.2 The Commission shall also meet:

- (a) As necessary to conduct its business.
- (b) As necessary after any special assessment that shall be generally applicable to a class of real property.
- (c) In accordance with law to hear appeals regarding supplemental assessments made pursuant to D.C. Official Code § 47-829 (2012 Supp.).

2001.3 The Commission may be convened at any other time by the call of the Chairperson; provided, the Chairperson shall provide at least three (3) days notice to the Commissioners unless emergency circumstances necessitate a shorter notice.

- 2001.4 Meetings of the Commission shall be held at times agreed upon by its members or as directed by the Chairperson.
- 2001.5 The Commission shall publish notices of its meetings in the *District of Columbia Register* and on the Commission's website as early as possible before the meeting is scheduled to be held.
- 2001.6 A majority of the Commission shall constitute a quorum for the transaction of all Commission business.
- 2001.7 The Chairperson shall preside over each Commission meeting; provided, the Vice Chairperson shall, in the absence of or recusal of the Chairperson, preside over the Commission meeting.
- 2001.8 All meetings of the Commission shall be open to the public.
- 2001.9 Minutes shall be kept of each Commission meeting. The minutes shall record each action taken by the Commission, the names of those present and voting, and any other matter that the Chairperson may determine to be appropriate.
- 2001.10 Within a reasonable time after each Commission meeting, the minutes shall be posted on the website of the Commission and shall be made available to the public at the office of the Commission during normal business hours.

## **2002 MEMBERS AND STAFF**

- 2002.1 All new Commissioners shall receive training in the various aspects of property valuation for all classes of property and orientation on the Commission's rules and regulations.
- 2002.2 The Commission staff shall:
- (a) Maintain the calendar for the Commission and each Panel of the Commission;
  - (b) Maintain a separate hearing file for each appeal coming before the Commission. Each file shall include:
    - (1) All correspondence pertinent to the appeal;
    - (2) Documents filed in the appeal, including exhibits;
    - (3) Notices of the Commission or Panel, including hearing notices; and

(4) Written determinations and decisions of the Commission or Panel;  
and

(c) Perform such other duties as the Chairperson may require.

**2003 PANEL ASSIGNMENTS, MEETINGS, AND DECISIONS**

2003.1 Each appeal to the Commission shall be reviewed by a Panel of the Commission.

2003.2 Subject to the restrictions in this section and in § 2004, the Chairperson shall make all panel assignments.

2003.3 The Chairperson shall endeavor to create Panels with balanced expertise for the review and determination of appeals.

2003.4 Except as provided in § 2003.5 and § 2003.6, each Panel shall consist of three (3) Commissioners.

2003.5 A Panel may consist of two (2) Commissioners if the appellant and the Office of Tax and Revenue (OTR) agree to have the appeal heard before such a Panel.

2003.6 In the case of a single-family residential property or a noncommercial property assessed during the administrative review at three million dollars (\$3,000,000) or less (or under the notice of assessment if the administrative review is unavailable), the Chairperson shall appoint one (1) Commissioner, provided, that the Chairperson may at his or her discretion appoint a three (3) Commissioner Panel to hear such cases.

2003.7 No three (3) Commissioners shall serve exclusively together on the same panel for more than one (1) tax year.

2003.8 Each panel shall select a Panel Chairperson from among the members of that panel.

2003.9 Each Panel Chairperson shall preside over the Panel to which he or she is assigned.

2003.10 Decisions of a Panel shall be made by a majority of the members of the Panel; provided, a stipulation signed by OTR and the owner that resolves a matter may be approved by the signature of one (1) Commissioner. If a two (2)-member Panel is unable to reach a unanimous decision, the Chairperson shall reschedule the appeal before a three (3)-member Panel.

2003.11 Notwithstanding the requirements of this section, a stipulation signed by the OTR representative and the owner that resolves a matter may be approved by the signature of one (1) Commissioner appointed by the Chairperson to handle such matters.

**2004 PROHIBITIONS ON COMMISSIONERS**

- 2004.1 A Commissioner shall not review an appeal involving real property with which he or she has had any direct or indirect financial dealings in the two (2)-year period prior to the date of the filing date of the appeal, including the assessment, appraisal, purchase, sale, or rental of the property in question. In addition, a Commissioner shall not review an appeal for which the Commissioner has a direct or indirect interest.
- 2004.2 A Commissioner shall recuse himself or herself from participating in any hearing, discussion, vote, or appeal referred to in § 2004.1.
- 2004.3 The Chairperson may appoint a Commissioner to substitute for a member of a Panel who has recused himself or herself pursuant to § 2004.2.
- 2004.4 If an assertion is made that a member should recuse himself or herself as provided in § 2004.2 and the member refuses to do so, a majority of the other Panel members shall decide whether to remove the member from the hearing, discussion, vote, or appeal. If the Panel consists of two (2) members, or if the other Panel members of a three (3) member Panel are unable to reach a unanimous decision on the recusal, the Chairperson shall decide whether to remove the member from the hearing, discussion, vote, or appeal.
- 2004.5 A Commissioner shall not represent a client or business interest before the Commission for a period of two (2) years after that Commissioner's termination or resignation from the Commission.

**2005 FILING OF A PETITION**

- 2005.1 An owner within the definition of "owner" contained in D.C. Official Code § 47-802(5) (2012 Supp.), and hereinafter referred to as "petitioner," may appeal a proposed assessment, supplemental assessment, or classification for the upcoming tax year, or a decision on homestead, senior benefit eligibility, or any other determination on a matter under the jurisdiction of the Commission by filing a petition with the Commission in accordance with applicable law and this chapter.
- 2005.2 Except in the case of supplemental assessments (§ 2017.11 of this chapter) or as otherwise provided by law, all appeals of Notices of Final Determination issued by OTR or the Department of Consumer and Regulatory Affairs (DCRA) must be filed no later than forty-five (45) days after the date of the Notice.
- 2005.3 In any case in which an appeal involves a multiple-lot property, a separate petition shall be filed for each lot.
- 2005.4 The Commission may combine hearings on multiple petitions.

- 2005.5 A petition shall be filed by hand delivery or mailing by first class mail of an original petition with four (4) photocopies of the original to the Commission at 441 Fourth Street, N.W., Room 360N, Washington, DC 20001. A postmark, affixed by the United States Postal Service, shall be deemed the date on which the petition was filed.
- 2005.6 Each petition shall be on a form prescribed by the Commission and shall contain all of the information requested. At a minimum, the petition form shall require the following information:
- (a) The property owner's name, address, and telephone number;
  - (b) If the petitioner is not the owner, the petitioner's name, address, and telephone number;
  - (c) The basis on which the petitioner qualifies to file the petition (for example: owner, person legally or contractually obligated to pay the taxes, or duly authorized representative); if petitioner is an agent, or an attorney, filing a petition on behalf of an owner, the petitioner must file a notarized agent authorization form, made available by the Commission, with the petition.
  - (d) An accurate identification of the property in question by its legal description (square and lot number);
  - (e) A statement of the basis for the appeal and supporting documentation; and
  - (f) The petitioner's estimated market value of the property in question, as estimated market value is defined in D.C. Official Code § 47-802(4) (2012 Supp.), together with a statement of the basis for that estimate.
- 2005.7 The petitioner shall file with the petition all information and evidence in support of his or her petition which exists at the time the petition is filed, including OTR's final decision and response given to the petitioner.
- 2005.8 If the property in question has been improved within two (2) years before the assessment date by new construction, remodeling, or rehabilitation, the petitioner shall submit a complete and detailed schedule of the actual costs of the improvement(s) with the petition.
- 2005.9 If the property is rented, the petitioner shall submit with the petition a schedule of income and expenses for each of the two (2) most recent calendar or fiscal years certified by the property manager or owner as being true and correct to the best of his or her knowledge and belief.

2005.10 The petition shall be certified by the petitioner as being true and correct to the best of the petitioner's knowledge and belief.

**2006 SUPPLEMENTAL ASSESSMENTS**

2006.1 Any owner aggrieved by a final determination made on an administrative review may appeal the supplemental assessment to the Real Property Tax Appeals Commission for the District of Columbia within forty-five (45) days from the date of a notice of a final determination on an administrative review. The Real Property Tax Appeals Commission for the District of Columbia shall hear an appeal of the supplemental assessment only if a request for an administrative review was timely filed with the Mayor. All notices of final determination shall be accompanied by assessor's worksheets indicating the rationale for the determination, if the assessment is raised or lowered.

2006.2 No administrative review shall be required before an owner may appeal to the Real Property Tax Appeals Commission for the District of Columbia a supplemental assessment conducted between January 1 and June 30 if:

- (a) The Mayor fails to notify the owner of the supplemental assessment on or before September 1; or
- (b) The Mayor fails to notify the owner of a final determination on an administrative review of the supplemental assessment on or before December 30 following the date of the notice of supplemental assessment.

2006.3 Under the circumstance described in Subsection 2006.2, the owner may appeal the supplemental assessment to the Real Property Tax Appeals Commission for the District of Columbia on or before February 1 without first petitioning for an administrative review of the supplemental assessment.

2006.4 No administrative review shall be required before an owner may appeal to the Real Property Tax Appeals Commission for the District of Columbia a supplemental assessment conducted between July 1 and December 31 if:

- (a) The Mayor fails to provide notice of the supplemental assessment on or before March 1; or
- (b) The Mayor fails to notify the owner of a final determination on an administrative review of the supplemental assessment on or before June 30.

2006.5 Under the circumstances described in Subsection 2006.4, the owner may appeal the supplemental assessment to the Real Property Tax Appeals Commission for the District of Columbia on or before August 1 without first petitioning for an administrative review of the supplemental assessment.

2006.6 A written notice of each decision, along with the decision itself, shall be sent to each party by first class mail or electronic mail within five (5) business days after the decision is issued.

2006.7 The notice of the decision shall include the following text:

“The petitioner has the right to appeal an adverse decision of the Commission to the Tax Division of the Superior Court of the District of Columbia. Payment of all real property taxes, together with interest and penalties (if applicable), *before the filing of a petition in the Tax Division of the Superior Court, is a jurisdictional prerequisite to the appeal.*”

2006.8 Every decision of the Commission shall be maintained by the Commission for three (3) years and shall be made available for public examination and photocopying at the expense of the requester, subject to the confidentiality provisions of D.C. Official Code § 47-821(d)(2)(A) and (B) (2012 Supp.).

2006.9 Each decision of the Commission shall also be placed on the website of the Commission, subject to redactions based on the confidentiality provisions of D.C. Official Code § 47-821(d)(2)(A) and (B) (2012 Supp.).

## **2007 ASSIGNMENT OF PETITION; SCHEDULING OF HEARING**

2007.1 An incomplete or improperly filed petition shall be returned to the petitioner with an explanation of the reason for its return.

2007.2 Each complete and properly filed petition shall be assigned to a Panel.

2007.3 After assignment of a petition to a Panel, the Commission Chairperson shall schedule a hearing date.

## **2008 SUPPLEMENTAL PETITION**

2008.1 An original petition may be augmented by a supplemental filing with OTR and the Commission if the supplemental filing is filed no later than twenty (20) days after the filing of the appeal, and if it is based on new information which was not available prior to the filing deadline for the original petition.

## **2009 NOTIFICATION TO OTR; OTR’S RESPONSE**

2009.1 At least thirty (30) days before a scheduled (or rescheduled) hearing, the Commission shall provide OTR by hand or electronic delivery a copy of the petition (and/or supplemental petition) together with all attached documents relating to the appeal and the hearing notice.

- 2009.2 Except as provided in § 2009.4, OTR shall file a response to the petition with the Commission at least seven (7) days before the scheduled hearing or at least ten (10) days before the scheduled hearing in a case involving single-family residential property.
- 2009.3 In a case involving a single-family residential property, OTR shall send the response electronically or by postal mail to the petitioner at least ten (10) days before the hearing. In other cases, OTR shall make the response available to the petitioner for inspection and copying at least seven (7) days before the hearing.
- 2009.4 OTR need not respond to the petition if its worksheet was mailed to the petitioner with the Notice of Final Determination (“Notice”) and if the Notice affirmed the proposed assessment. In such cases, the worksheet shall be deemed the response of OTR and the response shall not be required to be filed by OTR with the Commission before the hearing.
- 2009.5 If the proposed assessment is amended by OTR, the amended assessment must be filed with the Commission by the time set forth in § 2009.2 and must be sent or made available to the petitioner in the same manner and in the same time frame as set forth in § 2009.3.
- 2009.6 Appeals of Notices of Final Determination by the Department of Consumer and Regulatory Affairs (DCRA) issued pursuant to D.C. Official Code §§ 42-3131.15 (2012 Supp.) or a Notice of Final Determination by DCRA issued under D.C. Official Code § 47-813(d-1)(4)(A) (2012 Supp.) shall be made in accordance with applicable law with DCRA as the responsible agency, and any supplemental filing shall be provided to the Commission and to DCRA. A response from DCRA shall be available for inspection at least seven (7) days before the scheduled hearing, and DCRA shall have the authority to make any redeterminations of vacancy and blight and any reclassifications that may be necessary to correct a substantial error that would cause an injustice to the owner for the immediately succeeding, current, or preceding three (3) tax years. Any amended response by DCRA must comply with the time schedule specified in this paragraph.
- 2009.7 The Commission shall render a decision on DCRA appeals within one hundred twenty (120) days of the filing of a petition challenging a final determination.

## **2010 REBUTTAL**

- 2010.1 A petitioner may submit a rebuttal to any new evidence submitted by OTR in its response to the appeal (and any supplement thereto) that was not previously raised during the administrative review, and the Panel may request additional information it considers necessary, so long as the rebuttal is submitted in writing to OTR and to the Commission at least three (3) business days before the scheduled hearing. OTR may submit a response to the petitioner’s rebuttal at the hearing.



2010.2 Notwithstanding the requirements in § 2010.1, the Commission may, upon a showing of good cause by the Petitioner as to why the requirements of § 2010.1 could not be met, allow rebuttal evidence to be submitted and may allow the record to remain open for a specified period of time to allow a response from OTR.

## **2011 HEARING NOTICES**

2011.1 An owner may supplement the original filing if new information has become available that was not available prior to the filing deadline by delivering a copy of the supplemental filing to the Commission and OTR no later than twenty (20) days after the filing of the appeal; provided, that a hearing shall not occur within twenty (20) days from the date of the delivery of the supplemental filing.

2011.2 If the limitations on the time for the Commission to conduct hearings do not permit the thirty (30)-day advance notification provided in § 2009.1, then the petitioner and OTR may be notified electronically, by telephone or by personal service. Under these circumstances a memorandum shall be placed in the file for the petition in question stating the method of notification and to whom and by whom the notification was given.

2011.3 Each notice of a hearing shall state the date, time, and place of the hearing and shall be sent by first class mail, electronic mail or hand delivery to the petitioner's address as shown on the petition and to OTR at 1101 4<sup>th</sup> Street, S.W., 5<sup>th</sup> Floor, Washington, DC 20024.

## **2012 FAILURE TO APPEAR FOR A HEARING AND CONTINUANCES**

2012.1 If the Panel Chairperson ascertains that the petitioner or a representative of OTR is not present for an appeal hearing and that notice was properly served on the petitioner or OTR, as the case may be, then the Commission may proceed with the determination of the appeal, summon the representative of OTR or the petitioner, or reschedule the hearing.

2012.2 If the Panel Chairperson ascertains that the petitioner or the Representative of OTR is not present for an appeal hearing and that notice was not or may not have been properly served on the petitioner or OTR, as the case may be, then the Panel Chairperson shall reschedule the appeal and properly serve notice of the rescheduled hearing on the petitioner and on the OTR.

2012.3 A hearing may be continued to any timely date by the Chairperson or Panel Chairperson at the request of the petitioner or the Deputy Chief Financial Officer upon a showing of good cause.

**2013 BURDEN OF PROOF**

2013.1 In an appeal, the proposed assessed value or classification of the subject property shall be presumed to be correct, and the petitioner has the burden of demonstrating that the assessment does not represent the estimated market value of the property or that the challenged classification of the property is erroneous.

**2014 HEARING PROCEDURES**

2014.1 All hearings shall be open to the public, except that the Panel Chairperson shall close any hearing or part of a hearing to the public when the evidence to be presented is accorded confidentiality under D.C. Official Code § 47-821(d)(2)(A) and (B) (2012 Supp.), or any other statutory provision.

2014.2 The petitioner may appear at the hearing in person, or represented by a duly authorized officer, employee, agent, or counsel.

2014.3 Statements or representations made by any duly authorized representative of the petitioner shall be binding upon the petitioner.

2014.4 The members of the Panel may question the petitioner, the Deputy Chief Financial Officer, and any witnesses called upon to testify at the hearing and may allow the petitioner and the Deputy Chief Financial Officer to question each other directly.

2014.5 The Panel Chairperson, in his or her discretion, may allow a party to examine witnesses.

2014.6 Evidence which is not ordinarily admissible in court under generally accepted rules of evidence may be received in evidence at the discretion of the Panel Chairperson.

2014.7 The Panel Chairperson may exclude any evidence which he or she deems to be untimely, irrelevant, immaterial, unduly repetitious, or cumulative, and admit any evidence he or she deems to be relevant and probative.

2014.8 Any response by OTR to an appeal which is not made available for inspection and copying by the petitioner at least seven (7) days before the hearing shall be excluded by the Commission at the hearing. Any evidence in cases involving single-family homes which is not sent electronically or mailed to the petitioner by the OTR at least ten (10) days before the hearing shall be excluded by the Commission at the hearing.

2014.9 At the conclusion of the hearing, the Panel Chairperson shall advise the parties that the Panel will weigh the evidence and render a decision within the time limits provided by statute. The Panel may leave the record open to receive additional materials from the parties.

**2015 WITNESSES**

- 2015.1 The Panel Chairperson may compel the attendance of witnesses at a hearing, administer oaths or affirmations, and examine appellants and other witnesses under oath.
- 2015.2 Notice shall be provided to the petitioner and to OTR of any summons by the Panel Chairperson of a witness related to an appeal.
- 2015.3 Fees for witnesses summoned by the Commission shall be paid out of funds available to the Commission at the rate allowed in civil actions before the Superior Court of the District of Columbia.
- 2015.4 The petitioner or OTR’s representative may call witnesses to provide testimony at a hearing, subject to such limitations as may be imposed by the Panel.
- 2015.5 Fees for witnesses called by the petitioner or OTR’s representative shall be paid by the party calling the witness.

**2016 PROHIBITION ON EX PARTE COMMUNICATION**

- 2016.1 Neither the petitioner nor OTR, nor a representative of either party, shall communicate with any Commissioner concerning a specific appeal except by written communication served on the other party, but Commissioners may communicate with either party regarding routine administrative matters which do not involve material facts in dispute relevant to a specific appeal.

**2017 FIELD STUDIES**

- 2017.1 A Panel may adjourn a hearing until a field study can be completed and resume that hearing at a later date for presentation of the study.
- 2017.2 The Panel shall give the petitioner and the Deputy Chief Financial Officer reasonable advance notice of any field study resulting from the circumstances described in § 2017.1 so that the petitioner and the OTR representative may observe.
- 2017.3 A copy of a field study or report prepared at the direction of the Commission shall be mailed or hand delivered to the petitioner and OTR (if the field study was not conducted by OTR) on the same day that it is mailed or hand delivered to the Commission.

**2018 APPEAL DECISIONS AND NOTICES OF DECISIONS**

- 2018.1 Each appeal decision shall be based upon consideration of the entire record described in § 2020 of this chapter or such lesser portion of the record as may be agreed upon by the petitioner and the Deputy Chief Financial Officer, and approved by the Panel.
- 2018.2 Each valuation decision shall include the Panel's determination of the estimated market value of the real property for the applicable tax year.
- 2018.3 The Panel shall raise or lower the proposed assessment of any real property for which a petition has been properly filed that it finds to be more than five percent (5%) above or below the estimated market value of that property, except in the case of plain error. In the case of plain error, the assessment shall be clerically corrected.
- 2018.4 A Panel shall not order an increase of the assessed value of any parcel of real property above its estimated market value or a decrease of the assessed value of any parcel of real property below its estimated market value solely on the basis of average ratio studies comparing sales and assessments, unless the studies are the primary basis for the assessment or reassessment of the concerned real property in question.
- 2018.5 A Panel decision shall include an allocation of total assessed value between the improvements, if any, and the land.
- 2018.6 In arriving at its determination, the Panel shall consider the evidence in light of generally accepted principles of valuation and shall take into consideration principles of equalization of assessments of the same or substantially similar properties.
- 2018.7 The Panel shall accept any stipulation entered into by the petitioner and OTR which has been forwarded to the Commission and which disposes of an appeal, if the Panel is satisfied that the stipulation was agreed to knowingly and voluntarily by both parties.
- 2018.8 Every decision by the Panel shall contain a detailed written statement of the basis for the decision.
- 2018.9 Every decision by a Panel shall be signed by each member who participated in the decision and shall indicate whether each participating member agreed with or dissented from the decision.
- 2018.10 In the case of an appeal of an annual proposed assessment, a Panel shall render its decision and notify the petitioner and OTR within thirty (30) days in the case of a

residential real property appeal and eighty (80) days in the case of a commercial real property appeal.

- 2018.11 A written notice of each decision, along with the decision itself, shall be sent to each party by first class mail or electronic mail within five (5) business days after the decision is issued.
- 2018.12 The notice of the decision shall include the following text:
- “The petitioner has the right to appeal an adverse decision of the Commission to the Tax Division of the Superior Court of the District of Columbia. Payment of all real property taxes, together with interest and penalties (if applicable), *before the filing of a petition in the Tax Division of the Superior Court, is a jurisdictional prerequisite to the appeal.*”
- 2018.13 Every decision of the Commission shall be maintained by the Commission for three (3) years and shall be made available for public examination and photocopying at the expense of the requester, subject to the confidentiality provisions of D.C. Official Code § 47-821(d)(2)(A) and (B) (2012 Supp.).
- 2018.14 Each decision of the Commission shall also be placed on the website of the Commission, subject to redactions based on the confidentiality provisions of D.C. Official Code § 47-821(d)(2)(A) and (B) (2012 Supp.).

## **2019 APPEAL REHEARINGS**

- 2019.1 Within fifteen (15) days after the date on which the Commission transmits the Panel’s decision, the petitioner or OTR, by written notice served on the Chairperson and the opposing party, may request a rehearing.
- 2019.2 The Commission may, in its discretion, either agree to rehear the appeal or reject the request to rehear the appeal. If a rehearing is granted, the Commission shall mail or email its decision to grant a rehearing and the date of the proposed rehearing to the Office of Tax and Revenue and to the Petitioner(s). The non-requesting part shall have ten (10) days from the date of the rehearing notice to serve its response to the rehearing notice on the Commission and the requesting party.
- 2019.3 A rehearing shall be granted as a matter of right, upon request, if a decision is based on evidence outside the record.
- 2019.4 A rehearing shall be granted as a matter of right if the decision of an appeal changes the proposed assessed value of a real property, excluding single-family residential real property, by at least twenty percent (20%) or ten million dollars (\$10,000,000), whichever is less.

- 2019.5 In the case of a rehearing, a three (3)-Commissioner Panel shall be convened, consisting of the Chairperson, the Vice-Chairperson, and a Commissioner who was a member of the Panel that heard the underlying appeal.
- 2019.6 A rehearing shall not be a hearing *de novo* but instead shall be considered a continuation of the original hearing before the Commission.
- 2019.7 No Panel decision shall be changed upon rehearing except upon a finding of plain error. The burden of proof shall be upon the moving party to demonstrate plain error.

## **2020 APPEAL HEARING AUDIO RECORDINGS AND TRANSCRIPTS**

- 2020.1 An audio recording shall be kept of all appeal hearings and rehearings.
- 2020.2 The official record of an appeal shall consist of the audio recording, the testimony, and all documents, schedules, letters, appraisals, maps, charts, lists of comparable properties, exhibits, papers, and other materials filed in the proceeding.
- 2020.3 At the request of the petitioner or of the OTR, the Commission shall deliver to the requesting party a copy of the audio recording or a written transcript of such audio recording.
- 2020.4 The cost of preparing a copy of the audio recording or a written transcript of an audio recording or any other part of the official record shall be borne by the requesting party.
- 2020.5 If a written transcript of a recording is prepared at the request of a party, a copy of the transcript shall be sent to the Commission by the requesting party.
- 2020.6 Except in accordance with procedures established by the Chairperson, the hearing file shall not be removed from the offices of the Commission for any reason.

## **2021 APPEALS OF COMMISSION DECISIONS**

2021. 1 Except as provided in D.C. Official Code § 47-830 (2012 Supp.), the petitioner may appeal a decision of the Commission to the Tax Division of the Superior Court of the District of Columbia in the same manner and to the same extent as provided in D.C. Official Code §§ 47-3303 and 47-3304 (2005 Repl.), by September 30 of the tax year except as otherwise provided by law.

## **2022 ANNUAL REPORT**

- 2022.1 By October 1 of the next succeeding tax year, the Commission shall present to the Council and the Mayor a report on its operations for the tax year.

- 2022.2 The report shall include the following:
- (a) The total number of appeals decided by the Commission;
  - (b) A breakdown of appeals decided by class of property as those classes are defined in D.C. Official Code § 47-813 (2012 Supp.), stating the following for each class:
    - (1) The total number of assessments sustained;
    - (2) The total number of assessments increased;
    - (3) The total number of assessments decreased;
    - (4) The percentage of the increased, decreased, and sustained assessments;
    - (5) The gain and loss in assessed value;
    - (6) The revenue gain to the District as a result of the increases by the tax year;
    - (7) The total revenue loss as a result of the decreases by the tax year; and
    - (8) The total net revenue impact as a result of the Commission's decisions;
  - (c) An analysis of the Commission's operations for the year, including identification of any problems and recommendations for dealing with those problems; and
  - (d) A listing of the number of hours worked, and the total amount of compensation paid, for each member.

**2023 COMPUTATION OF TIME**

- 2023.1 When the last day prescribed by these rules for performing any act falls on a Saturday, Sunday, or legal holiday, the performance of the act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday.
- 2023.2 The term "legal holiday" means a legal holiday in the District of Columbia.

**2099**            **DEFINITIONS**

2099.1            When used in this chapter, the following words and phrases shall have the meaning ascribed to them below:

**Commission** - the Real Property Tax Appeals Commission for the District of Columbia.

**Commissioner** - a member of the Commission.

**Chairperson** – the Commissioner appointed by the Mayor, with the advice and consent of the Council, as the chairperson of the Commission.

**Council** - the Council of the District of Columbia.

**Deputy Chief Financial Officer** - the Deputy Chief Financial Officer of the District of Columbia for the Office of Tax and Revenue or the Deputy Chief Financial Officer's duly appointed or authorized agent, designee, or representative.

**Field Study** – A personal on-site inspection of the physical characteristics of a property, made in conjunction with the decision of a particular case.

**Mayor** - the Mayor of the District of Columbia or his or her designated agent.

**OTR** - the District of Columbia's Office of Tax and Revenue.

**Panel** - refers to a panel consisting of two (2) or three (3) Commissioners, as provided in this chapter, who are authorized to hear, review, and decide real property assessment appeals as provided under D.C. Official Code § 47-825.01a(c)(1)(A) (2012 Supp.).

**Panel Chairperson** - the Commissioner chosen by a Panel to preside over a hearing.

**Petitioner** - the property owner or the individual or entity legally or contractually obligated to pay the real property taxes on the subject property of a petition for the period in question, or the duly authorized agent, designee, or representative of such person or entity.

**Square and Lot** - the legal description of the property identified by plat on the records of the District of Columbia Surveyor.

**Tax year** – the period beginning October 1 each year and ending September 30 each succeeding year.



**OFFICE OF TAX AND REVENUE****NOTICE OF FINAL RULEMAKING**

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1335 (2005 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; P.L. 109-356, D.C. Official Code § 1-204.24d (2012 Supp.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of the adoption of final rulemaking to amend Chapter 3, REAL PROPERTY TAXES, of Title 9, TAXATION AND ASSESSMENTS, of the District of Columbia Municipal Regulations (DCMR), by amending Section 317, Tax Sale Threshold. The rules were previously published as proposed rulemaking in the *D.C. Register* on May 31, 2013 at 60 DCR 7630.

The amendment to Section 317 provides that only those improved real properties where taxes are delinquent in the amount of one thousand dollars (\$1,000) or more and only those unimproved real properties where taxes are delinquent in the amount of two hundred dollars (\$200) or more shall be sold at the 2013 tax sale. The efficacy of the tax sale is balanced between generation of tax revenue and the cost of employee hours devoted to the administration of the tax sale process, including the timely issuance of redemption refunds to tax sale purchasers. The thresholds that would be set by this rulemaking are necessary to maximize the efficient operation of the tax sale by limiting the number of improved real properties sold to those with larger liabilities so that the tax sale may be efficiently administered and to also dispose of vacant land.

One comment was received concerning the proposed rulemaking, and due consideration was given to the comment. This final rulemaking is substantively the same as the published text of the proposed rulemaking, except that the phrase “with improvement” is substituted for the word “improved” and a technical cross-reference to the definitions of words “improvement” and “unimproved” are included as a result of the comment. OTR took final rulemaking action on July 2, 2013. This final rulemaking shall become effective upon publication of this notice in the *D.C. Register*.

**Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) DCMR is amended as follows:**

**Section 317, Tax Sale Threshold, is amended by adding a new Subsection 317.5 to read as follows:**

317.5           Only those real properties with improvement owing at least one thousand dollars (\$1,000) and only those unimproved real properties owing at least two hundred dollars (\$200) in taxes and advertised to be sold for the same at the 2013 tax sale held under Section 47-1346 of the D.C. Official Code shall be auctioned. The meanings of the words “improvement” and “unimproved” are as defined in 9 DCMR § 9903.1.

**DISTRICT DEPARTMENT OF TRANSPORTATION**

**NOTICE OF PROPOSED RULEMAKING**

The Director of the District Department of Transportation (DDOT), pursuant to the authority set forth in Sections 5(3)(A) (providing for a safe transportation system), 6(b) and (c) (transferring to the Department functions previously delegated to the Department of Public Works (DPW) under Reorganization Plan No. 4 of 1983), and 7 (making Director of DDOT the successor to transportation related authority delegated to the Director of DPW) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(3)(D), 50-921.05(b) and (c), and 50-921.06 (2009 Repl. & 2012 Supp.)), Section 6(a)(1) of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121 ch. 443, § 6(a)(1); D.C. Official Code §50-2201.03(a)(1) (2009 Repl.)), and Mayor's Order 77-127, dated August 3, 1977, hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 22 (Moving Violations) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The proposed rules would modify present regulations pertaining to open containers in motor vehicles. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Section 2224 of Chapter 22, MOVING VIOLATIONS, of Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:**

**Subsection 2224.2 is amended to read as follows:**

- 2224.2           An open container shall not be considered to be in or on a vehicle if the open container is located:
- (a)           In a trunk, cargo area, or storage compartment that is inaccessible from the passenger area of the vehicle;
  - (b)           In a locked compartment within the passenger area of the vehicle; or
  - (c)           With respect to a vehicle without a trunk, behind the last row of seats within the passenger area of the vehicle such that the open container is inaccessible by the driver or passengers while in their seats.

**Subsection 2224.3 is repealed.**

**Subsection 2224.5 is amended to read as follows:**

- 2224.5           For purposes of this section, the term:
- (a)           “Alcoholic beverage” means an alcoholic beverage as defined in D.C. Official Code § 25-101(5)).

- (b) “Opened alcoholic beverage container” means an alcoholic beverage in a bottle, can, or other container from which:
- (1) The top, cap, cork, seal, or tab seal has at some time been removed or broken; or
  - (2) Some of the alcohol beverage has been removed.

Any person interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after publication of this notice in the *D.C. Register*, with Sam Zimbabwe, Associate Director, PPSA, District Department of Transportation, 55 M Street, SE, 5<sup>th</sup> Floor, Washington, DC 20003. Comments may also be sent electronically to [Policy.DDOT@dc.gov](mailto:Policy.DDOT@dc.gov). Additional copies of this proposal are available, at cost, by writing to the above address, and are available electronically, at no cost, on the Department’s website at [www.ddot.dc.gov](http://www.ddot.dc.gov).

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****NOTICE OF EMERGENCY RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority under Section 18(e) of Police Regulation No. 74-39, approved December 13, 1974, as amended by the Vendors Regulation Amendments Act of 1978, effective June 30, 1978 (D.C. Law 2-82; 24 DCR 9293); Reorganization Plan 1 of 1986, effective August 21, 1986; the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; 56 DCR 6619); and Mayor's Order 2010-91, dated May 27, 2010, hereby gives notice of the adoption of the following emergency rulemaking. This emergency rulemaking will amend Chapter 5 (Vendors and Solicitors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations.

This emergency rulemaking is necessitated by the immediate need to preserve the designated vending locations within the Nationals Park Vending Zone for the remainder of Major League Baseball's 2013 season, including any post-season playoffs games.

This emergency rulemaking was adopted on June 25, 2013, to become effective immediately, and will remain in effect for up to one hundred twenty (120) days from the date of adoption. The rules will expire on October 23, 2013.

**Chapter 5 (Vendors and Solicitors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations is amended as follows:**

**Section 505.12 is amended to read as follows:**

505.12           The Mayor shall post on the website of the Department of Consumer and Regulatory Affairs notice of any legislative, regulatory, or policy changes affecting vending in the District.

**New Section 530 is added to read as follows:**

**530               NATIONALS PARK VENDING ZONE**

530.1           The streets listed in this subsection shall constitute the Nationals Park Vending Zone. Sidewalk vending locations shall be allowed on the following streets and in the following numbers:

- (a)     East side of First Street, SE between N Street, SE and N Place, SE: two (2) Vending Locations;
- (b)     East side of First Street, SE between N Place, SE and O Street, SE: two (2) Vending Locations;
- (c)     West side of Half Street, SE between M Street, SE and N Street, SE: seven (7) Vending Locations; and

(d) North side of N Street, SE between Half Street, SE and Van Street, SE: three (3) Vending Locations.

- 530.2 The Department of Consumer and Regulatory Affairs shall conduct a monthly lottery to assign the fourteen (14) vending locations within the Nationals Park Vending Zone.
- 530.3 The monthly fee for a monthly vending site permit in the Nationals Park Vending Zone shall be one hundred twenty-three dollars (\$123) per lottery.
- 530.4 Applicants may apply electronically, via designated computer kiosks, for each monthly lottery by visiting the DCRA Business Licensing Center which shall maintain information regarding the application process and qualifications.
- 530.5 Winners of each monthly lottery shall be notified by phone, first-class mail, electronic mail, or by being listed on the DCRA website ([dcra.dc.gov](http://dcra.dc.gov)).
- 530.6 Legally licensed vendors at the Robert F. Kennedy Memorial Stadium shall receive a preference in the assignment of vending locations in the Nationals Park Vending Zone in the form of an additional entry in each lottery.

## DEPARTMENT OF MENTAL HEALTH

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Mental Health (“Department”), pursuant to the authority set forth in Sections 104 and 105 of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code §§ 7-1131.04 and 7-1131.05 (2008 Repl. & 2012 Supp.)), hereby gives notice of the adoption on an emergency basis of a new Chapter 53 entitled “Treatment Planning Services Provided to Department of Mental Health Consumers in Institutional Settings — Description and Reimbursement”, of Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The Department certifies mental health providers to provide mental health rehabilitation services (MHRS) to Department consumers in the community. Occasionally some consumers are hospitalized or placed in some other type of institutional setting. The public mental health providers need to work with the consumers and the institution treatment team to assist in the consumer’s transition to and continuity of care while in the institutional setting, and later in the development of a mental health service plan, that is, a plan to address discharge, treatment, and other services for the consumer after discharge to the community and to develop skills to learn to be ready to transition to the community. These necessary services when provided while the consumer is in an institutional setting cannot be billed as a Medicaid service, which has caused problems with payments to providers who provide the services, and has caused consumers to go without this necessary service due to the providers having concerns about payments. Therefore, the proposed rules establish the non-Medicaid reimbursement requirements and rates for those providers who provide treatment planning services to Department consumers hospitalized or in certain other institutional settings at the time of receiving the service.

Issuance of these rules on an emergency basis is necessary to ensure the provision of these critical services to consumers who are in an institutional setting. Without the establishment of these codes and reimbursement rates, providers may be unable to provide the necessary coordination and treatment planning with the consumer and institutional staff to ensure continuity of care while the consumer is in the institutional setting and the consumer’s successful transition back into the community. Thus, emergency action is necessary for the immediate preservation of the health, welfare, and safety of adults and children, youth, and their families with mental illness in need of mental health services.

The emergency rulemaking was adopted and became effective on June 19, 2013. The emergency rules will remain in effect for one hundred twenty (120) days or until October 17, 2013, unless superseded by publication of another rulemaking notice in the *D.C. Register*, whichever comes first.

The Director also gives notice of intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

**Title 22-A (Mental Health) of the District of Columbia Municipal Regulations is amended by adding a new Chapter 53 to read as follows:**

**CHAPTER 53 TREATMENT PLANNING SERVICES PROVIDED TO DEPARTMENT OF MENTAL HEALTH CONSUMERS IN INSTITUTIONAL SETTINGS - DESCRIPTION AND REIMBURSEMENT**

**5300 PURPOSE**

- 5300.1 This chapter establishes the reimbursement rates for the treatment planning and supportive treatment services provided by certified Mental Health Rehabilitation Services (MHRS) providers to Department of Mental Health (Department) consumers while the consumer is in an institutional setting. Establishment of these reimbursement rates will allow the Department to reimburse providers using non-Medicaid local funds for continuity of care services, discharge treatment planning and transitional services while the consumer is in an institutional setting.
- 5300.2 Institutional settings in which these services shall be provided and may be reimbursed pursuant to this rule include: an Institute for Mental Disease (IMD); a hospital; a nursing facility (nursing home or skilled nursing facility); a rehabilitation center; a Psychiatric Residential Treatment Facility (PRTF); a Residential Treatment Center (RTC); or a correctional facility for defendants or juveniles.
- 5300.3 Nothing in this chapter grants to an MHRS provider the right to reimbursement for costs of providing services to a consumer in an institutional setting. Eligibility for reimbursement for these services provided by an MHRS provider to a consumer in one of the institutional settings listed in Subsection 5300.2 is determined solely by the Human Care Agreement (HCA) contract between the Department and the MHRS provider and is subject to the availability of appropriated funds. Claims for reimbursement pursuant to this chapter must be submitted in accordance with the Department billing policy.

**5301 DESCRIPTION OF REIMBURSABLE SERVICES**

- 5301.1 Reimbursable “Mental Health Service – Continuity of Care Treatment Planning, Institution” services (MHS-CTPI) are services to assist consumers in institutional settings. MHS-CTPI is to be used for any mental health service provided by an MHRS provider to a consumer in an institutional setting that is not for discharge treatment planning or Rehab/Day purposes.
- 5301.2 In order to be eligible for reimbursement, MHS-CTPI shall only be provided by an MHRS provider through a mental health professional or credentialed worker to a Department consumer who is in an institutional setting listed in Subsection 5300.2.

- 5301.3 Mental Health Service – Discharge Treatment Planning, Institution (MHS - DTPI) is a service to develop a mental health service plan for treating a consumer after discharge from an institutional setting. It includes modifying goals, assessing progress, planning transitions, and addressing other needs, as appropriate.
- 5301.4 In order to be eligible for reimbursement, MHS-DTPI shall only be provided by an MHRS provider through a mental health professional or credentialed worker to a Department consumer who is in an institutional setting who is not enrolled in Assertive Community Treatment (ACT) or Community-Based Intervention (CBI).
- 5301.5 In order to be eligible for reimbursement, MHS-DTPI (ACT) shall be provided only by a member of an MHRS Assertive Community Treatment (ACT) team to a consumer who is enrolled in ACT services and preparing for discharge from the institution setting.
- 5301.6 In order to be eligible for reimbursement, MHS-DTPI (CBI) shall be provided only by a member of an MHRS Community-Based Intervention (CBI) Team, all levels, to a child or youth who is enrolled in CBI and preparing for discharge from the institutional setting.
- 5301.7 Community Psychiatric Supportive Treatment Program – Rehab/Day Services (CPS-Rehab/Day) is a day treatment program provided in the community designed to acclimate the consumer to community living.
- 5301.8 In order to be eligible for reimbursement, CPS-Rehab/Day Services shall only be provided by a certified MHRS Rehabilitation/Day Services provider.
- 5301.9 All services must be provided in accordance with Department policies regarding care to consumers to be eligible for reimbursement.

**5302 REIMBURSEMENT RATE**

5302.1 The rates for reimbursement are as set forth below:

<b>CODE</b>	<b>SERVICE</b>	<b>RATE</b>	<b>UNIT</b>	<b>UNITS AUTHORIZED</b>
H0032HK	Mental Health Service – Continuity of Care Treatment Planning, Institution (MHS-CTPI)	\$19.19	15 minutes	Up to 24 units within 180 days without prior authorization for continuity of care services.



CODE	SERVICE	RATE	UNIT	UNITS AUTHORIZED
H0032	Mental Health Service – Discharge Treatment Planning, Institution (MHS-DTPI)	\$19.19	15 minutes	Based on medical necessity at time of authorization, for discharge planning.
H0046HT	Mental Health Service – Discharge Treatment Planning, Institution - ACT team (MHS-DTPI(ACT))	\$31.57	15 minutes	Based on medical necessity at time of authorization for discharge planning.
H0046HTHA	Mental Health Service – Discharge Treatment Planning, Institution – CBI (MHS-DTPI (CBI))	\$31.35	15 minutes	Based on medical necessity at time of authorization for discharge planning.
H0037	Community Psychiatric Supportive Treatment Program – Rehab/Day Services (CPS – Rehab/Day)	\$144.77	Per day, at least 3 hours	Based on medical necessity at time of authorization; only within sixty (60) days of discharge unless pursuant to court order.

**5303****ELIGIBILITY**

## 5303.1

Only a certified MHRS provider with an HCA that has provided one of these identified services to a Department consumer may be reimbursed for services billed to the Department under this chapter.

5303.2 Reimbursement for MHS-CTPI requires prior authorization from the Department after 24 units billed within 180 days.

5303.3 Reimbursement for MHS-DTPI, MHS-DTPI (ACT), MHS-DTPI (CBI) and CPS-Rehab/Day requires prior authorization from the Department.

#### **5304 SUBMISSION OF CLAIM**

5304.1 In order for claims to be eligible for reimbursement, the MHRS provider shall:

- (a) Submit claims through the Department's electronic billing system pursuant to this chapter, the Department billing policy, and the terms of the HCA between the Department and the MHRS provider; and
- (b) Complete appropriate documentation to support all claims under its HCA with the Department and shall retain such documentation for a minimum of six (6) years or longer if necessary to ensure the completion of any audit.

5304.2 The Department will reimburse an MHRS provider for a claim that is determined by the Department to be eligible for reimbursement pursuant to the terms of this chapter, applicable Department policies, and the HCA between the Department and the MHRS provider, subject to the availability of appropriated funds.

#### **5305 AUDITS**

5305.1 An MHRS provider shall, upon the request of the Department, cooperate in any audit or investigation concerning claims for the provision of these services. Failure to cooperate or to provide the necessary information and documentation shall result in recoupment of the reimbursement and may result in other actions available to the Department pursuant to applicable policies and the HCA.

#### **5399 DEFINITIONS**

5399.1 When used in this chapter, the following terms shall have the meaning ascribed:

**Assertive Community Treatment** or "**ACT**" - Intensive, integrated rehabilitative, crisis, treatment, and mental health rehabilitative community support provided by an interdisciplinary team to adults with serious and persistent mental illness by an interdisciplinary team. ACT is provided with dedicated staff time and specific staff to consumer ratios. Service coverage by the ACT team is required twenty-four (24) hours per day, seven (7) days per week. ACT is a specialty service.

**Consumer** - Adult, child, or youth who seeks or receives mental health services or mental health supports funded or regulated by the Department.

**Community-Based Intervention or “CBI”** - Time-limited, intensive mental health services delivered to children and youth ages six (6) through twenty-one (21) and intended to prevent the utilization of an out-of-home therapeutic resource or a detention of the consumer. CBI is primarily focused on the development of consumer skills to promote behavior change in the child or youth's natural environment and empower the child or youth to cope with his or her emotional disturbance.

**Continuity of Care services** – Coordination of services towards the stability of consumer-provider relationships over time. .

**Correctional facility** - A prison, jail, reformatory, work farm, detention center, or any similar facility maintained by either federal, state or local authorities for the purpose of confinement or rehabilitation of adult or juvenile criminal offenders or suspected offenders.

**Hospital** - A facility equipped and qualified to provide inpatient care and treatment for a person with a physical or mental illness by, or under, the supervision of physicians to patients admitted for a variety of medical conditions.

**Institute for Mental Disease or “IMD”** - A hospital, nursing facility, or other institution with more than 16 beds which is primarily engaged in providing diagnosis, treatment or care of persons with mental illnesses, including medical attention, nursing care and related services.

**Mental Health Rehabilitation Services or “MHRS”** - Mental health rehabilitative or palliative services provided by a Department-certified community mental health provider to consumers in accordance with the District of Columbia State Medicaid Plan, the provider's Human Care Agreement with the Department, and Chapter 34 of this title.

**MHRS provider** - An organization certified by the Department to provide MHRS. MHRS provider includes CSAs, sub-providers, and specialty providers.

**Nursing facility** - A facility that primarily provides to residents skilled nursing care and related services for the rehabilitation of injured, disabled or sick persons, or on a regular basis, health-related care services above the level of custodial care to other than individuals with developmental disabilities.

**Psychiatric Residential Treatment Facility or “PRTF”** - A psychiatric facility that (1) is not a hospital and (2) is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of

Services for Families and Children, or by any other accrediting organization with comparable standards that is recognized by the state in which it is located and (3) provides inpatient psychiatric services for individuals under the age of twenty-two (22) and meets the requirements set forth in §§ 441.151 through 441.182 of Title 42 of the Code of Federal Regulations, and is enrolled by the District of Columbia Department of Health Care Finance (DHCF) to participate in the Medicaid program.

**Rehabilitation facility** – An inpatient facility that provides comprehensive rehabilitation services under the supervision of a physician to inpatients with physical disabilities. Services include physical therapy, occupational therapy, speech pathology, social or psychological services, and orthotics or prosthetics services.

**Residential Treatment Center or “RTC”** - A facility which houses youth with significant psychiatric or substance abuse problems who have proven to be too ill or have such significant behavioral challenges that they cannot be housed in foster care, day treatment programs, and other nonsecure environments but who do not yet merit commitment to a psychiatric hospital or secure correctional facility.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Suzanne Fenzel, Deputy Director for the Office of Strategic Planning, Policy and Evaluation, Department of Mental Health, at 64 New York Ave., NE, 2nd Floor, Washington, D.C. 20002, telephone (202) 671- 4074, or e-mailed to Suzanne Fenzel at [Suzanne.Fenzel@dc.gov](mailto:Suzanne.Fenzel@dc.gov). Copies of the proposed rules may be obtained from [dmh.dc.gov](http://dmh.dc.gov) or from the Department of Mental Health at the address above.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-115  
June 27, 2013


**SUBJECT:** Appointment – District of Columbia People's Counsel

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and pursuant to section 1 of An Act to Provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975, 88 Stat. 1975, D.C. Official Code § 34-804 (2012 Supp.), it is hereby **ORDERED** that:

1. **SANDRA MATTAVOUS-FRYE**, having been nominated by the Mayor on April 5, 2012, and approved by the Council of the District of Columbia pursuant to Resolution 19-430 on June 05, 2012, is reappointed as the District of Columbia People's Counsel, for a term to end June 13, 2015.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 13, 2012.

  
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VINCENT C. GRAY  
MAYOR

ATTEST:   
\_\_\_\_\_  
CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-116  
June 27, 2013

**SUBJECT:** Reappointment – District of Columbia Housing Finance Agency Board of Directors

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and in accordance with section 202 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979, D.C. Law 2-135, D.C. Official Code § 42-2702.02 (2010 Repl.), it is hereby **ORDERED** that:

1. **LEILA M. BATTIES**, who was nominated by the Mayor on January 3, 2012, and approved by the Council of the District of Columbia pursuant to Resolution 19-363 on February 7, 2012, is reappointed as a member with experience in planning, to the District of Columbia Housing Finance Agency Board of Directors, for a term to end June 28, 2013.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to February 7, 2012.


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 VINCENT C. GRAY  
 MAYOR

ATTEST:   


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 CYNTHIA BROCK-SMITH  
 SECRETARY OF THE DISTRICT OF COLUMBIA

**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-117  
June 27, 2013


**SUBJECT:** Appointment – District of Columbia Housing Finance Agency Board of Directors

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and in accordance with section 202 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979, D.C. Law 2-135, D.C. Official Code § 42-2702.02 (2010 Repl.), it is hereby **ORDERED** that:

1. **CHARLES R. LOWERY**, who was nominated by the Mayor on January 3, 2012, and approved by the Council of the District of Columbia pursuant to Resolution 19-385 on March 6, 2012, is appointed as a member with experience in planning, to the District of Columbia Housing Finance Agency Board of Directors, replacing Buwa Binitie, for a term to end June 28, 2013.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to March 6, 2012.

  
VINCENT C. GRAY  
MAYOR

ATTEST:   
CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-118  
June 27, 2013

**SUBJECT:** Appointments – District of Columbia Housing Finance Agency Board of Directors


**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and in accordance with section 202 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979, D.C. Law 2-135, D.C. Official Code § 42-2702.02 (2010 Repl.), it is hereby **ORDERED** that:

1. **M. CRAIG PASCAL**, who was nominated by the Mayor on November 9, 2012, and approved by the Council pursuant to Resolution 19-729 on December 18, 2012, is appointed to the District of Columbia Housing Finance Agency Board of Directors (hereinafter referred to as “Board”) as a member with experience in finance, replacing Michael Wheet, for a term to end June 28, 2014.
2. **DEREK FORD**, who was nominated by the Mayor on November 9, 2012, and approved by the Council pursuant to Resolution 19-730 on December 18, 2012, is reappointed to the Board as a member with experience in mortgage lending, for a term to end June 28, 2014.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* from December 18, 2012.

  
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VINCENT C. GRAY  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA



GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-119  
July 1, 2013


**SUBJECT:** Appointments – Board for the Condemnation of Insanitary Buildings

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and in accordance with section 2(a-1) of An Act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved December 7, 2004, D.C. Law 15-205, D.C. Official Code § 6-902(a-1) (2008 Repl.), it is hereby **ORDERED** that:

1. **GILBERT DAVIDSON** is appointed as a member of the Board for the Condemnation of Insanitary Buildings (“Board”), representing the Department of Consumer and Regulatory Affairs (“DCRA”) and shall serve at the pleasure of the Mayor or for so long as he remains an employee of DCRA.
2. **BEATRIX FIELDS** is appointed as a member of the Board, representing the Department of Housing and Community Development (“DHCD”) and shall serve at the pleasure of the Mayor or for so long as she remains an employee of DHCD.
3. **RODNEY GEORGE** is appointed as a member of the Board, representing the Deputy Mayor for Planning and Economic Development (“DMPED”) and shall serve at the pleasure of the Mayor or for so long as he remains an employee of the DMPED.
4. **EFFECTIVE DATE:** This Order shall be effective immediately.

  
VINCENT C. GRAY  
MAYOR

ATTEST:   
CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING  
INVESTIGATIVE AGENDA**

**WEDNESDAY, JULY 10, 2013  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On July 10, 2013 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”**

1. Case#13-CMP-00218 Marvin, 2007 14TH ST NW Retailer C Tavern, License#: ABRA-076166

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2. Case#13-CMP-00249 Queen Makeda, 1917 9TH ST NW Retailer C Restaurant, License#: ABRA-060510

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3. Case#13-CC-00033 Bowen Discount, 4510 BOWEN RD SE Retailer A Retail - Liquor Store, License#: ABRA-073781

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4. Case#13-CC-00001 19th, 1919 PENNSYLVANIA AVE NW Retailer C Restaurant, License#: ABRA-078475

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5. Case#13-AUD-00050 Breadsoda, 2233 WISCONSIN AVE NW Retailer C Restaurant, License#: ABRA-078085

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6. Case#13-AUD-00051 Panache, 1725 DE SALES ST NW Retailer C Restaurant, License#: ABRA-060754

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7. Case#13-CMP-00252 Lost Society, 2001 14TH ST NW Retailer C Tavern, License#: ABRA-083420

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8. Case#13-CC-00015 Pennsylvania Avenue Market, 1501 PENNSYLVANIA AVE SE Retailer B Retail - Class B, License#: ABRA-079255

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9. Case#13-CC-00016 Sun Market, 415 RHODE ISLAND AVE NE Retailer B Retail - Class B, License#: ABRA-083937

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10. No Case # Diredawa Cafe, 5333 Georgia Avenue, NW, Unlicensed

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
AGENDA

WEDNESDAY, JULY 10, 2013 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Requests dated June 26 and June 27, 2013 from E& J Gallo Winery for approval to provide retailers with products valued at more than \$50 and less than \$500.

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2. Review of letter, dated June 21, 2013, from Jay Anthony Wolszczak requesting permission to store Hard Rock Café's invoices and records at their corporate office located in Orlando, Florida. **Hard Rock Café**, 999 E Street NW Retailer CR04, Lic.#: 14130.

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3. Review of letter, dated June 20, 2013, from Crystal Harmon requesting permission to store American Ice Company's invoices and records at another location in the District. **American Ice Company**, 917 V Street NW Retailer CT01, Lic.#: 84577.

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4. Review of letter, dated June 5, 2013, from John Snedden of Rocklands Barbeque and Grilling Company requesting permission to receive and store wholesale deliveries at the establishment's other location in the District. Rocklands Barbeque and Grilling Company's requested receiving and storing location is located at 2418 Wisconsin Avenue, NW. **Rocklands Barbeque and Grilling Company**, 1271 1st Street SE Retailer DT\*, Lic.#: 91974.

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5. Review of Motion for Reconsideration, dated May 7, 2013, from Rona Leff of Hunan Peking/Dylan's Café, Inc. requesting that the Board reverse the \$600 penalty for the license's late renewal. **Hunan Peking**, 3251 Prospect Street NW Retailer DR01, Lic.#: 8348.

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6. Review of letter, dated June 17, 2013, from Commissioner Victor Silveira of ANC 3C requesting the Board to rescind Pulpo's Entertainment Endorsement and placard it as a substantial change in operations. **Pulpo**, 3407 Connecticut Avenue NW Retailer CR02, Lic.#: 89639.

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Board's Agenda – July 10, 2013 - Page 2

7. Review of letter, dated June 13, 2013, from Susie Taylor of the Cleveland Park Citizens Association requesting to protest the Board's approval of Pulpo's Entertainment Endorsement. **Pulpo**, 3407 Connecticut Avenue NW Retailer CR02, Lic.#: 89639. *Previously reviewed on the Board's June 26, 2013 Agenda.*

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8. Review of letter, dated June 18, 2013, from Pedro Lujan, Jr. of Habana Village requesting that the Board dismiss the protest of the Kalorama Citizens Association for failure to attend the Protest Mediation. **Habana Village**, 1834 Columbia Road NW Retailer CR02, Lic.#: 24197.

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9. Review of Settlement Agreement, dated June 24, 2013, between Bistro La Bonne and the Shaw-Dupont Citizens Alliance. **Bistro La Bonne**, 1340 U Street NW Retailer CR02, Lic.#: 75284.\*

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10. Review of Settlement Agreement, dated June 20, 2013, between Tryst and the Kalorama Citizens Association. **Tryst**, 2459 18th Street NW Retailer CR01, Lic.#: 25781.\*

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11. Review of correspondence, dated June 13, 2013, from Peter Jin of Khan's BBQ requesting that the Board overturn Board Order No. 2013-254 on the Settlement Agreement between Khan's BBQ and ANC 6A dated May 2, 2013. **Khan's**, 1125 H Street NE Retailer CR01, Lic.#: 84082.\*

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12. Review of Petition for Reconsideration, dated June 3, 2013, from Emanuel Mpras for Board Order No. 2013-181. Previously reviewed on the June 5, 2013 Supplemental Agenda. **DC Shenanigans**, 2450 18th Street NW Retailer CT02, Lic.#: 88119. *Previously reviewed on the June 5, 2013, June 19, 2013, and June 26, 2013 Supplemental Agendas.*

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13. Review of District's Response to Applicant's Petition for Reconsideration and Petition for Stay of Board Order, dated June 10, 2013, from Christine Gephardt. **DC Shenanigans**, 2450 18th Street NW Retailer CT02, Lic.#: 88119. *Previously reviewed on the June 19, 2013 and June 26, 2013 Supplemental Agendas.*

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**\* In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

Board's Agenda – July 10, 2013 - Page 3

**\*\* In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations. The Board's vote will be held in an open session, and the public is permitted to attend.**

**COMMUNITY ACADEMY PUBLIC CHARTER SCHOOLS (CAPCS)****REQUEST FOR PROPOSALS****Bus Services**

The Dorothy I. Height Community Academy Public Charter Schools (CAPCS) is soliciting proposals from qualified vendors for bus services to transport 100+ students among its campuses, AM and PM, late Aug. – June. Must include driver and adult assistant. Must be licensed, insured and bonded. Proposals should include relevant licenses, experience, references and all costs. For further information, contact Wesley Harvey at 202-545-1268 or [wesleyharvey@capcs.org](mailto:wesleyharvey@capcs.org). **Final proposals are due July 12th, 2013.** CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

**Interior Painting, Plumbing, Electrical Services**

The Dorothy I. Height Community Academy Public Charter Schools (CAPCS) is soliciting proposals from qualified vendors for interior painting, plumbing & electrical services at one of its campuses. Proposals should include relevant licenses, experience, references and all costs. For a building tour and scope of work contact Roc Blakeney 202-604-1833 or [rocbrokeney@capcs.org](mailto:rocbrokeney@capcs.org) proposals **are due July 12th, 2013.** CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

**COMMUNITY ACADEMY PUBLIC CHARTER SCHOOLS (CAPCS)****Deadline Extension of RFP****Cleaning Services**

The Dorothy I. Height Community Academy Public Charter Schools (CAPCS) is extending the deadline for proposals from qualified vendors for evening cleaning services at its 3 campuses. Contact Roc Blakeney at 202-545-1267 for further information. **Final proposals submitted electronically are due Friday, July 12, 2013.** CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.



**COMMUNITY ACADEMY PUBLIC CHARTER SCHOOLS (CAPCS)****REQUEST FOR PROPOSALS****Heating Boiler Replacement**

The Dorothy I. Height Community Academy Public Charter Schools (CAPCS) is soliciting proposals from qualified vendors for the replacement of heating boilers at one of its campuses. Proposals should include relevant licenses, experience, references and all costs. For a building tour and scope of work contact Wesley Harvey 202-545-1268 or [wesleyharvey@capcs.org](mailto:wesleyharvey@capcs.org). Proposals **are due Friday, July 19th, 2013**. CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

**COMMUNITY ACADEMY PUBLIC CHARTER SCHOOLS (CAPCS)****REQUEST FOR PROPOSALS****Maintenance/Janitorial Supplies**

The Dorothy I. Height Community Academy Public Charter Schools (CAPCS) is soliciting proposals from qualified vendors to provide maintenance supplies including paper products for four campuses. Contact Roc Blakeney 202-604-1833 or [rocblakeney@capcs.org](mailto:rocblakeney@capcs.org) for more information. Final proposals submitted electronically **are due Friday, July 12th, 2013**. CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

**E.L. HAYNES PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

**E.L. HAYNES** Public Charter School seeks bids from prospective candidates to provide the following services:

**1. Graphic Design Services** to provide high-quality graphic design services for both print and electronic vehicles in a variety of formats.

Proposals are due via email to Julie Green no later than 5:00 PM July 19, 2013. The RFP with bidding requirements can be obtained by contacting:

Julie Green  
E.L. Haynes Public Charter School  
Email: Jgreen@elhaynes.org

**2. Occupational Therapy Services** to provide school-based special education related services and evaluations by making available qualified Occupational Therapists, Speech Language Pathologists, Physical Therapists, Behavior Analysts, and Assistive Technology Professionals

Proposals are due via email to Julie Holt no later than 5:00 PM July 17, 2013. The RFP with bidding requirements can be obtained by contacting:

Julie Holt  
E.L. Haynes Public Charter School  
Email: Jholt@elhaynes.org

**BOARD OF ELECTIONS****CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections hereby gives notice that there are vacancies in six (6) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

**VACANT: 4C10, 5A04, 5E03, 7D02, 7F07 and 8E03**

Petition Circulation Period: **Monday, July 8, 2013 thru Monday, July 29, 2013**

Petition Challenge Period: **Thursday, August 1, 2013 thru Wednesday, August 7, 2013**

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Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections  
441 - 4<sup>th</sup> Street, NW, Room 250N  
Washington, DC 20001**

For more information, the public may call **727-2525**.

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS**

**Certification of Filling Vacancies**

In Advisory Neighborhood Commissions

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), If there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person, the Board hereby certifies that the vacancies have been filled in the following single-member districts by the individuals listed below:

Kathryn Tinker  
Single-Member District 3E01

Rebecca Maydak  
Single-Member District 3G04

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**  
**NOTICE OF PUBLICATION FOR PUBLIC COMMENT**

**Municipal Separate Storm Sewer System (MS4) Report on Optimal Catch Basin Cleaning,  
Inspection, and Repair**

The District Department of the Environment (the Department) is soliciting comments on a draft Municipal Separate Storm Sewer System (MS4) Report on Optimal Catch Basin Cleaning, Inspection, and Repair. Section 4.3.5.1 of the National Pollutant Discharge Elimination System permit for the District's Municipal Separate Storm Sewer System (NPDES Permit No. DC 0000221) directs the District to develop a plan to reduce runoff stormwater pollutants by evaluating and optimizing the District's program for cleaning, inspection, and maintenance for all catch basins which collect stormwater from within the District's separate storm sewer system, and to make this plan available for public review and comment. In accordance with this requirement, the Department and DC Water have developed a draft Municipal Separate Storm Sewer System (MS4) Report on Optimal Catch Basin Cleaning, Inspection, and Repair, which is available on the Department's website at <http://ddoe.dc.gov/draftcatchbasinreport>, or upon request by contacting the Department's Stormwater Management Division at (202) 741-2136.

The Department is committed to considering the public's comments while finalizing this Plan. Interested persons may submit written comments on the draft Plan, which must include the person's name, telephone number, affiliation, if any, mailing address, a statement outlining their concerns, and any facts underscoring those concerns. All comments must be submitted within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be clearly marked "Municipal Separate Storm Sewer System (MS4) Report on Optimal Catch Basin Cleaning, Inspection, and Repair" and either (1) mailed or hand-delivered to DDOE, Stormwater Management Division, 1200 First Street, N.E., 5<sup>th</sup> Floor, Washington, DC 20002, Attention: Tree Canopy Plan, or (2) e-mailed to [jonathan.champion@dc.gov](mailto:jonathan.champion@dc.gov).

The Department will consider all timely received comments before finalizing the plan. All comments will be treated as public documents and will be made available for public viewing on the Department's website. When the Department identifies a comment containing copyrighted material, the Department will provide a reference to that material on the website. If a comment is sent by e-mail, the email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Department's website. If the Department cannot read a comment due to technical difficulties, and the email address contains an error, the Department may not be able to contact the commenter for clarification and may not be able to consider the comment. Including the commenter's name and contact information in the comment will avoid this difficulty.

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**  
**NOTICE OF PUBLICATION FOR PUBLIC COMMENT**

**Municipal Separate Storm Sewer System (MS4) Permit  
Outfall Repair Schedule and Report**

The District Department of the Environment (the Department) is soliciting comments on a draft Municipal Separate Storm Sewer System (MS4) Permit Outfall Repair Schedule and Report. Section 4.3.5.3 of the National Pollutant Discharge Elimination System permit for the District's Municipal Separate Storm Sewer System (NPDES Permit No. DC 0000221) directs the District to develop a schedule for evaluating and repairing stormwater outfalls within the District's separate storm sewer system, and to make this schedule available for public review and comment. In accordance with this requirement, the Department and DC Water have developed a draft Municipal Separate Storm Sewer System (MS4) Permit Outfall Repair Schedule and Report, which is available on the Department's website at <http://ddoe.dc.gov/draftoutfallreport>, or upon request by contacting the Department's Stormwater Management Division at (202) 741-2136.

The Department is committed to considering the public's comments while finalizing this Plan. Interested persons may submit written comments on the draft Plan, which must include the person's name, telephone number, affiliation, if any, mailing address, a statement outlining their concerns, and any facts underscoring those concerns. All comments must be submitted within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be clearly marked "Municipal Separate Storm Sewer System (MS4) Permit Outfall Repair Schedule and Report" and either (1) mailed or hand-delivered to DDOE, Stormwater Management Division, 1200 First Street, N.E., 5<sup>th</sup> Floor, Washington, DC 20002, Attention: Tree Canopy Plan, or (2) e-mailed to [jonathan.champion@dc.gov](mailto:jonathan.champion@dc.gov).

The Department will consider all timely received comments before finalizing the plan. All comments will be treated as public documents and will be made available for public viewing on the Department's website. When the Department identifies a comment containing copyrighted material, the Department will provide a reference to that material on the website. If a comment is sent by e-mail, the email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Department's website. If the Department cannot read a comment due to technical difficulties, and the email address contains an error, the Department may not be able to contact the commenter for clarification and may not be able to consider the comment. Including the commenter's name and contact information in the comment will avoid this difficulty.

**FRIENDSHIP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

Friendship Public Charter School (FPCS) is soliciting bids from experienced executive search firms or individuals to provide consulting services for a national K12 education Leader in accordance with requirements and specifications detailed in the RFP. For full Request for Proposal, send an email to [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org).



**HEALTH BENEFIT EXCHANGE AUTHORITY**  
**NOTICE OF PUBLIC MEETING**

**Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 441 4<sup>th</sup> Street, NW, Old Council Chambers on **Thursday, July 11, 2013 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 314 042 850. Topics that will be discussed include operational and programmatic updates, as well as board elections.

The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

**DEPARTMENT OF HEALTH****PUBLIC NOTICE**

The District of Columbia Board of Veterinary Examiners (“Board”) hereby gives notice of a change in its regular meeting, pursuant to D.C. Official Code § 2-576.

The Board will be in recess in July 2013 and its regularly scheduled meeting on the third Thursday of the month will be canceled. The regular meeting of the Board will be resume on Thursday, August 15, 2013. The meeting will be open to the public from 9:30 am until 10:00 am to discuss various agenda items and any comments and/or concerns from the public. In accordance with D.C. Official Code § 2-575(b), the meeting will be closed from 10:00 am to 12:30 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

**DISTRICT OF COLUMBIA  
HISTORIC PRESERVATION REVIEW BOARD**

**NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS**

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites. The property is now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

**Designation Case No. 13-13: George M. Lightfoot House**  
1329 Missouri Avenue NW  
Square 2792, Lot 803  
Designated June 27, 2013

**Designation Case No. 13-16: Town Center East**  
1001 and 1101 3<sup>rd</sup> Street SW  
Square 542, Lots 79, 816, 817, 821, 835-869 and 2001-2251  
Designated June 27, 2013

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

**DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY  
BOARD OF DIRECTORS MEETING**

July 9, 2013  
815 Florida Avenue, NW  
Washington, DC 20001

5:30 pm

AGENDA

- I. Call to order and verification of quorum.
- II. Consideration of DCHFA Resolution No. 2013-02(G) regarding the hiring of Goldblatt Martin Pozen LLP to serve as legal counsel to the Agency's Board of Directors.
- III. Discussion: Parkway Overlook Update and Plan of Execution including Disposal Dates.
- IV. Executive Director's Report.
- V. Other Business.
- VI. Adjournment.

**INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL****REQUEST FOR PROPSALS****Food Service Management Services**

**Inspired Teaching Demonstration School** is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2013-2014 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Request for Proposals (RFP) such as; student data, days of service, meal quality, etc. may be obtained beginning on July 5, 2013 from:

Tiffani Williams, Operations Manager  
[tiffani.williams@inspiredteachingschool.org](mailto:tiffani.williams@inspiredteachingschool.org)  
202-248-6825 x104

**Proposals must be submitted in hard copy to 1328 Florida Ave, NW, Washington, DC 20009 on Thursday, August 1, 2013 no later than 4:00 P.M.**

**All bids not addressing all areas as outlined in the RFP will not be considered.**

**INSPIRED TEACHING DEMONSTRATION PUBLIC CHARTER SCHOOL  
REQUEST FOR PROPOSALS**

**Janitorial Services**

The Inspired Teaching Demonstration Public Charter School is seeking bids from prospective candidates to provide the following services:

1. **Custodial/Cleaning Service** to clean approximately 34,869 square feet of classroom/office space detailed in the Invitation for Bid.

**Schedule of Deadlines:** The Inspired Teaching School anticipates that the proposal submission, review, and evaluation for this procurement will take place according to the following schedule:

RFP Released..... July 5, 2013  
 Responses Due.....July 19, 2013  
 Finalist Interviews.....July 23-24, 2013  
 Award Contract.....July 25, 2013  
 Anticipated Service Start Date.....TBD

Tiffani Williams, Operations Manager  
 tiffani.williams@inspiredteachingschool.org  
 202-248-6825

The Inspired Teaching Demonstration School  
 Washington, DC 20009

**LATIN AMERICAN MONTESSORI BILINGUAL PCS –****INVITATION FOR BID****Furnishing of Meals and Services**

**Will receive bids from July 5<sup>th</sup> until August 1<sup>st</sup> ending at 3:15 pm.**

LAMBPCS is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2013-2014 school year with a possible extension of (4) one year renewals.

Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained from. We will be opening the bids on August 2nd there will be a representative from OSSE to ensure the process is legitimate. Please contact Betsy Romero at [betsy@lambpcs.org](mailto:betsy@lambpcs.org) or my mail at 1375 Missouri Avenue, NW Washington, DC 20011.

Proposals will be accepted at the above address on Thursday, August 1, 2013 no later than 3:15 p.m.

All bids not addressing all areas as outlined in the IFB will not be considered.

**PERRY STREET PREP PUBLIC CHARTER SCHOOL****NOTICE: FOR PROPOSALS FOR CHARTER RENEWAL APPLICATION  
SUPPORT/STRATEGIC PLANNING**

The Perry Street Prep Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to support it in successfully navigating its 15-year charter renewal process. Desired support includes data analysis regarding attainment of school performance goals, application strategy/narrative, and legal advice on the charter application process.

Vendors may submit proposals for individual services rather than the full list (e.g. legal only). E-mail Garrett Mushaw, Chief Operating Officer, at [gmushaw@pspdc.org](mailto:gmushaw@pspdc.org) to request a full RFP offering more detail on scope of work and bidder requirements.

Proposals shall be received no later than 5:00 P.M., Monday, July 15, 2013.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Garrett Mushaw  
[gmushaw@pspdc.org](mailto:gmushaw@pspdc.org)

Please include the type of service you are submitting for in the subject line of the e-mail.



**DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT  
OFFICE OF THE WORKFORCE INVESTMENT COUNCIL**

**NOTICE OF FUNDS AVAILABILITY**

**DC Workforce Intermediary – Hospitality Job Placement Partner**

The DC Workforce Investment Council (WIC) is soliciting applications for a renewable grant to provide job placement and related services leading to direct employment in the hospitality industry for eligible District residents.

The “Job Placement Partner” (JPP) receiving a grant under this Request for Applications (RFA) will be responsible for placing not less than 200 District jobseekers into living wage jobs at hotels, convention centers, eating/drinking establishments, or similar businesses. The JPP will work closely with participating employers to identify minimum employment standards and provide job development services to ensure that candidate referrals are carefully matched to the needs of specific businesses. In addition, the JPP will be responsible for working with job training providers and similar organizations in the District to facilitate referrals of their jobseekers and feedback from employers on their services.

**Eligibility:** Organizations that are eligible to apply for this grant include public or private organizations with demonstrated effectiveness in providing the requested services and meeting the employment needs of the target population, including:

- Non-profit, community-, or faith-based organizations;
- Trade associations or chambers of commerce;
- Private, for-profit service providers; or
- Labor unions or labor-management partnerships.

**Length of Award:** Grant awards will be for one (1) year, with an option for up to four (4) renewal years depending on grantee performance.

**Available Funding:** The amount available for this award is \$840,000.00

**Anticipated Number of Awards:** The WIC anticipates making one (1) award under this RFA.

The RFA will be released on Friday, July 12, 2013. The RFA will be posted on the District’s Grant Clearinghouse Website at <http://opgs.dc.gov/page/opgs-district-grants-clearinghouse> and DMPED’s website under Opportunities at <http://dmped.dc.gov/DC/DMPED>

An **Information Meeting** on the RFA will be held **on July 19, 2013 at 10:00 a.m.** at the **Department of Employment Services Community Room, located at 4058 Minnesota Avenue NE, Washington, DC 20019.** Attendance is strongly encouraged.

For additional information, contact LaToyia Hampton, Grants Manager of the Office of the Deputy Mayor for Planning and Economic Development, at [Latoyia.hampton@dc.gov](mailto:Latoyia.hampton@dc.gov).

**The deadline for submission is Monday, August 12, 2013 at 4:30 PM EST.**

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Governance Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Wednesday, July 10, 2013 at 9:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dcwater.com](http://www.dcwater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dcwater.com](mailto:لمانley@dcwater.com).

**DRAFT AGENDA**

- |   |                              |
|---|------------------------------|
| 1. Call to Order  | Chairperson                  |
| 2. Efficacy and Cost Savings Associated with the Use of "Board Books"   | Board Secretary              |
| 3. Government Affairs: Update   | Government Relations Manager |
| 4. Update on Workforce Development Program  | Chief of Staff               |
| 5. Board of Director Approval of Contract Modifications, Contract, Option Years and Delegation of Contracting Authority | General Manager              |
| 6. Update on the Compliance Monitoring Program  | TBD                          |
| 7. Corinthian Contractors, Inc. NLRB Compliance Update  | Contract Support Specialist  |
| 8. Enhancements to the Debarment/Suspension Provisions of the Procurement Manual  | General Counsel              |
| 9. Emerging Issues  | Chairperson                  |
| 10. Agenda for Upcoming Committee Meeting (TBD)   | Chairperson                  |

- 11. Executive Session – To discuss legal, confidential and privileged matters pursuant to D.C. Official Code § 2-575 (b)(4). Chairperson
- 12. Adjournment Chairperson

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY****BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Human Resources and Labor Relations Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will be holding a meeting on Wednesday, July 10, 2013 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dewater.com](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dewater.com](mailto:لمانley@dewater.com).

**DRAFT AGENDA**

- |    |  |                            |
|----|--|----------------------------|
| 1. | Call to Order  | Committee Chairperson      |
| 2. | Workplace Violence Policy Review   | General Counsel            |
| 3. | CDL – Request for Medical Waiver Update  | General Manager            |
| 4. | Interviewing & Resume Writing Workshops Update   | Manager, Talent Management |
| 5. | Hiring/Promotion Statistics  | Compensation Manager       |
| 6. | Executive Session – To discuss personnel matters pursuant to D.C. Official Code § 2-575(b)(10) | Committee Chairperson      |
| 7. | Adjournment  | Committee Chairperson      |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Appeal No. 18031-B of West End Citizens Association**, pursuant to 11 DCMR §§ 3100 and 3101, from a November 4, 2009 decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Certificate of Occupancy No. CO1000323, for a grocery store in the R-5-E District at premises 2140 F Street, N.W. (Square 81, Lot 811).

**BOARD'S HEARING DATE:** February 23, 2010

**BOARD'S DECISION DATE:** February 23, 2010

**DATE OF FINAL ORDER:** August 24, 2010

**DATE OF  
COURT DECISION**

**REMANDING TO BOARD:** August 16, 2012, December 19, 2012

**PROCEDURAL ORDER ON REMAND**

This Procedural Order on Remand ("Order") is issued to set forth the Board of Zoning Adjustment's ("BZA" or "Board") initial procedures for complying with the District of Columbia Court of Appeals' remand instructions concerning this proceeding as set forth in a Memorandum Opinion and Judgment ("MOJ") dated August 16, 2012, as amended by an Order dated December 19, 2012 ("December Order").

Appeal No. 18031 was brought by the West End Citizens Association ("WECA") and alleged that Certified of Occupancy No. CO1000323 issued to Foggy Bottom Grocery, LLC ("FoBoGro") impermissibly expanded the existing nonconforming grocery use by permitting an accessory prepared food shop and by authorizing all three floors of the building for the grocery store use.

FoBoGro filed a motion to dismiss that among other things claimed that the appeal was barred by the equitable doctrines of *estoppel* and *laches*. FoBoGro never argued that the appeal was filed beyond the jurisdictional time limits set forth at 11 DCMR § 3112.2 (a), which provides:

An appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.

**BZA APPEAL NO. 18031-B**  
**PAGE NO. 2**

As a preliminary matter, the Board determined that it would not hear testimony on the equitable defenses unless and until it determined that the appeal had merit. The Board ultimately found no merit to WECA's claims of error and denied the appeal through an order dated August 24, 2010.

WECA petitioned the District of Columbia Court of Appeals ("Court") to review the BZA's decision. In its MOJ, the Court found no error in the Board's determination that the incidental sale of prepared food fell within a grocery store use and therefore did not represent an unlawful expansion of the nonconforming use. However, the Court reversed the Board's determination that the grocery use could extend beyond the first floor.

Although the Court's decision disposed of the two substantive issues presented, the MOJ went on to state:

The BZA found it unnecessary to reach FoBoGro's contention that WECA's appeal of its C of O was untimely as a matter of law, which would be an alternative basis for the BZA's denial of the appeal. The BZA will have to address that contention on remand, as it potentially has merit.

As explained earlier, FoBoGro never contended that WECA's appeal was untimely as a matter of law, but rather as a matter of equity. It was this equitable defense that the Board found unnecessary to consider. The Board found it unnecessary to reach FoBoGro's argument that the appeal was untimely as a matter of equity, not as a matter of law.

Nevertheless, WECA filed a petition for rehearing in which it asserted that the Board affirmatively found the appeal was timely filed in accordance with § 3112.2 (a) and thus no remand was required. In response, the Board advised the Court that although it had concluded that the appeal was filed within 60 days from the issuance of Certificate of Occupancy No. CO1000323, it never reached the specific issue first raised by the Court; namely whether the "the decision complained of" was stated in an earlier certificate.

In its December Order the Court concluded that it was appropriate to amend its MOJ to remand the record of the case for the Board to consider FoBoGro's *laches* and *estoppel* defenses. Further, the December Order stated:

Although our decision also identified, apparently for the first time in these proceedings, an issue as to whether WECA's appeal was timely as a matter of law, we leave it for the BZA to consider on remand whether its authority extends to the belated consideration of that issue in these circumstances.

The Board believes it should resolve this jurisdiction issue as a preliminary matter and therefore asks that parties brief the following issue:

**BZA APPEAL NO. 18031-B**  
**PAGE NO. 3**

Does the Board have the authority as part of this proceeding on remand to consider whether WECA's appeal was timely as a matter of law when the issue was not raised by any party or the Board during the earlier proceeding but was identified for the first time in these proceedings by the Court of Appeals?

The **briefs** shall be filed with the Office of Zoning by 3:00 p.m. on Friday, August 16, 2013 and served upon the parties. Any party that fails to file a brief will be deemed to have taken no position on the issue. Any **reply brief** is due by 3:00 p.m. on Tuesday, September 3, 2013 and also served. No sur-reply will be accepted.

This Procedural Order on Remand is not a final order of the Board and is therefore not the proper subject of a motion for reconsideration.

Accordingly, it is ORDERED that the Board APPROVES the issuance of this Order.

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of members approved the issuance of this Order.

(Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle and Michael G. Turnbull to approve issuance; one Board seat vacant.)

**FINAL DATE OF ORDER:** July 1, 2013

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT  
441 4<sup>TH</sup> STREET, N.W.  
SUITE 200-SOUTH  
WASHINGTON, D.C. 20001**

**PUBLIC NOTICE OF CLOSED MEETING -- RESCHEDULED**

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), this is public notice that due to an unforeseen circumstances, the previously scheduled closed meeting that was scheduled for June 24, 2013 at 4:00 p.m. could not be held when scheduled and was rescheduled to June 27, 2013 at 9:00 a.m.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

**LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, VICE  
CHAIRPERSON, JEFFREY L. HINKLE AND A MEMBER OF THE ZONING  
COMMISSION ----- BOARD OF ZONING ADJUSTMENT, CLIFFORD  
W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE  
OF ZONING.**



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT  
441 4<sup>TH</sup> STREET, N.W.  
SUITE 200-SOUTH  
WASHINGTON, D.C. 20001**

**PUBLIC NOTICE OF CLOSED MEETING**

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on 06/28/13, the Board of Zoning Adjustment voted 3-0-2 to hold closed meetings telephonically on Monday, July 8<sup>th</sup>, 15<sup>th</sup>, 22<sup>nd</sup>, and 29<sup>th</sup> beginning at 4:00 pm for the purpose of obtaining legal advice from counsel and/or to deliberate upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting, as those cases are identified on the Board's agendas for July 9<sup>th</sup>, 16<sup>th</sup>, 23, and 30<sup>th</sup> 2013.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

**LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, JEFFREY L. HINKLE  
AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF  
ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA,  
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 04-08C**  
**Z.C. Case No. 04-08C/02-45**  
**District of Columbia Department of Mental Health**  
**(Modification to the Approved PUD for St. Elizabeths Hospital)**  
**June 10, 2013**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on April 25, 2013, to consider an application from the District of Columbia Department of Mental Health ("Applicant"), for a modification to the planned unit development ("PUD") and related map amendment for St. Elizabeths Hospital to remove certain areas from the PUD. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. By Z.C. Order No. 02-45, dated May 1, 2003, and effective as of November 28, 2003, the Commission approved the application of the D.C. Department of Mental Health for first-stage review and approval of a PUD and related map amendment to permit St. Elizabeths Hospital to develop a new mental health hospital, parking, landscaping, stormwater controls, and related facilities within an SP-1 Zone District. At the time of first-stage approval, the subject property consisted of approximately 49.4 acres of land area located on an irregularly shaped parcel in the southeast portion of the East Campus of St. Elizabeths Hospital.
2. By Z.C. Order No. 04-08A, dated September 13, 2004, and effective as of December 24, 2004, the Commission approved a minor modification to the first-stage PUD in order to add an additional 5.19 acres to the PUD site.
3. By Z.C. Order No. 04-08, dated January 13, 2005, and effective as of April 22, 2005, the Commission granted second-stage approval for the PUD and related map amendment.
4. As of April 2010, construction of the new St. Elizabeths Hospital was complete and the Applicant began operating in its new 448,190-square-foot facility.
5. By Z.C. Order No. 04-08B, dated May 10, 2010, and effective as of June 25, 2010, the Commission approved a minor modification to the PUD in order to remove 3.3 acres from the PUD site to permit construction of a new water tower.
6. The PUD site consists of approximately 51.28 acres located at 1100 Alabama Avenue, S.E. in Washington, D.C. and comprises the southeast portion of the larger parcel

Z.C. ORDER NO. 04-08C  
Z.C. CASE NO. 04-08C/02-45  
PAGE 2

known as the “St. Elizabeths East Campus”, which is identified as Square S-5868, Lot 2 (“PUD Site”).

7. The Final St. Elizabeths East Master Plan and Design Guidelines (“Master Plan”) was released by the District of Columbia Office of Planning (“OP”) on June 4, 2012, calling for a “vibrant, mixed-use development with community-serving amenities that will create an important hub for the Ward 8 community and [the] District’s emerging innovation economy”. The Master Plan provides extensive direction for the redevelopment and reuse of the St. Elizabeths East Campus and specifically incorporates recommendations for those portions of the PUD Site proposed to be removed as part of the subject application.
8. By Z.C. Order No. 12-08, dated January 28, 2013, and effective as of March 29, 2013, the Commission adopted amendments to the Zoning Map and to the text of the Zoning Regulations to create and implement the Saint Elizabeths East (StE) District for the St. Elizabeths East Campus and to permit and guide the future development of the St. Elizabeths East Campus, including portions of the PUD Site proposed to be removed as part of the subject application.
9. By letter dated November 14, 2012, the Applicant submitted a request for a minor modification to modify the PUD Site so as to remove 13.935 acres from the PUD area, rendering the PUD Site a total of approximately 37.345 acres. (Exhibit [“Ex.”] 1.)
10. The Commission considered the request at its January 28, 2013 public meeting. The Commission decided to set down the case for hearing. In setting the case down for hearing, the Commission waived the requirement that the Applicant submit a Prehearing Statement.
11. After proper notice, the Commission held a public hearing on the application on April 25, 2012. The parties to the case were the Applicant and Advisory Neighborhood Commission (“ANC”) 8C, the ANC within which the property is located.
12. OP submitted a report in support of the application. (Ex. 6.) OP also testified in support of the application at the public hearing.
13. The Applicant authorized the District of Columbia Office of the Deputy Mayor for Planning and Economic Development (“ODMPED”) to appear on behalf of and represent the Applicant at the public hearing. ODMPED appeared and testified in support of the application at the public hearing.
14. ANC 8C did not testify at the hearing. Nor did it submit a written report. There were no persons or parties in opposition to the application.

Z.C. ORDER NO. 04-08C  
Z.C. CASE NO. 04-08C/02-45  
PAGE 3

15. At the conclusion of its public hearing on April 25, 2013, the Commission scheduled a special public meeting on May 2, 2013 to consider whether to take proposed action and held the public record open until April 29, 2013 to receive post-hearing submissions.
16. On April 26, 2013, the Applicant submitted certain items requested by the Commission related to environmental review jurisdiction over those areas proposed to be removed from the PUD Site. (Ex. 16.)
17. At its public meeting on May 2, 2013, the Commission took proposed action to approve the application.
18. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated May 30, 2013, found that the proposed PUD is not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.
19. The Commission took final action to approve the application on June 10, 2013.

#### **Modified PUD Site**

20. The PUD Site, as modified, will consist of approximately 37.345 acres and will continue to support the as-built St. Elizabeths Hospital facility (the "Modified PUD Site"). The Modified PUD Site is shown in Exhibit 3, Attachment 4, which is labeled "Sketch of Proposed Hospital A&T Lot/Legal Description".
21. The reduction in size of the Modified PUD Site will cause the floor area ratio ("FAR") of the as-built hospital facility to increase from approximately 0.2 to 0.275, well within the 4.5 FAR permitted in the SP-1 Zone District, and the lot occupancy to increase from approximately 11% to 14.8%, well within the 80% lot occupancy permitted in the SP-1 Zone District. (Ex. 3, Attachment 8, "Development Data Comparison Chart.")
22. The Modified PUD Site results in no changes to the previously approved public benefits and project amenities as identified in Finding No. 28 of Z.C. Order No. 04-08.

#### **Office of Planning Report**

23. By report dated January 18, 2013, OP recommended approval of the requested modification. (Ex. 6.) OP found no objection to the proposed modification and indicated that the area to be removed from the PUD site would not alter the development of the hospital and that the Modified PUD Site would continue to be in compliance with applicable zoning regulations. The Commission concurs with these findings and recommendations of OP.

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### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a modification to a previously approved PUD and zoning map amendment.
3. The Modified PUD Site meets the minimum area requirements of § 2401.1 of the Zoning Regulations. The modified PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the Zoning Regulations. The uses for this project remain appropriate for the Property. The impact of the project on the surrounding area and the operation of city services remains acceptable given the quality of the public benefits in the project.
4. Approval of the Modified PUD Site is not inconsistent with the Comprehensive Plan and will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
5. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and conditions expressed in the written report of an affected ANC. In this case, ANC 8C did not participate in the public hearing or submit a written report to the case record.
6. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
7. The application for the Modified PUD Site remains subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

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### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for modification to the approved planned unit development located on a portion of Lot 2 in Square S-5868 to remove 13.935 acres from the PUD Site that was approved in Z.C. Order Nos. 02-45, 04-08, 04-08A, and 04-08B, so that the Modified PUD Site is as shown Exhibit 3, Attachment 4, which is labeled “Sketch of Proposed Hospital A&T Lot/Legal Description”. The modification will result in the removal of the PUD-related SP-1 zoning designation from the portions of land removed from the PUD Site such that the land shall revert to the underlying StE zoning designation. All other provisions of Z.C. Order Nos. 02-45, 04-08, 04-08A, and 04-08B shall remain in effect.

The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 *et seq.*, (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 *et seq.* (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On May 2, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to approve).

On June 10, 2013, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 5, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 08-34B**  
**Z.C. CASE NO. 08-34B**  
**Center Place Holdings, LLC**  
**(Time Extension for Consolidated PUD @Squares 564, 566, and 568)**  
**May 20, 2013**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on May 20, 2013. At the meeting, the Commission approved a request from Center Place Holdings, LLC ("Applicant") for a time extension for an approved consolidated planned unit development ("PUD") for Lot 59 in Square 564, Lot 49 in Square 566, and Lot 44 in Square 568 ("Property"), pursuant to Chapter 24 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR").

**FINDINGS OF FACT**

1. By Z.C. Order No. 08-34, the Commission approved a first-stage PUD ("First-Stage PUD") for the entire site, a consolidated PUD ("Consolidated PUD") for elements of the development, and a PUD-related change to the District of Columbia Zoning Map to C-4. The Consolidated PUD included the following elements: (1) the construction of the entire platform; (2) the proposed mix of uses, the height and density of each building, and site plan for the overall project; (3) the construction of the office building in the North Block; (4) the construction of all below-grade parking, concourse and service levels; and (5) the proposed landscaping and streetscape design for the overall PUD Site. Z.C. Order No. 08-34 became effective upon its publication in the *D.C. Register* on July 1, 2011.
2. Condition No. 27 of Z.C. Order No. 08-34 provides that the approval for the Consolidated PUD is valid for a period of two years from the effective date of the order (i.e., July 1, 2011) and that construction of the platform and base infrastructure must begin within three years of the effective date of the order. Accordingly, the Applicant is required to file an application for a building permit for the construction of the platform and base infrastructure within two years of the effective date of the order, or July 1, 2013, with construction to begin no later than July 1, 2014.
3. Condition No. 28 of Z.C. Order No. 08-34 approved the First-Stage PUD for a period of five years from the effective date, with the Applicant required to apply for a second-stage PUD for an additional portion of that project within that time period. The Applicant applied for a second-stage PUD for the South Block on June 4, 2012. The South Block second-stage PUD was approved by Z.C. Order No. 08-34A, issued effective as of March 8, 2013. Second-stage PUD applications must be filed for all of the remaining portions of the project no later than 10 years from the effective date of the order.
4. By letter dated and received by the March 21, 2013, the Applicant filed a request asking the Commission to (1) approve an extension of the date by which the Applicant must submit a permit application for the construction of the platform and base infrastructure by a period of approximately 18 months, to December 31, 2014; (2) specify the type of

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permit for which that application must be filed within that time period; and (3) relate the timeframe by which construction must commence, to be within nine months of the issuance of the public space permit. The Applicant's request was supported by exhibits showing the progress of the project thus far and evidence concerning the facts impacting the Applicant's ability to move forward with the platform and base infrastructure approved in the Consolidated PUD, as described in Findings of Fact 5 through 7 below.

5. The Applicant has been working for more than seven years to make this project a reality by advancing the designs of the platform and base infrastructure as well as of the buildings relating to this PUD. The Applicant closed on the purchase of the Property in December, 2012, having expended more than \$100 million in acquisition and entitlement costs by that point.
6. The required National Environmental Policy Act ("NEPA")/Environmental Assessment process involving both the Federal Highway Administration ("FHWA") and the District Department of Transportation ("DDOT") took longer than expected. In addition, the result of the NEPA process was a reconfiguration of the proposed Freeway portals as compared to the original proposal. The modifications created new design and engineering considerations that the Applicant's team is now addressing.
7. In addition to the delay from the NEPA process, the Applicant has been working with DDOT to establish a unique permit process that will allow the Applicant to construct such a complex project. Unlike a traditional development project, in which an applicant submits a building permit to commence construction, this project will require extensive utility relocation as a precursor to the foundation to grade construction work. Specifically, a major water main within Massachusetts Avenue will need to be relocated and reconstructed to allow for the southbound portal to be constructed. In addition, there are more than 18 conduits for copper and fiber optic cables which must be relocated to allow for the construction of the portal.
8. The Applicant served a copy of the request on all parties, including Advisory Neighborhood Commission ("ANC") 2C and ANC 6C on March 21, 2013.
9. On May 6, 2013, the Office of Planning submitted a report in support of the request. (Exhibit ["Ex."] 6.)
10. By letter dated April 16, 2013, ANC 2C indicated that at a regularly scheduled meeting of the ANC with a quorum present, the ANC voted unanimously to support the extension request. (Ex. 5.)



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11. By letter dated May 11, 2013, ANC 6C indicated that at a regularly scheduled meeting of the ANC with a quorum present, the ANC voted unanimously to support the extension request. (Ex. 8.)
12. At its public meeting on May 13, 2013, the Commission considered the application. The Commission requested that the Applicant further clarify its request for the extension. By letter dated May 16, 2013, the Applicant provided clarification to the Commission's request. (Ex. 7.)
13. At its public meeting on May 20, 2013, the Commission considered the application. The Commission requested that the Applicant provide further clarification to the timeframe for the request and provide a specific timeframe for the building permit application for the platform and base infrastructure as well as for the utility relocation. The Applicant provided that information to the Commission at the public meeting and submitted it in writing by letter dated May 24, 2013. (Ex. 10.)
14. The Commission finds that the Applicant cannot move forward at this time with a building permit for the Consolidated PUD, despite the Applicant's diligent, good faith efforts, because of conditions and factors beyond the applicant's reasonable control which render the applicant unable to comply with the time limits of the PUD order. Therefore, this request for extension satisfies the sole criterion for good cause shown as set forth in § 2408.11(c) of the Zoning Regulations and the Commission finds that the request should be granted.

### CONCLUSIONS OF LAW

1. The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond; (b) there is no substantial change in any material fact upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates with substantial evidence that there is good cause for such extension as provided in § 2408.11. (11 DCMR § 2408.10.) Subsection 2408.11 provides the following criteria for good cause shown: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the PUD order.

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2. The Commission concludes that the application complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the application and allowing them 30 days to respond.
3. The Commission concludes there has been no substantial change in any material fact that would undermine the Commission's justification for approving the original PUD.
4. The Commission is required under D.C. Code § 1-309.10(d) (2001) to give great weight to the affected ANC's recommendations. Both ANC 2C and ANC 6C supported the request, and the Commission has provided the great weight to which the ANCs are entitled.
5. The Commission finds that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DMCR § 2408.11(c). Specifically, the Applicant is unable to comply with the time limits for the Consolidated PUD set forth in Order No. 08-34 due to a delay in the NEPA process and due to the modifications that resulted from the NEPA process, despite the Applicant's diligent good faith efforts.
6. Subsection 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in § 2408.11.
7. The Commission concludes a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in § 2408.11 of the Zoning Regulations.
8. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the request for an extension of the Consolidated PUD in Z.C. Case No. 08-34 and orders that Condition No. 27 is replaced in its entirety with the following:

The Consolidated PUD approved by the Commission shall be valid until December 31, 2014. By that date, an application must be filed for a public space permit for the utility relocation. Within nine months of the issuance of the utility relocation permit, the Applicant shall commence construction of the utility relocation work. Within 30 months

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of the issuance of the utility relocation permit, the Applicant shall apply for a building permit for the construction of the platform and base infrastructure. Construction of the platform and base infrastructure shall begin within one year of the issuance of that building permit. Within two years of the completion of the construction of the platform and base infrastructure, the Applicant shall apply for a building permit for the construction of the North Block. The Applicant shall commence construction of the North Block within four years of the completion of the construction of the platform and base infrastructure.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On May 20, 2013, upon the motion made by Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order by a vote of **5-0-0** at its public meeting (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Peter G. May to adopt; Michael G. Turnbull to adopt by absentee ballot).

In accordance with the provisions of 11 DCMR §3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on July 5, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 12-18**  
**Z.C. Case No. 12-18**  
**USL WDC H Street, LLC and H Street Self Storage, LLC**  
**(Consolidated Planned Unit Development @ Square 858)**  
**June 10, 2013**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on April 18, 2013, to consider an application from USL WDC H Street, LLC and H Street Self Storage, LLC (collectively, "Applicant") for the consolidated review and approval of a planned unit development ("PUD") and a related Zoning Map Amendment for Square 858, Lots 860-862, 864, and parts of a public alley system to be closed. The Commission considered the Application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. On September 11, 2012, the Applicant filed an application with the Commission for the consolidated review and approval of a PUD and a related Zoning Map Amendment (collectively, "Application") for the subject property which is located in Square 858, including Lots 860, 861, 862, 864, and portions of a public alley system to be closed (the "Site").
2. The Applicant proposes to build a mixed-use development containing residential and retail uses. The project will have a total gross floor area of approximately 490,000 square feet and a maximum height of 90 feet, with setbacks and step downs as shown in the plans.
3. The Site is currently split-zoned C-2-B and R-4 with the C-2-B portion being located within the H Street Overlay District. The Application requests a rezoning of portions of the Site, including a request to rezone the northern R-4 portion of the Site fronting I Street to R-5-B and two smaller areas of R-4-zoned land fronting on 6<sup>th</sup> and 7<sup>th</sup> Streets to HS/C-2-B.
4. At its public meeting held on November 19, 2012, the Commission voted to schedule a public hearing on the Application.
5. On December 28, 2012, the Applicant submitted a Prehearing Statement with architectural plans. (Exhibits ["Ex."] 16, 17.) The Prehearing Submission responded to questions raised by the Commission at the set down meeting, including additional details regarding the roof plan and regarding the public benefits and project amenities.

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6. On March 29, 2013, the Applicant submitted a Supplemental Prehearing Statement with architectural plans. (Ex. 27.) The Supplemental Prehearing Submission introduced the Grocery Alternate to allow flexibility and stated changes to the plans to incorporate a grocery store use on the ground floor of the project.
7. After proper notice, the Commission held a public hearing on the Application on April 18, 2013.
8. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6C.
9. Five principal witnesses testified on behalf of the Applicant at the public hearing, including Trent Smith, on behalf of Insight Property Group LLC, representing the Applicant; Sami Kirkdil, an expert in architecture and design, and Federico Soifer, on behalf of SK&I Architecture, the architects for the project; Steve Fotiu, an expert in retail architecture and design, on behalf of The Eisen Group; and Erwin N. Andres, an expert in transportation planning and analysis, on behalf of Gorove/Slade Associates, Inc. Based upon their professional experience, as evidenced by the resumes submitted for the record, Mr. Kirkdil, Mr. Fotiu, and Mr. Andres were qualified by the Commission as experts in their respective fields.
10. The Office of Planning ("OP") testified in support of the project at the public hearing. The District Department of Transportation ("DDOT") testified in support of the project at the public hearing with conditions.
11. At the hearing, the Applicant submitted updated plan sheets including corrected information for the Grocery Alternate, an updated summary of the Applicant's Compliance with H Street Strategic Plan Design Guidelines, the Applicant's Summary of Flexibility for Approved PUD, the Applicant's Summary of Requested Zoning Flexibility, and a response to DDOT's comments. (Ex. 37-42.) The Applicant provided a PowerPoint presentation at the hearing. (Ex. 43.)
12. ANC 6C, the ANC within which the Site is located, submitted two letters in support of the Application. (Ex. 25, 33.)
13. ANC 6A, whose boundary abuts the Site, also submitted two letters in support of the Application. (Ex. 23, 32).
14. Councilmember Tommy Wells (Ward Six) also submitted a letter dated April 16, 2013, in support of the project. (Ex. 35.) Councilmember Wells indicated the project is an attractive building and its massing relates well to its diverse frontages, including its important presence on the H Street corridor. Councilmember Wells noted that both the

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original submission and the grocery alternate would provide significant benefit to the community and the District.

15. No individuals or organizations testified in support or in opposition to the project.
16. Robert and Mary Bradley (the "Bradleys") who own property at 819 6<sup>th</sup> Street, N.E., which is located immediately to the north on the west side of the Site, submitted letters in the record stating concerns relating to the impacts on their property from the project as proposed in the original submission. (Ex. 34.) While the Bradleys support the grocery alternate, the Bradleys proposed various elements that would mitigate perceived impacts under the original submission. OP summarized these various elements in its report as well. In its Post-Hearing Submission, the Applicant indicated that it offered an agreement to the Bradleys to provide for the requested mitigation. (Ex. 52.)
17. At the conclusion of the public hearing, the Commission took proposed action to approve the Application. At the close of the hearing, the Commission requested that OP submit a supplemental report providing background information on the issue of how private alleys and private street areas are considered in the calculation of floor are ratio ("FAR.") The OP report and the Commission's finding on the issue are discussed below.
18. On April 22, 2013, the Commission issued a procedural order requiring the Applicant to submit a list of the public benefits being proffered for the PUD and, for each proffered public benefit, provide a draft condition that is both specific and enforceable to include in the Commission final order, and process for government agencies and ANC 6C to comment on the proposed conditions. As directed by the procedural order, the Applicant provided responsive documents on April 29, 2012 and May 13, 2012. (Ex. 49, 50).
19. On May 16, 2013, the Applicant submitted a Post-Hearing Submission. (Ex. 52). The Post-Hearing Submission included plans for the original submission and grocery alternate addressing the issues raised by the Commission and provided additional information regarding amenities.
20. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on April 22, 2013, under the terms of the District of Columbia Home Rule Act. (Ex. 46.) NCPC did not provide a response.
21. The Commission took final action to approve the Application on June 10, 2013.

### **The Site and the Area**

22. The Site is situated in Ward 6 and consists of Lots 860, 861, 862, 864, and portions of a public alley system to be closed in Square 858. Square 858 is bounded by 6<sup>th</sup> Street, N.E.,

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to the west, I Street, N.E., to the north, 7<sup>th</sup> Street, N.E., to the east, and H Street, N.E., to the south. The Site contains approximately 101,111 square feet of land area.

23. The existing condition of the Site includes a former suburban-style shopping center with parking directly off the street at the corner 6<sup>th</sup> and H Streets, a self-storage building at the east end of the lot facing H Street, and unimproved lots and parking areas facing I and 7<sup>th</sup> Streets.

### **Existing and Proposed Zoning**

24. The Site is currently split-zoned C-2-B and R-4 with the C-2-B portion being located within the H Street Overlay District.
25. The C-2-B Zone District is designated to serve commercial and residential functions similar to the C-2-A Zone District, but with higher density residential and mixed uses. (11 DCMR § 720.6.) Residential and retail uses are permitted as a matter of right. The C-2-B Zone District permits a maximum height of 65 feet, with no limit on the number of stories, and a maximum density of 3.5 FAR. (11 DCMR § 770.1, 770.2.) With Inclusionary Zoning, the permitted density is 4.2 FAR. Under the PUD guidelines for the C-2-B Zone District, the maximum height is 90 feet and the maximum density is 6.0 FAR. (11 DCMR § 2405.1, 2405.2.) Parking is required in the C-2-B Zone District at a rate of one space for every three dwelling units and one space for each additional 750 square feet of gross floor area in excess of 3,000 square feet for retail use. (11 DCMR § 2101.1.)
26. The R-4 Zone District is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families. (11 DCMR § 330.1.) The R-4 Zone District permits a maximum height of 40 feet and a maximum of three stories. (11 DCMR § 400.1.) There is no maximum FAR, with bulk controlled by height, number of stories, and lot occupancy. (11 DCMR §§ 401, 402, and 403.) Under the PUD guidelines for the R-4 Zone District, the maximum height is increased to 60 feet, and the maximum density is 1.0 FAR, to be devoted entirely to residential use. (11 DCMR § 2405.1, 2405.2.)
27. The Application requests a rezoning of portions of the Site, including a request to rezone the northern R-4 portion of the Site fronting I Street to R-5-B and two smaller areas of R-4 zoned land fronting on 6<sup>th</sup> and 7<sup>th</sup> Streets to HS/C-2-B.
28. The R-5 Zone Districts are General Residence Districts designed to permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts. (11 DCMR § 350.1.) The R-5-B Zone District is intended to permit moderate height and density. (11 DCMR

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§ 350.2.) The R-5-B Zone District permits a maximum height of 50 feet, with no limit on the number of stories, and a maximum density of 1.8 FAR. (11 DCMR § 770.1, 770.2.) Under the PUD guidelines for the R-5-B Zone District, the maximum height is 60 feet and the maximum density is 3.0 FAR. (11 DCMR § 2405.1, 2405.2.) Parking is required in the R-5-B Zone District at a rate of one space for every two dwelling units. (11 DCMR § 2101.1.)

29. Under the grocery alternate, a portion of the R-4 Zone District in Lot 860 will be rezoned to HS/C-2-B. The rezoning line moves 29 feet to the north, incorporating 4,711 square feet of land area. This rezoning is required to allow the grocery use to extend into that portion of the ground floor floorplate.

### Original Submission

30. The original submission proposes a mixed-use development having a combined gross floor area of approximately 490,134 square feet, with approximately 404,508 square feet being devoted to residential use (approximately 450 units), approximately 73,553 square feet devoted to retail use, and 12,073 square feet devoted to loading for the project (“Original Submission”).
31. The maximum height of the Original Submission is 90 feet, with steps down in height on I and 7<sup>th</sup> Streets to 40 feet.
32. The Original Submission is envisioned as three components. The central component incorporates a large setback to create an urban, open courtyard, highlighted by a glass and metal vertical tower element. The physical and visual recess breaks down the massing of the building. In addition, the entire building is set back five feet along H Street to create a wider sidewalk and improved public space.
33. The Original Submission will include approximately 442 parking spaces in a below-grade parking garage. The Applicant will maintain a minimum of at least one parking space for every two dwelling units to serve the residents of the project and at least meet the minimum requirements for the gross floor area devoted to retail or service use to serve the employees, customers, and guests of the retail or service uses. The Applicant shall have flexibility to allocate any parking provided over those minimum numbers to any of the uses in the project.
34. The below-grade parking garage will be accessed from two separate entrances: one from 6<sup>th</sup> Street, immediately before the entrance to the newly established public alley, and one from the alley access from 7<sup>th</sup> Street.



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35. The Original Submission incorporates four loading berths at 30 feet each. Loading access to two of the 30-foot berths will be taken from the alley to be established from 6<sup>th</sup> Street. Loading access to the remaining berths will be taken from the existing alley off 7<sup>th</sup> Street.
36. The roof includes outdoor and indoor community amenity space, mechanical equipment, and green roofs. The indoor community amenity space represents approximately 17% of the total rooftop community amenity space.

### **Grocery Alternate**

37. In its Post-Hearing Submission, the Applicant indicated that it has been working with a grocery store to lease approximately 42,108 square feet. As such, the Applicant requested that the Commission consider and approve an alternate for the consolidated PUD in the event that the grocery store is incorporated into the project (“Grocery Alternate”).
38. The Grocery Alternate continues to be a mixed-use development having a gross floor area of approximately 490,134 square feet. The retail square footage would increase to 96,548 square feet. The amount of residential square footage is reduced to approximately 388,000 square feet, with approximately 432 units. The loading area comprises approximately 5,517 square feet.
39. With the Grocery Alternate, the below-grade parking facility will include approximately 438 parking spaces. The Applicant will maintain the ratio of one space for every two dwelling units. The grocery store will be allocated 163 parking spaces and 46 parking spaces will be allocated to the balance of the retail. The Applicant shall have flexibility to allocate the 13 unassigned parking spaces.
40. The below-grade parking garage is accessed from the two entrances proposed in the Original Submission, including one entrance from 6<sup>th</sup> Street and one entrance from the alley access from 7<sup>th</sup> Street.
41. In the Grocery Alternate, the project incorporates three 55-foot loading berths, two 30-foot loading berths and two 20-foot service/delivery spaces. Access to the loading facilities is taken exclusively from the alley from 7<sup>th</sup> Street. All turning movements will take place within the alley system and private property. The trucks will not enter or leave the alley system through I Street as all ingress and egress will be via 7<sup>th</sup> Street.
42. The roof continues to include outdoor and indoor community amenity space, mechanical equipment, and green roofs. The roof structure slightly increases to accommodate for a shifted residential entry and elevator core along with additional mechanical equipment

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required for the grocery use. The indoor community amenity space represents approximately 20% of the total rooftop community amenity space.

### **Development Incentives and Flexibility**

43. The Applicant requested the following areas of flexibility from the Zoning Regulations:
- a. *Loading*: For the Original Submission, § 2201.1 of the Zoning Regulations requires that the project include the following loading: for residential use, one 55-foot loading berth and one 20-foot service/delivery space and for retail use, one 55-foot loading berth, one 30-foot loading berth, and one 20-foot service/delivery space. The Original Submission proposes four 30-foot loading berths, with two accessed from the alley to be established from 6<sup>th</sup> Street and two accessed from the existing alley off 7<sup>th</sup> Street. The provided berths are sufficient to accommodate the anticipated demand. Therefore, the Commission finds that the flexibility to not provide the 55-foot loading berths or the required service/delivery spaces is appropriate. For the Grocery Alternate, § 2201.1 of the Zoning Regulations requires that the project include the following loading: for residential use, one 55-foot loading berth and one 20-foot service/delivery space; for retail use, one 55-foot loading berth, one 30-foot loading berth, and one 20-foot service/delivery space; and for grocery use, one 55-foot loading berth, one 30-foot loading berth, and one 20-foot service/delivery space. The Applicant provides the required loading berths; however, the Applicant requests flexibility to eliminate one service/delivery loading space. Based on the anticipated loading demand and operation of the project with the grocery store use, the loading provided will be sufficient to accommodate the anticipated demand. Accordingly, the Commission finds that the flexibility requested is appropriate in this case;
  - b. *Lot Occupancy*. While § 1324.4 of the Zoning Regulations limits lot occupancy to 70%, § 2604.2 (Inclusionary Zoning) permits 80% lot occupancy for projects within the C-2-B Zone District. Under the Original Submission, the lot occupancy of the project is 79.65%. Under the Grocery Alternate, the footprint of the commercial space on the ground floor increases to 84.24%. Above the commercial levels, the project would not exceed the 80% maximum occupancy. The Commission finds that this deviation is acceptable in order to permit the grocery use at the Site;
  - c. *Courts*. Section 776 of the Zoning Regulations provides for minimum dimensions and areas for open courts and closed courts. Both the Original Submission and the Grocery Alternate incorporate a variety of setbacks and step downs, including on the east façade at the 7<sup>th</sup> Floor and along the alley easement along the west boundary of the project. The Commission finds that the setbacks result in a

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project that responds well to its diverse frontages and, as such, finds that the deviation from the minimum court requirements to permit these setbacks is appropriate in this case;

- d. *Roof Structures:* The Applicant requests flexibility from the roof structure requirements of the Zoning Regulations because there will be multiple roof structures (§§ 411.3 and 770.6(a)), the roof structures are not set back a distance equal to their heights above the roof (§§ 411.2 and 770.6(b)), and the roof structures have multiple heights in order to create as low of roof structures as possible. These three conditions exist for both the Original Submission and the Grocery Alternate. The location and height of the roof structures are driven by the requirements for mechanical equipment, the separate means of egress needed for the use of the roof, and to break up the massing of the roof structures. The roof structure on the central component and the roof structure furthest to the east do not fully meet the setback requirement in both the Original Submission and the Grocery Alternate and a portion of the northern portion of the roof structure in the Original Submission does not meet the setback from the court wall. However, the requested roof structure design will not adversely impact the light and air of adjacent buildings since each element has been located to minimize its visibility and harmonize with the building's design. The Commission finds that the requested roof structure design will not adversely impact the light and air of adjacent buildings since each element has been located to minimize its visibility. Therefore, the intent and purposes of the Zoning Regulations will not be materially impaired and the light and air of adjacent buildings will not be adversely affected;
- e. *Flexibility from Streetwall Requirements.* Subsection 1324.2 of the Zoning Regulations provides that buildings in the HS Overlay District must be designed and built such that not less than 75% of the streetwall(s) to a height of not less than 25 feet must be constructed to the property line abutting the street right-of way, and that buildings on corner lots must be constructed to both property lines abutting public streets. In an effort to create a wider, more pedestrian-friendly sidewalk, the Applicant has set the entire building back from the H Street property line a distance of five feet. The Commission finds that the intent of this provision is to provide an urban streetwall. When viewed at the point of a five-foot setback, the building creates a distinct streetwall, with breaks only at the corners and for the courtyard feature in the central component of the project. The Commission finds that the proposed set back along H Street will widen a narrow sidewalk in order to provide for a very active pedestrian-friendly thoroughfare. Therefore, the Commission finds that flexibility from the streetwall requirement of § 1324.2 of the Zoning Regulations is appropriate in this case;

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- f. *H Street Overlay Non-Residential FAR Limitation.* Subsection 1321.1 of the Zoning Regulations provides that density for new construction in the HS-H sub-district may not exceed 0.5 FAR for non-residential uses, with limited exceptions. For the Original Submission, the project slightly exceeds this maximum with the provision of 0.7 FAR dedicated to retail uses. For the Grocery Alternate, the project also exceeds this maximum with the provision of 1.0 FAR dedicated to retail and grocery store uses. The Commission finds that the location of the retail uses on this large site is appropriate. The amount of retail use proposed will benefit the H Street corridor and the neighborhood, and the project complies with the spirit and intent of the H Street Overlay. Therefore, the Commission finds that the flexibility from non-residential density limitation is appropriate in this case;
- g. *H Street Overlay Door Requirement.* Subsection 1324.11 of the Zoning Regulations requires that buildings shall be designed so as not to preclude an entrance every 40 feet on average for the linear frontage of the building. The Original Submission complies with this provision. However, for the Grocery Alternate, the grocery store is not capable of having an entrance every 40 feet on average given the design and layout of grocery store use. The Applicant anticipates providing eight of the required 12 entrances. Given the unique design considerations for a grocery store use, the Commission finds that flexibility from this provision is appropriate in this case; and
- h. *Phasing of Building.* The Applicant is seeking flexibility to construct the proposed building in either one or two phases, for either the Original Submission or the Grocery Alternate. For the Original Submission, if the project is phased, the first phase will include the western portion of the building, and the second phase will include the eastern portion of the building, as shown in the Applicant's presentation. (Ex. 43.) For the Grocery Alternate, if the project is phased, the first phase will include the majority of the building, and the second phase will include the 7<sup>th</sup> Street portion of the building, as shown in the Applicant's presentation. (Ex. 43.)
44. No other zoning flexibility was requested by the Applicant, and no additional zoning flexibility is granted through this Order.

#### **Public Benefits and Amenities**

45. The Commission finds that the following benefits and amenities will be created as a result of the PUD:

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- a. *Urban Design, Architecture, Landscaping and Open Space (§ 2403.9(a)).* The project has been designed with a fresh and engaging architectural design that complements the form and materials of the existing context and will benefit both the H Street corridor and the surrounding residential neighborhoods. The project creates a pedestrian-friendly urban retail streetscape with the retail architecture and proposed streetscape. The building façade is set back from the property line at least five feet for the entire length of the H Street to increase the width of the sidewalk. This additional width will significantly enhance the pedestrian experience by reducing congestion and allowing for more open and green space. In addition, the Application includes substantial improvements to streetscape and adjacent alleys;
- b. *Site Planning and Efficient Economical Land Utilization (§ 2403.9(b)).* The project has been designed to have the bulk of activity on H Street and incorporates step downs of building height and setbacks to minimize impacts on the neighborhood. In addition, the replacement of the existing commercial improvements on the Site with a residential and retail focused project is a significant benefit. Moreover, the project will help to implement the design guidelines of the *H Street NE Strategic Development Plan* and bring more activity to H Street;
- c. *Housing (§ 2403.9(f)).* The project results in creation of new residential use, which replaces existing non-residential uses. In the Original Submission, there is more than 400,000 square feet of residential use while in the Grocery Alternate there is more than 388,000 square feet of residential use. In addition, the project provides affordable housing in an amount of at least 8% of the gross floor area devoted to residential use. Based on the residential gross floor area proposed in the Original Submission, eight percent equals 32,361 square feet. Based on the residential gross floor area proposed in the Grocery Alternate, eight percent equals 31,046 square feet. The affordable housing amount is viewed as the increased amount of affordable housing as compared to matter of right development. As indicated in the Post-Hearing Submission, the proposed affordable housing is approximately 50% above matter-of-right development. (Ex. 52.) The Applicant also commits that the affordable housing units shall not be overly concentrated on any floor and that there will be no affordable housing units on the top two floors of the building;
- d. *Environmental Benefits (§ 2403.9(h)).* The project will be designed to meet at least the minimum points for LEED Silver under LEED 2009 for New Construction. The project incorporates a variety of sustainable design elements, as summarized in the Prehearing Submission; (Ex. 16A.)

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- e. *Transportation Features.* The project supports biking options with the installation of a public bike pump on I Street, between 6<sup>th</sup> and 7<sup>th</sup> Streets and commits to increase capacity or install a new Capital BikeShare Station, as further described below. In addition, the project will provide a Transportation Management Program (“TMP”), including the following elements:
- i. Identify a Transportation Services Coordinator within the property management group who will be the point of contact and will be responsible for coordinating, implementing, and monitoring the TMP strategies;
  - ii. Establish a program that provides detailed transportation information and promotes walking, cycling, and transit;
  - iii. Encourage bicycling through the provision of on-site bicycle parking spaces in an amount of one space for each two residential units;
  - iv. Provide carpooling information to employees and residents who wish to carpool;
  - v. Provide a transit incentive of a SmarTrip card preloaded with \$25 in a move-in transportation package to the initial occupant of the initial occupancy of each residential unit;
  - vi. Sell or lease parking spaces separately from residential units;
  - vii. Reserve five parking spaces in the below-grade parking facility for use by car sharing services;
  - viii. Provide a car charging station within the parking facility;
  - ix. Restrict residential tenants from applying for an off-site permit under the Residential Parking Permit Program;
  - x. Restrict residential tenants from applying for visitor guest passes available under the Residential Parking Permit Program;
  - xi. Offer a one-year membership to either a bikeshare or carshare service to the initial occupant(s) of the initial occupancy of each residential unit;
  - xii. Offer a one-year membership to either a bikeshare or carshare service to the initial employees of the initial occupancy of each retail space;

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- xiii. Prohibit subleasing of commercial parking spaces to adjacent businesses or residents;
  - xiv. Provide increased capacity at the existing Capital BikeShare station adjacent to the site or provide for a new Capital BikeShare station within proximity to the project in a location to be approved by DDOT, in an amount not to exceed \$70,000 for Capital BikeShare equipment and maintenance up to one year; and
  - xv. Conduct performance monitoring of its retail/grocery trip generation once the project reaches 90% of commercial occupancy by documenting the inbound PM peak hour (between 4:00 p.m. and 7:00 p.m.) vehicle trips generated by the site. This monitoring shall be conducted on three separate, non-successive days (Tuesday through Thursday) over the course of a four-week period. The Applicant shall submit a copy of the information to DDOT annually (no later than October 31<sup>st</sup> each year). When trips are consistent with the trip generation projections for two successive periods, the Applicant shall be released from the monitoring requirement. In the event that the project exceeds the vehicle trip generation by 10% for two consecutive years after operation, then the Applicant shall meet with DDOT to determine additional transportation demand management measures to incorporate in the project. Any such additional transportation demand measures shall not include construction; and
- f. *Special Value to the Neighborhood* (§ 2403.9(i)). The project provides a variety of amenities that provide special value to the neighborhood. These include the following:
- i. Significant Retail in the Project. The project incorporates significant retail use to activate the H Street corridor and provides additional retail options with the possibility of a grocery use to serve the community. In the Original Submission, the retail/service component is up to approximately 73,000 square feet. In the Grocery Alternate, the retail/service/grocery component is up to approximately 96,000 square feet;
  - ii. Enhanced and Improved Alley System. The Applicant will establish by easement a public alley from 6<sup>th</sup> Street which currently does not exist. All of the alleys within the square will be repaved and improved in accordance with DDOT standards as part of the development of the site, subject to DDOT approval. Portions of the alley improvements as shown on Sheet

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1.214 of the Final PUD Plans will be made consistent with the DDOT's Green Alley Program, if approved by DDOT;

- iii. Parking for Church and Neighborhood Use on Sunday Mornings. The Applicant will provide vouchers for parking without charge on Sunday mornings to the churches in the adjacent block of H Street, N.E., and other residents or business within the immediate vicinity, including the square in which the Site is located as well as all eight squares abutting it (i.e., Squares 831, 832, 833, 857, 858, 859, 888, 889, and 890). Specifically, the Applicant will make available 40 vouchers per week for parking in the project on Sundays between 8:00 a.m. and 12 noon. The vouchers will be distributed on a first come, first serve basis on Monday morning at 8:00 am from the concierge at the project. No more than 10 vouchers will be given to any single user at that time. Any vouchers remaining by Wednesday at 5:00 p.m. will be available on a first come, first served basis to any user, including those users who already obtained vouchers for the week;
- iv. Streetscape Improvements to Blair House. The Applicant will expend up to \$75,000 to remove the paved area in the public space immediately fronting the Blair House at 635 I Street, N.E., and replace it with landscaping and plantings, including the following improvements: (a) removal of existing concrete sidewalk from curb to property line on I Street; (b) installation of DDOT standard improvements such as street trees, sidewalk, and curb where necessary; (c) installation of a bike rack along I Street curb; and (d) installation of landscaping, including small flowering trees, shrubs, tall grass plantings and seating area between the sidewalk and property line. All improvements within public space are subject to approval by DDOT;
- v. Landscape Improvements to National Park Service Park at 5<sup>th</sup> and I Streets, N.E. The Applicant will expend up to \$50,000 to improve the National Park Service property located at the northeast corner of 5<sup>th</sup> and I Streets, N.E., including the following work: (a) removal of existing sod and landscaping; (b) installation of turf area at center of property; (c) creation of pervious gravel path around property; (d) installation of low maintenance plantings around edge of property; (e) installation of National Park Service standard benches; and (f) installation of DC standard trash can and bike racks at street. All improvements within the National Park Service property are subject to approval from the National Park Service. All improvements within public space are subject to approval by DDOT.



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The Applicant shall maintain the improvements for a period of three years from completion of the improvements;

- vi. H Street Main Street Clean & Safe Program. The Applicant will register to participate in the H Street Main Street Clean & Safe Program, which seeks to ensure that streets are clean and safe to create desirable neighborhood for businesses and residents alike. The program began in 2007 and provides regular street cleaning services to H Street, N.E. from the 300 to the 1500 block; and
  - vii. Construction Management Plan. The Applicant shall abide by a construction management plan including those elements identified in the Construction Management Plan. (Ex.16B.)
46. The Commission finds that the relative value of the project amenities and public benefits offered is sufficient given the degree of development incentives requested and any potential adverse effects.

#### **Compliance with PUD Standards**

47. The Application complies with the standards for a PUD set forth in Chapter 24 of the Zoning Regulations
48. The Commission finds that the project offers a high level of public benefits and project amenities. When compared with the amount of development flexibility requested and project impacts, the Application satisfies the balancing test required in § 2403.8 of the Zoning Regulations.
49. The Site is approximately 101,111 square feet in land area, which exceeds the minimum area requirement of 15,000 square feet for a PUD in the C-2-B Zone District, in accordance with § 2401.1(c) of the Zoning Regulations.
50. The project has been evaluated under the PUD guidelines for the C-2-B and R-5-B districts. The density of the project is within the density permitted for a PUD within the C-2-B Zone District, and the maximum height is within that permitted for a PUD in the C-2-B Zone District.
51. The project has been evaluated by the relevant District agencies.
52. The Commission finds that the adjacency of the Bradleys' property to the expanded alley system and to the proposed development under the Original Submission creates no adverse impact because the expanded alley system improves access to the Bradleys'

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property and because the setback between the Bradleys' property and the Original Submission development results in an appropriate buffer. The Commission, however, encouraged the Applicant to work with the Bradleys which is consistent with the Applicant's statements in the Applicant's Post-Hearing Submission.

**Compliance with Guiding Principles of the Comprehensive Plan Amendment Act of 2006  
(D.C. Law 16-300, effective March 8, 2007)**

53. The District of Columbia Comprehensive Plan Future Land Use Map designates the H Street side of the Site for mixed-use medium-density commercial/medium-density residential land uses and the I Street side of the Site for moderate-density residential land uses. The existing and proposed C-2-B Zone District and the proposed R-5-B Zone District are appropriate zone classifications for the designations respectively. The Comprehensive Plan Generalized Policy Map identifies the H Street side of the Site within the Main Street Mixed-Use Corridor and the I Street side within a Neighborhood Conservation Area. Such designations are consistent with the project as proposed.
54. The Commission finds that the Applicant's proposal to construct a mixed-used development that includes residential and retail uses on the Site is consistent with the Future Land Use Map's designations of the Site and with the Generalized Policy Map's designations of the Site.
55. The Commission finds that the proposed PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as follows:
  - a. *Managing Growth and Change.* The guiding principles of this element are focused on ensuring that the benefits and opportunities of living in the District are equally available to everyone in the city. The project is fully consistent with a number of the goals set forth in this element. The Applicant's proposal to develop a significant amount of residential and retail use is also consistent with the Comprehensive Plan's acknowledgement that the growth of both residential and non-residential uses is critical, particularly since non-residential growth benefits residents by creating jobs and opportunities for less affluent households to increase their income. (§ 217.4.) In addition, the project will help connect the Site to the rest of the neighborhood and the overall urban fabric by developing a vibrant mixed-use development on H Street, N.E; (§ 217.5 and 217.6.)
  - b. *Creating Successful Neighborhoods.* The guiding principles for creating successful neighborhoods include both improving the residential character of neighborhoods and encouraging commercial uses that contribute to the

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neighborhood's character and make communities more livable. (§ 218.1 and 218.2.) In addition, the production of new affordable housing is essential to the success of neighborhoods. (§ 218.3.) Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the plan's elements. (§ 218.8.) The project furthers each of these guiding principles with the construction of market-rate and affordable housing, as well as retail uses that result in additional housing, retail, and employment opportunities. In addition, as part of the PUD process, the Applicant has worked closely with both the ANC within which the project is located and the adjacent ANC to ensure that the project provides a positive impact to the immediate neighborhood;

- c. *Increasing Access to Education and Employment.* The Increasing Access to Education and Employment element includes a number of policy goals focused on increasing economic activity in the District, including increasing access to jobs by District residents (§ 219.1); encouraging a broad spectrum of private and public growth (§ 219.2); supporting land development policies that create job opportunities for District residents with varied job skills (§ 219.6); and increasing the amount of shopping and services for many District neighborhoods. (§ 219.9.) The project is fully consistent with these goals since the proposed retail area will help to attract new jobs to the District as well as to this specific neighborhood;
- d. *Connecting the City.* The project will help to implement a number of the guiding principles of this element. The project includes streetscape improvements to provide improved mobility and circulation as well as the overall neighborhood. (§ 220.2.) These improvements include setting the building back five feet along H Street to increase the effective width of the public space. In addition, the access points for the required parking and loading facilities have been designed to appropriately balance the needs of pedestrians, bicyclists, transit users, autos and delivery trucks as well as the needs of residents and others to move around and through the city. *Id.* Moreover, the proposed redevelopment and streetscape improvements along H Street will also help to reinforce and improve one of the "great streets" of the city; and (§ 220.3.)
- e. *Building Green and Healthy Communities.* The project is fully consistent with the guiding principles of the building green and healthy communities element since the project's proposed landscaping plan will help to increase the District's tree cover, and the proposed development will minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (§ 221.2 and 221.3.) In addition, the project includes many sustainable design elements and seeks to achieve LEED Silver certification. The project will also help to facilitate pedestrian and bicycle travel. The

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redevelopment of the Site will be of significant benefit from an urban design and environmental standpoint.

56. The Commission also finds that the proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the Applicant's Summary of Compliance with the Comprehensive Plan and the report of OP. (Ex. 4F, 28.)

### Office of Planning Reports

57. By report dated November 9, 2012, OP stated that it supports the Application and that the proposed PUD is not inconsistent with the Comprehensive Plan. (Ex. 14.) Therefore, OP recommended that the Commission schedule a public hearing on the Application.
58. By report dated April 8, 2013, OP recommended final approval of the Application. (Ex. 28.) OP stated that redevelopment of the Site would provide new housing and much needed neighborhood serving retail uses on the quickly evolving H Street corridor. OP found that both the Original Submission and the Grocery Alternate are not inconsistent with the 2006 Comprehensive Plan Future Land Use and Generalized Policy maps, and further many important policies for the Capitol Hill Area. OP also found that the Applicant's requests for zoning flexibility should be granted as proposed.
59. By report dated May 14, 2013, OP provided background information and explanation regarding the calculation of FAR for sites containing private alleys and/or streets. (Ex. 55.) The report stated that in previous cases, the Commission has excluded private street areas from the lot area when calculating the density, but included private alley areas from the lot area when calculating density. The report stated that the Applicant's proposed vehicular access area at issue in this case is more akin to a private alley. The report further stated that if the Commission treated the access area as a private alley and followed its past precedent and included the space in the lot area for purposes of calculating density, the density would be 4.84 FAR. If the Commission excluded the area from the lot area, the density would be 5.1 FAR, which would still be within the maximum density permitted.
60. The Commission finds that the vehicular access area is akin to a private alley and should therefore be included in the lot area for purposes of calculating the FAR and the lot occupancy. The Commission notes this finding is consistent with a past ruling of the Board of Zoning Adjustment in *Application No. 17810-A of Michael Reitz*, November 24, 2010.

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### **DDOT Report**

61. DDOT submitted a memorandum dated April 10, 2013, indicating that DDOT supported the overall development concept, subject to four conditions. (Ex. 29.)
62. In the Applicant's response to DDOT's Conditions , the Applicant indicated that it could agree to the significant majority of the conditions. (Ex. 37.) In the Applicant's Post-Hearing Submission, the Applicant provided further details regarding its agreement to the conditions. (Ex. 52.)
63. In its response to DDOT's Conditions, the Applicant noted that it could not agree to two requested conditions. First, the Applicant noted that it could not agree to eliminate the parking entrance to the building on 6<sup>th</sup> Street, thereby reducing the number of curb cuts from two to one on 6<sup>th</sup> Street. The Applicant asserted that two curb cuts are necessary for the successful operation of the project and as the preferred alternative from the community. Second, the Applicant cannot agree to limit the parking to on-site uses only because there will be no way to monitor or ensure that such parking is limited given that the garage is a market-rate, pay-to-park garage.
64. At the public hearing, DDOT testified in support of the project but continued to indicate concern with two curb cuts on 6<sup>th</sup> Street. Accordingly, the Applicant requests that the Commission approve the Application with the option for the Applicant to provide the driveway for parking access directly from 6<sup>th</sup> Street or to provide the driveway for parking access from the alley easement, subject to final approval through the public space permitting process.
65. The Commission finds that the flexibility relating to the location of the driveway is appropriate so that the Applicant and DDOT can continue to work on the appropriate location. In addition, the Commission finds that the on-site parking should not be limited because the garage is a market-rate, pay-to-park garage.

### **Advisory Neighborhood Commissions**

66. ANC 6C, the ANC within which the Site is located, submitted a letter dated January 16, 2013 , indicating that at a duly noticed public meeting on January 9, 2013, at which notice was properly given and a quorum was present, ANC 6C voted unanimously to support the Application and proposed development. (Ex. 25.) ANC 6C noted the desirability of two curb cuts on 6<sup>th</sup> Street, support for the setback relief to provide the strong visual break along H Street and the favorable urban design and positive community impact of the project.

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67. ANC 6C submitted a second letter dated April 17, 2013, indicating that at a duly noticed public meeting on April 10, 2013, at which notice was properly given and a quorum was present, ANC 6C voted unanimously to support the Grocery Alternate as part of the Application. (Ex. 33.) ANC 6C noted that the project should include at least 50% of the ground level street wall on H Street to consist of display windows with unobstructed view, to which the Applicant agreed, and that DDOT perform an in-depth review of traffic related on 7<sup>th</sup> Street.
68. ANC 6A, whose boundary abuts the Site, submitted a letter dated February 20, 2013, indicating that at a duly noticed public meeting on February 14, 2013, at which notice was properly given and a quorum was present, ANC 6A voted 7-0-1 to support the Application and proposed development. (Ex. 23.) ANC 6A noted that the Applicant had worked closely with ANC 6A and that the result was a high quality building that will accelerate the H Street's development as a vibrant retail corridor. ANC 6A requested the Applicant to provide a summary of the Application's compliance with the H Street design guidelines and to support a future H Street NE historic district, if one is proposed. As part of the Applicant's Supplemental Prehearing Submission, the Applicant submitted a summary of compliance with the H Street design guidelines, which was supplemented by a submission at the public hearing. (Ex. 27D, 38.) In addition, in its Supplemental Prehearing Submission, the Applicant committed to support a future H Street NE historic district if one is proposed.
69. ANC 6A also submitted a letter dated April 14, 2013, indicating that at a duly noticed public meeting on April 11, 2013, at which notice was properly given and a quorum was present, ANC 6A voted unanimously to support the request to include a project alternative that would allow the potential inclusion of a large, specialty grocer. (Ex. 32.)
70. The Commission afforded the views of ANC 6C and ANC 6A the "great weight" to which they are entitled.

### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the

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- matter-of-right standards identified for height, density, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in the Application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
  4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
  5. The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the Zoning Regulations. The uses for this project are appropriate for the Site. The impact of the project on the surrounding area under both the Original Submission and the Grocery Alternate are not unacceptable. Accordingly, the project should be approved.
  6. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
  7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
  8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
  9. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's recommendation. In this case, ANC 6A and 6C voted unanimously to support the project and recommended that the Commission approve the Application. (*See* Ex. 23, 25, 32, 33.) The Commission has given ANC 6A's and ANC 6C's recommendations great weight in approving this Application.
  10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give weight to the OP Reports. OP recommended approval of the Application in its

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reports. The Commission has given OP's recommendations great weight in approving this Application.

11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission **ORDERS APPROVAL** of the Application for a consolidated PUD and the PUD-related Zoning Map amendment to rezone the Site from HS-H/C-2-B and R-4 to HS-H/C-2-B and R-5-B. This approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on or during a certain time, the timing of the obligation is noted in bold and underlined text. For purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the Site. If there is more than one owner of the Site, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Site, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an owner of the Site.

#### **A. PROJECT DEVELOPMENT**

1. In the event that the Original Submission is selected, the project shall be developed in accordance with the plans prepared by SK&I Architects, dated May 16, 2013, in the record at Exhibit 54 (the "Final Original Submission PUD Plans"), as modified by the guidelines, conditions, and standards herein. In the event that the Grocery Alternate is selected, the project shall be developed in accordance with the Final Original Submission PUD Plans, as amended by the Grocery Alternate plans prepared by SK&I Architects, dated May 16, 2013, in the record at Exhibit 53 (the "Final Grocery Alternate PUD Plans"), as modified by the guidelines, conditions, and standards herein. The Final Original Submission PUD Plans and the Final Grocery Alternate PUD Plans are collectively referred to herein as the "Final PUD Plans."
2. The project shall have an approximate gross floor area of 490,134 square feet, or 4.85 FAR based on the Site. If the Original Submission is selected, then the project shall include approximately 404,508 square feet of gross floor area devoted to residential uses<sup>1</sup>, approximately 73,553 square feet of gross floor area devoted to retail uses, and approximately 12,073 square feet within the loading

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<sup>1</sup> The Applicant does not contest that the project is subject to the Inclusionary Zoning requirement of Chapter 26 of the Zoning Regulations.



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area. If the Grocery Alternate is selected, then the project shall include approximately 388,069 square feet of gross floor area devoted to residential uses, approximately 42,108 square feet of gross floor area devoted to grocery use, approximately 54,440 square feet of gross floor area devoted to retail uses, and approximately 5,517 square feet within the loading area.

3. In the Original Submission, the lot occupancy of the project shall be approximately 79.65% based on the Site. In the Grocery Alternate, the lot occupancy of the project shall be approximately 84.25% based on the Site.
4. The maximum height of the building shall be 90 feet, with step downs and setbacks as shown on the Final PUD Plans.
5. Except as permitted in Condition No. 7(g), parking spaces shall be provided as follows. In the Original Submission, the project shall include approximately 442 parking spaces in the below-grade parking garage, with access as shown on the Final Original Submission PUD Plans. In the Grocery Alternate, the project shall include approximately 438 parking spaces in the below-grade parking area, with access as shown on the Final Grocery Alternate PUD Plans.
6. In the Original Submission, the project shall include four 30-foot loading berths in the location specified and with access as shown on the Final Original Submission PUD Plans. In the Grocery Alternate, the project shall include three 55-foot loading berths, two 30-foot loading berths, and two 20-foot service/delivery spaces in the location specified and with access as shown on the Final Grocery Alternate PUD Plans.
7. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
  - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction;
  - c. To vary the final number of residential units by a range of five percent of the total approved, within the maximum gross floor area approved;

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- d. To reduce the total amount of retail gross floor area provided on the second floor of the project in the event that the Applicant is unable to lease such space and to convert the space into residential units in addition to the flexibility requested in Item 3;
- e. In the Grocery Alternate, to permit retail, service, professional office or residential use within the portion of the building fronting on 7<sup>th</sup> Street (approximately 14,000 square feet of gross floor area);
- f. To vary the location, attributes and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the DDOT Public Space Division;
- g. To vary the total number of parking spaces, so long as the minimum number of spaces provided meets the requirements of the Zoning Regulations;
- h. To locate retail entrances in accordance with the needs of the retail tenants and vary the façades as necessary within the general design parameters proposed for the project and to locate retail or service uses where "retail" is identified and to locate retail, service, or office uses where "retail/office" is identified. The number of retail entrances may be increased or decreased depending upon the actual layout of retail tenants and the operating requirements of those tenants;
- i. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, roof structures, architectural embellishments and trim, venting, window mullions and spacing, or any other changes to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals;
- j. To modify the alley easement to be established as part of the alley closing application for the Site as finally approved by the D.C. Council; and
- k. To relocate the driveway to the parking access from 6<sup>th</sup> Street to the alley easement, if required through the public space permitting process.

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**B. PUBLIC BENEFITS**

8. **Prior to issuance of a building permit for the project**, the Applicant shall establish an alley easement, as approved and accepted by the D.C. Council, for access within the western half of Square 858.
9. **The Applicant shall submit with its building permit application** a checklist evidencing that the project or the phase of the project for which the permit is submitted has been designed to meet the USGBC LEED Silver standard under LEED 2009 for New Construction.
10. **At the time of public space permitting**, the Applicant shall provide and install appropriate new signal hardware for exclusive turn movements along H Street at 6<sup>th</sup> and 7<sup>th</sup> Streets as deemed necessary by DDOT and shall submit appropriate updated signal timing plans and lane marking plans for the H Street corridor.
11. **During the construction of the project**, the Applicant shall abide by a construction management plan including those elements identified in the Construction Management Plan in the record at Exhibit 16B.
12. **Prior to the issuance of a certificate of occupancy for the project**, the Applicant shall repave all of the public alleys within Square 858 in accordance with DDOT standards in effect as of the date of the PUD approval, subject to DDOT's final approval. Portions of the alley improvements as shown on Sheet 1.214 of the Final PUD Plans will be made consistent with the DDOT's Green Alley Program, if approved by DDOT.
13. **Prior to the issuance of a certificate of occupancy for the project**, the Applicant shall expend up to \$75,000 to remove the paved area in the public space immediately fronting the Blair House at 635 I Street, N.E., and replace it with landscaping and plantings, including the following improvements:
  - a. Removal of existing concrete sidewalk from curb to property line on I Street;
  - b. Installation of DDOT standard improvements such as street trees, sidewalk and curb where necessary;
  - c. Installation of bike rack along I Street curb; and
  - d. Installation of landscaping, including small flowering trees, shrubs, tall grass plantings and seating area between sidewalk and property line.

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All improvements within public space are subject to approval by DDOT.

14. **Prior to the issuance of a certificate of occupancy for the project**, the Applicant shall expend up to \$50,000 to improve the National Park Service property located at the northeast corner of 5<sup>th</sup> and I Streets, N.E., including the following work:
- a. Removal of existing sod and landscaping;
  - b. Installation of turf area at center of property;
  - c. Creation of pervious gravel path around property;
  - d. Installation of low maintenance plantings around edge of property;
  - e. Installation of National Park Service standard benches; and
  - f. Installation of DC standard trash can and bike racks at street.

All improvements within the National Park Service property are subject to approval from the National Park Service. All improvements within public space are subject to approval by DDOT. The Applicant shall maintain the improvements for a period of three years from completion of the improvements.

15. **Prior to the issuance of a certificate of occupancy for the project**, the Applicant shall submit to DCRA proof that the Applicant has registered to participate in the H Street Main Street clean and safe program for H Street, if the clean and safe program is in place at such time.
16. **Prior to the issuance of a certificate of occupancy for the project**, the Applicant shall install a public bike pump on I Street, between 6<sup>th</sup> and 7<sup>th</sup> Street, N.E., to coincide with the separated bike lane planned for I Street, with the location and installation of the bike pump subject to DDOT's review and approval.
17. **During the operation of the building**, the Applicant shall provide a Transportation Management Program ("TMP") including the following elements:
- a. Identify a Transportation Services Coordinator within the property management group who will be the point of contact and will be

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responsible for coordinating, implementing; and monitoring the TMP strategies;

- b. Establish a program that provides detailed transportation information and promotes walking, cycling; and transit;
- c. Encourage bicycling through the provision of on-site bicycle parking spaces in an amount of one space for each two residential units;
- d. Provide carpooling information to employees and residents who wish to carpool;
- e. Provide a transit incentive of a SmarTrip card preloaded with \$25 in a move-in transportation package to the initial occupant of the initial occupancy of each residential unit;
- f. Sell or lease parking spaces separately from residential units;
- g. Reserve five parking spaces in the below-grade parking facility for use by car sharing services;
- h. Provide a car charging station within the parking facility;
- i. Restrict residential tenants from applying for an off-site permit under the Residential Parking Permit Program;
- j. Restrict residential tenants from applying for visitor guest passes available under the Residential Parking Permit Program;
- k. Offer a one-year membership to either a bikeshare or carshare service to the initial occupant(s) of the initial occupancy of each residential unit;
- l. Offer a one-year membership to either a bikeshare or carshare service to the initial employees of the initial occupancy of each retail space;
- m. Prohibit subleasing of commercial parking spaces to adjacent businesses or residents;
- n. Provide increased capacity at the existing Capital BikeShare station adjacent to the site or provide for a new Capital BikeShare station within proximity to the project in a location to be approved by DDOT, in an

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amount not to exceed \$70,000 for Capital BikeShare equipment and maintenance up to one year; and

- o. Conduct performance monitoring of its retail/grocery trip generation once the project reaches 90% of commercial occupancy by documenting the inbound PM peak hour (between 4:00 p.m. and 7:00 p.m.) vehicle trips generated by the site. This monitoring shall be conducted on three separate, non-successive days (Tuesday through Thursday) over the course of a four-week period. The Applicant shall submit a copy of the information to DDOT annually (no later than October 31<sup>st</sup> each year). When trips are consistent with the trip generation projections for two successive periods, the Applicant shall be released from the monitoring requirement. In the event that the project exceeds the vehicle trip generation by 10% for two consecutive years after operation, then the Applicant shall meet with DDOT to determine additional transportation demand management measures to incorporate in the project. Any such additional transportation demand measures shall not include construction.

18. **During the operation of the building**, the Applicant shall provide up to 40 vouchers for parking without charge on Sunday mornings between 8:00 a.m. and 12 noon to the churches in the adjacent block of H Street, N.E., and to other residents or businesses within the Squares 831, 832, 833, 857, 858, 859, 888, 889, and 890. The vouchers shall be distributed on a first come, first served basis on Monday morning at 8:00 a.m. from the concierge at the project. No more than 10 vouchers will be given to any single user at that time. Any vouchers remaining by Wednesday at 5:00 p.m. will be available on a first come, first served basis to any user, including those users who already obtained vouchers for the week.

### C. MISCELLANEOUS

19. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner of the Site and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Commission.
20. At the election of the Applicant, the project may be constructed in a single phase, or in two phases:
  - a. For the Original Submission, if the project is phased, the first phase will include the western portion of the building, and the second phase will

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include the eastern portion of the building, as shown in the Applicant's presentation in the record at Exhibit 43; and

- b. For the Grocery Alternate, if the project is phased, the first phase will include the majority of the building, and the second phase will include the 7th Street portion of the building, as shown in the Applicant's presentation in the record at Exhibit 43.
21. The PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit for the first phase or the entire building as specified in 11 DCMR § 2409.1. Construction of the project approved by the building permit shall begin within three years of the effective date of this Order
  22. If phased, an application must be filed for a building permit for the second phase of development within two years after the completion of the first phase of the building as evidenced by the issuance of the certificate of occupancy for the residential portion of the building. Construction of the second phase shall begin within three years after the completion of the first phase of the building as evidenced by the issuance of the certificate of occupancy for the residential portion of the building.
  23. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On April 18, 2013, upon the motion of Commissioner May, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the Application at the conclusion of the public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

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On June 10, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 5, 2013.



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 13-03  
Z.C. Case No. 13-03**

**Forest City SEFC, LLC on behalf of the United States General Services Administration  
(Southeast Federal Center Overlay Review of Three Parking Lots)  
April 11, 2013**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on April 11, 2013 to consider an application by Forest City, SEFC, LLC (“Applicant”) for property owned by the United States General Services Administration (“GSA”), for review and approval to use three temporary parking lots for five years pursuant to the standards set forth in the Southwest Federal Center Overlay District at 11 DCMR § 1808.

The property that is the subject of this application consists of portions of the Southeast Federal Center (“SEFC”) identified as Parcels H/I, L, and Q (Sq. 744, Lot 806; Sq. 771, Lot 800; and Parcel Q) (“Property”). The Commission considered the application pursuant to Chapter 30 of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

**Application, Parties, and Hearing**

1. The Property consists of approximately 286,642 square feet of land and is located in the SEFC/CR, SEFC/R-5-E, and SEFC/R-5-D Zone Districts.
2. The Property is located on land that is owned by the federal government, but was authorized for private development by an Act of Congress in 2000. (*See*, Southeast Federal Center Public-Private Development Act of 2000, Pub. Law. 106-407 (2000) (“Act”).)
3. On February 14, 2003, GSA filed a petition requesting that the Commission establish zoning for approximately 42 acres of the Southeast Federal Center. This petition also resulted from numerous area planning initiatives affecting the SEFC. The Commission took final action to adopt the map and text amendments on March 8, 2004, and the amendments became effective upon their publication in the *D.C. Register* on July 9, 2004.
4. The SEFC Overlay calls for the development of a mix of residential and commercial uses within the Southeast Federal Center, including high-density residential development and a variety of retail and service uses, within the context of a transit- and pedestrian-oriented design. The SEFC Overlay also grants the Commission jurisdiction to approve the use of the Property for temporary parking lots or garages. (11 DCMR § 1803.2(o).)
5. The Commission previously approved the Applicant’s request for three temporary parking lots (Parcels H/I, O, and Q) in Z.C. Order No. 07-17.

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6. On January 31, 2013, the Applicant filed an application, on behalf of GSA, requesting review and approval, permitted by § 1803.2(o) of the Zoning Regulations to use three temporary parking lots for five years pursuant to the standards set forth in the Southwest Federal Center Overlay District at 11 DCMR § 1808. (Exhibit ["Ex."] 3.)
7. After proper notice, the Commission held a hearing on the application on April 11, 2013. Parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the Property is located.
8. At a duly noticed meeting on March 11, 2013, ANC 6D voted 5-0 to support the application for temporary parking lots and in its letter, dated March 15, 2013, ANC 6D recommended approval of the application. (Ex. 13.)
9. The Office of Planning ("OP") filed a report recommending approval and testified in support of the application at the public hearing, subject to three conditions: (1) landscape restoration of all lots prior to approval for construction of any new parking on Parcel Q; (2) construction of a bike connection between Water Street and Navy Yard river walk; and (3) additional landscape screening on the south end of Parcel Q, adjacent to Yards Park. (Ex. 16.) OP also noted that the development of the SEFC neighborhood has been active since the original approval of the temporary parking lots in Z.C. Case No. 07-17 and that future projects are in the pipeline. Condition 1 is included as a Condition of this Order. OP withdrew its recommended Condition 2 after the Applicant demonstrated at the hearing that there is an existing network of bike connections between Water Street and the river walk. The Applicant testified at the hearing that OP's proposed Condition 3, additional landscape screening, could interfere with its proposed stormwater management system. As a compromise, the Applicant offered to include the enhanced landscape screening if the District Department of the Environment determines that the screening would not interfere with the stormwater system. The Commission believes that the Applicant's proposal is a reasonable balance between OP's desire to provide adequate buffering between the parking lot and the riverfront park, and the preservation of the Applicant's stormwater management system. This compromise condition is incorporated in this Order.
10. The District Department of Transportation ("DDOT") filed a report in support of the application, subject to three conditions: (1) the number of parking spaces permitted on Parcel Q should not exceed the number of spaces currently provided on Parcel N; (2) Parcel Q should not operate as a parking lot until the existing lot on Parcel N is no longer accessible; (3) and the Applicant should provide a pathway for users from Water Street, S.E. to the Anacostia Riverfront Trail. (Ex. 15.) In its report, DDOT determined that the proposed parking lots are not likely to have a significant impact on the travel conditions of the District's transportation network. DDOT did not support net increases of surface parking spaces within the Yards Waterfront Redevelopment area. Regarding DDOT's proposed Condition 1, the Applicant testified at the hearing that it was

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proposing 199 spaces for Parcel Q, and that Parcel N currently provides 160 spaces. The Applicant further testified that the additional spaces were needed to serve the retail and office uses in the historic Boilermaker and Lumbershed buildings. The Applicant is currently developing these buildings with a combined 70,000 square feet of retail and office uses, and they will open in 2013. Because of their historic nature, the buildings do not have any on-site parking. The Commission is persuaded that the 39 additional spaces are justified given the new retail and office uses included in these buildings. Condition 2 is incorporated into this Order. With respect to Condition 3, as mentioned above in connection with OP's parallel request for a bike connection between Water Street and the river walk, the Applicant testified that a network of trails connecting Water Street and the Navy Yard river walk already exists. The Commission is persuaded that a condition requiring an additional trail was not necessary to address an adverse impact of the Applicant's proposal, given these existing connections.

11. Pursuant to § 3012.1 (a)(1) all Chapter 18 applications are submitted to the National Capital Planning Commission ("NCPC") for review and comment. Through a letter dated March 12, 2013, the NCPC Executive Director indicated that pursuant to delegated authority he found that the proposed development would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 12.)
12. Erwin Anders, PE, of Gorove/Slade Associates submitted a Transportation Analysis and appeared as an expert witness at the April 11, 2013 public hearing on behalf of the Applicant. (Ex. 14, Tab I.)
13. The Commission took action at the April 11, 2013 public hearing to approve the plans submitted into the record and the relief requested.

#### **Description of the Surrounding Area**

14. The Property is located within The Yards site, which is bounded by the following: M Street, S.E. and Tingey Street, S.E. to the north; 1<sup>st</sup> Street, S.E. to the west; the existing Washington Navy Yard to the east; and the Anacostia River to the south. A District of Columbia Water and Sewer Authority Pumping Station facility lies adjacent to the south and west sides of the Yards' site.
15. The Property is currently zoned SEFC/CR, SEFC/R-5-E, and SEFC/R-5-D, all districts in which temporary parking lots are permitted for a maximum period of five years after review and approval by the Commission.

#### **Project Overview**

16. The Applicant is requesting approval to use three temporary parking lots for five years pursuant to §§ 1803.2(o) and 1804.2(g).

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17. "Parcel H/I" is located along the south side of N Street, S.E. between 1<sup>st</sup> and Canal Streets, S.E., on two parcels of land on Lot 806 in Square 744 and consists of approximately 126,880 square feet. This parcel is zoned SEFC/CR. This parcel was approved in Z.C. Order No. 07-17 (May 12, 2008) for 416 parking spaces and currently provides 394 parking spaces. The Applicant requests permission to renew the approval of the use of this parcel as a temporary parking lot for a term of five years.
18. "Parcel L" is located on the southeast corner of Tingey Street, S.E. and 2<sup>nd</sup> Street, S.E. on Lot 800 in Square 771 and consists of approximately 69,385 square feet. This parcel is zoned SEFC/R-5-E. This parcel currently provides 196 parking spaces, but no prior Commission approval was granted. The Applicant requests permission to use this parcel as a temporary parking lot for a term of five years.
19. "Parcel Q" is located along Water Street, between 4<sup>th</sup> Street, S.E. and 5<sup>th</sup> Street, S.E. and consists of approximately 90,377 square feet. This parcel is zoned SEFC/R-5-D. This parcel was approved in Z.C. Order No. 07-17 (May 12, 2008) for 236 parking spaces but has not yet been constructed. The Applicant requests permission to renew the approval of the use of this parcel for 199 parking spaces as a temporary parking lot for a term of five years.
20. The total number of parking spaces requested in these three temporary parking lots is 789, which is a net increase of only four spaces from what was approved in Z.C. Order No. 07-17 (May 12, 2008).

### **Zoning Overview**

21. The proposed Project meets the Commission's review standards set forth in § 1808 of the SEFC Overlay as follows:
  - a. The development of these sites as temporary Parking Lots will help encourage and support residential and commercial development, including visitor-related uses, within the SEFC in accordance with § 1802.2, 1802.3, and 1802.4; and
  - b. The proposed Parking Lots are temporary. As the development of the Property progresses, the Parking Lots will be replaced with residential and non-residential buildings. When they are constructed, these buildings will provide either underground garages or other enclosed parking which will not be visible from the street. In the interim, the surface Parking Lots are landscaped with grass, trees, and shrubs.
22. The proposed Project also furthers the additional criteria for approval set forth in § 1808.2 of the SEFC Overlay as follows:

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- a. The landscaping for the parking lots on Parcels H/I and L currently include a variety of trees, shrubs, perennials, roses, and grasses that will screen the parking lots and provide four-season interest through the use of color, foliage, and textures. The landscaping for the proposed parking lot on Parcel Q will also include these elements; and
  - b. Most of the plant materials proposed are native to the region and should provide a relatively low-maintenance landscape screen and provide a minimum of heat and glare reduction. The Applicant has complied with all applicable storm water plan review and erosion control permits for Parcels H/I and L and will go through the same process for Parcel Q.
23. The proposed Project also meets the special exception test set forth in § 3104.1 as follows:
- a. The proposed Parking Lots are temporary, as allowed in the SEFC Overlay District. Temporary parking lots are allowed for a maximum of five years at which time they may be renewed by the Zoning Commission. Therefore, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations; and
  - b. The special exception will not tend to adversely affect the use of the neighboring properties in accordance with the Zoning Regulations and Maps. The subject properties have historically been used for parking and industrial purposes. The parcels are currently paved or will be repaved to current standards and will have landscaping to improve their appearance.

### CONCLUSIONS OF LAW

1. As required by 11 DCMR § 1809, the Commission required the Applicant to satisfy the burden of demonstrating conformance to the standards that are necessary to approve the temporary parking lots under § 1808.
2. Based upon the record before the Commission, having considered the reports and testimony OP and DDOT provided in this case, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR § 1808, which includes the standards set forth in § 3104 for a special exception and the specific standards relating to achieving the objectives of the SEFC Overlay District as set forth in § 1802.
3. The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and to owners of property within 200 feet of the Property.

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4. Approval of the proposed development is not inconsistent with the Comprehensive Plan.
5. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns of the affected ANC expressed in its written report. As reflected in the Findings of Fact, at its duly noticed meeting held on March 11, 2013, ANC 6D voted 5-0 to support the application for temporary parking lots and in its letter, dated March 15, 2013, ANC 6D recommended approval of the application.
6. The Commission is also required to give great weight to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04). As reflected in the Findings of Fact, OP presented a report and testimony at the public hearing in support of the application with conditions, which are reflected in the decision below.
7. The Commission finds these expressions of support to be persuasive and agrees with the recommendations that the application should be granted. In doing so the Commission has afforded the ANC and OP the great weight required by statute.
8. Based on the record before the Commission, having given great weight to the views of OP and the ANC, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR § 1808 as well as the burdens of proof for a special exception.
9. The project that is the subject of this application will promote the development of the SEFC into a viable mixed-use neighborhood which is in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and the Zoning Map of the District of Columbia.

### DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission **ORDERS APPROVAL** of the application for SEFC Overlay District review for three temporary parking lots for a period of five years. This approval is subject to the following guidelines, conditions, and standards:

1. The Project shall be built in accordance with the plans marked as Tabs E, F, and G of Exhibit 14 of the record.
2. The Applicant shall provide landscape restoration of all lots (Parcels H/I and L) prior to approval for construction of any new parking on Parcel Q.

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3. Additional landscaping screening shall be installed on the south end of Parcel Q, adjacent to Yards Park, provided that the District Department of the Environment determines that such additional landscaping does not interfere with the approved storm water measures for Parcel Q.
4. Parcel Q shall not operate as a parking lot until such time that the existing surface parking on Parcel N is no longer accessible.
5. This Order shall be valid for a period of five years from the effective date of this Order.
6. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On April 11, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at the close of its public hearing by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Michael G. Turnbull to adopt; Peter G. May not present, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 5, 2013.

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