

***District of Columbia*****REGISTER****HIGHLIGHTS**

- DC Council schedules a public oversight roundtable on the District's Medical Marijuana Program
- DC Council schedules a public oversight roundtable on public housing maintenance and repairs
- The Alcoholic Beverage Regulation Administration schedules a public hearing on the East Dupont Circle Moratorium extension
- Department of Insurance, Securities, and Banking updates licensure requirements for insurance producers
- Department of Consumer and Regulatory Affairs updates the fees schedule for business licenses on emergency basis
- Department of Consumer and Regulatory Affairs solicits comments on the proposal to modify the Highway Plan

The October 4, 2013 DC Register has two parts. Refer to Volume 60 - No. 43 - Part 2 to review the third proposed rulemaking for the District of Columbia Construction Codes Supplement of 2013.

# 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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The deadline for receiving documents from the District of Columbia Agencies, Boards, Commissions, and Public Charter schools is TUESDAY, NOON of the week of publication. The deadline for receiving documents from the District of Columbia Council is WEDNESDAY, NOON of the week of publication. If an official District government holiday falls on Monday or Friday, the deadline for receiving documents remains the same as outlined above. If an official District government holiday falls on Tuesday, Wednesday or Thursday, the deadline for receiving documents is one day earlier from the deadlines outlined above.

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## Legal Effect of Publication - Certification

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**NOTICE OF INTENT TO ACT ON NEW LEGISLATION**

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than **15 days**. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at [www.dccouncil.us](http://www.dccouncil.us).

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**COUNCIL OF THE DISTRICT OF COLUMBIA**

**PROPOSED LEGISLATION**

**BILLS**

B20-438      Minimum Wage and Accrued Sick and Safe Leave Amendment Act of 2013

Intro. 09-16-13 by Councilmember Catania and re-referred to the Committee on Business, Consumer, and Regulatory Affairs

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B20-459      Minimum Wage Amendment Act of 2013

Intro. 09-17-13 by Councilmember Orange and re-referred to the Committee on Business, Consumer, and Regulatory Affairs

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B20-460      Living Wage for All Act of 2013

Intro. 09-17-13 by Councilmembers Wells, McDuffie, Cheh, Grosso, Alexander, Bonds, Barry and Chairman Mendelson and re-referred sequentially to the Committee on Finance and Revenue and the Committee on Business, Consumer, and Regulatory Affairs

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B20-463      Minimum Wage Revision Commission Establishment Amendment Act of 2013

Intro. 09-17-13 by Councilmember Bowser and re-referred to the Committee on Business, Consumer, and Regulatory Affairs

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**Bills Con't**

- B20-484      Affordable Housing Conversion Fee Exemption Amendment Act of 2013
- Intro. 09-23-13 by Councilmember Graham and referred to the Committee on Economic Development with comments from the Committee on Finance and Revenue
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- B20-485      Meridian International Center Real Property Tax Abatement Act of 2013
- Intro. 09-23-13 by Councilmembers Graham and Evans and referred to the Committee on Finance and Revenue
- 
- B20-494      Animal Sirens Amendment Act of 2013
- Intro. 09-30-13 by Councilmember Cheh and referred to the Committee on Transportation and the Environment
- 
- B20-501      Conversion Therapy for Minors Prohibition Amendment Act of 2013
- Intro. 10-01-13 by Councilmember Cheh and referred to the Committee on Health
- 
- B20-502      Ready Return Establishment Act of 2013
- Intro. 10-01-13 by Councilmember Bowser and referred to the Committee on Finance and Revenue
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- B20-503      Alcoholic Beverage Window Advertisement Limitation Act of 2013
- Intro. 10-01-13 by Councilmembers Alexander, Bowser, McDuffie, Barry, Bonds, Graham, and Wells and referred to the Committee on Business, Consumer, and Regulatory Affairs
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- B20-505      Critical Infrastructure Freedom on Information Amendment Act of 2013
- Intro. 10-01-13 by Councilmember McDuffie and Chairman Mendelson and referred to the Committee on Government Operations
- 
- B20-506      D.C. Fiscal Year Designation Amendment Act of 2013
- Intro. 10-01-13 by Councilmember Grosso and referred to the Committee of the Whole
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**Proposed Resolutions**

PR20-239 “Sense of the Council to Rename the Washington Football Club Resolution of 2013”

Intro. 05-01-13 by Councilmembers Grosso, Catania, Cheh, Graham, McDuffie, Bowser, Wells, Barry, and Bonds and retained by the Council

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PR20-454 Housing Finance Agency Board of Directors Stanley Jackson Confirmation Resolution of 2013

Intro. 09-19-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Economic Development

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PR20-455 Housing Finance Agency Board of Directors Charles R. Lowery Confirmation Resolution of 2013

Intro. 09-19-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Economic Development

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PR20-456 Housing Finance Agency Board of Directors Leila M. Batties Confirmation Resolution of 2013

Intro. 09-19-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Economic Development

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PR20-457 Public Employee Relations Board Celeste J. Mattina Confirmation Resolution of 2013

Intro. 09-20-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

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PR20-458 Public Employee Relations Board Joan Lorraine Goldfrank Confirmation Resolution of 2013

Intro. 09-20-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

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PR20-459 Sense of the Council of the District of Columbia on the September 16, 2013 Navy Yard Tragedy Resolution of 2013

Intro. 09-24-13 by Chairman Mendelson and nCouncilmembers Alexander, Barry, Bonds, Catania, Cheh, Evans, Graham, Grosso, McDuffie, Orange, and Wells and retained by the Council

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**Proposed Resolutions Con't**

PR20-460 Parents, Guardians, and Visitors Grievance Procedure Regulations Approval Resolution of 2013

Intro. 09-24-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

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PR20-469 District of Columbia of Nursing Mrs. Chioma Nwachulwu Confirmation Resolution of 2013

Intro. 09-26-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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PR20-470 District of Columbia of Nursing Ms. Toni A. Eason Confirmation Resolution of 2013

Intro. 09-26-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

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PR20-475 Hardy School Surplus Declaration Resolution of 2013

Intro. 09-27-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations

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PR20-476 Hardy School Lease Approval Resolution of 2013

Intro. 09-27-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Economic Development

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PR20-477 Chief Financial Officer of the District of Columbia Jeffrey S. Dewitt Confirmation Resolution of 2013

Intro. 09-27-13 by Chairman Mendelson at the request of the Mayor and retained by the Council

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**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING**

on

**Bill 20-152, Permanent Supportive Housing Application Streamlining Amendment Act of 2013**

and

**Bill 20-196, Health Benefit Exchange Authority Establishment Amendment Act of 2013**

on

**Tuesday, October 22, 2013**

**11:00 a.m., Hearing Room 412, John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole Bill 20-152, the “Permanent Supportive Housing Application Streamlining Amendment Act of 2013” and on Bill 20-196, the “Health Benefit Exchange Authority Establishment Amendment Act of 2013.” The public hearing will be held Tuesday, October 22, 2013, at 11:00 a.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

Both Bill 20-152 and Bill 20-196 concern procurement, which is under the purview of the Committee of the Whole. The stated purpose of Bill 20-152 is to amend the Procurement Practices Reform Act of 2010 (PPRA) to streamline and provide a cooperative interagency structure for the coordination of capital, operating, and supportive services funding for the production of permanent supportive housing units for individuals and families who are homeless or at risk of homelessness. It would exempt from the PPRA procurements related to the production of permanent supportive housing by the Department of Housing and Community Development and/or the Department of Human Services through fiscal year 2018. The stated purpose of Bill 20-196 is to amend the Health Benefit Exchange Authority Establishment Act of 2011 to streamline the procurement process for the Health Benefit Exchange Authority by clarifying that such procurements are not subject to the PPRA.

Emergency and temporary versions of Bill 20-152 and Bill 20-196 were passed by the Council on March 19, 2013 and May 7, 2013, respectively. Permanent legislation for these bills is necessary if separate procurement authority related to the Exchange and the acquisition of permanent supportive housing is to be maintained after expiration of both pieces of temporary legislation in early 2014.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Evan Cash, Committee Director, at [ecash@dccouncil.us](mailto:ecash@dccouncil.us) and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Friday, October 18, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on October 18, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of Bill 20-152 and Bill 20-196 can be obtained through the Legislative Services Division of the Secretary of the Council’s office or at <http://dcclims1.dccouncil.us/lims>.

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 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 Tuesday, November 5, 2013.

**Council of the District of Columbia  
Committee on the Judiciary and Public Safety  
Notice of Public Hearing  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

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**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

**ANNOUNCES A PUBLIC HEARING ON**

**BILL 20-191, THE "PROHIBITION OF THE HARM OF POLICE ANIMALS  
AMENDMENT ACT OF 2013"**

**and**

**BILL 20-323, THE "POST-ARREST PROCESS CLARIFICATION AMENDMENT ACT  
OF 2013"**

**Thursday November 21, 2013  
11 a.m.**

**Room 500  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public hearing on Thursday, November 21, 2013, beginning at 11 a.m. in Room 500 of the John A. Wilson Building.

The purpose of this hearing is to receive public comment on two bills before the Committee. Bill 20-191, the "Prohibition of the Harm of Police Animals Amendment Act of 2013," would make the penalty for harming a police animal a felony. The bill may be viewed online at <http://dcclims1.dccouncil.us/images/00001/20130322100440.pdf>. Bill 20-323, the "Post-Arrest Process Clarification Amendment Act of 2013," would provide that a law enforcement officer may arrest a person without a warrant where there is probable cause to believe that the person has been released on citation to appear in court and has violated a stay away order; provide for a post-arrest process for individuals; clarify procedures for an official to issue citations or take money or bond; provide authority for an official to issue a stay away order as a condition of release; and clarify provisions related to the post-and-forfeit procedure. The bill may be viewed online at <http://dcclims1.dccouncil.us/images/00001/20130606112310.pdf>.

The Committee invites the public to testify. Those who wish to testify should contact Tawanna Shuford at 724-7808 or [tshuford@dccouncil.us](mailto:tshuford@dccouncil.us), and furnish their name, address, telephone number, and organizational affiliation, if any, by 5 p.m. on Tuesday, November 19, 2013. Testimony may be limited to 3 minutes for individuals and 5 minutes for those representing organizations or groups. Witnesses should bring 15 copies of their testimony. Those unable to testify at the public hearing are encouraged to submit written statements for the official record. Written statements should be submitted by 5 p.m. on Thursday, December 5, 2013 to Ms. Shuford, Committee on the Judiciary and Public Safety, Room 109, 1350 Pennsylvania Ave., NW, Washington, D.C., 20004, or via email at [tshuford@dccouncil.us](mailto:tshuford@dccouncil.us).

Council of the District of Columbia  
Committee on Economic Development  
**Notice of Public Hearing**  
1350 Pennsylvania Avenue, N.W. Washington, DC 20004

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**COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON  
COMMITTEE ON ECONOMIC DEVELOPMENT**

**COUNCILMEMBER JACK EVANS, CHAIRPERSON  
COMMITTEE ON FINANCE AND REVENUE**

**COUNCILMEMBER KENYAN MCDUFFIE, CHAIRPERSON  
COMMITTEE ON GOVERNMENT OPERATIONS**

**AND**

**CHAIRMAN PHIL MENDELSON, CHAIRPERSON  
COMMITTEE OF THE WHOLE**

**ANNOUNCE A PUBLIC HEARING**

**On**

**Bill 20-382, the Skyland Town Center Omnibus Act of 2013**

**OCTOBER 29, 2013**

**10:00 A.M.**

**ROOM 500**

**JOHN A. WILSON BUILDING  
1350 PENNSYLVANIA AVENUE, N.W.**

On October 29, 2013, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development, Councilmember Jack Evans, Chairperson of the Committee on Finance and Revenue, Councilmember Kenyan McDuffie, Chairperson of the Committee on Government Operations, and Chairman Phil Mendelson, Chairperson of the Committee of the Whole will hold a public hearing to consider Bill 20-382. The Skyland Town Center Omnibus Act of 2013 would reauthorize the Tax Increment Financing subsidy and approve the surplus declaration and disposition of the Skyland shopping Center and adjacent properties (Skyland). The transformation of Skyland into a new town center will help to revitalize a blighted shopping center so that it may become a first-rate amenity worthy of the surrounding community.

Skyland, located at the intersection of Naylor Road, Good Hope Road, and Alabama Avenue, SE, Washington, D.C., was acquired by the District between 2005 and 2008 from private landowners for the purposes of redeveloping the site. After years of engagement with the community, the development team, property owners, and tenants, the project will provide higher-quality retail, mixed-income housing, improved pedestrian access, and construction and retail jobs.

The proposed redevelopment plan for Skyland includes: (i) space to be leased to retail tenants containing approximately 340,000 square feet, (ii) multifamily buildings containing approximately 450-500 residential units, and (iii) accessory parking spaces. In addition, the project will include affordable housing with 20% of the residential units reserved for households with incomes at or below 80% AMI and 10% of the residential units reserved for households with incomes at or below 120% of AMI.

In order to support the development of the project, the District is proposing to support construction through a Tax Increment Financing (TIF) subsidy. The District proposes to invest up to \$40 million to assist with the construction of the project and on-site and off-site infrastructure improvements. The TIF note will be repaid through available tax increment generated by the project.

The public hearing will begin at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Individuals and representatives of community organizations wishing to testify should contact Rob Hawkins, Legislative Director to the Committee on Economic Development, at (202) 724-8052, or [rhawkins@dccouncil.us](mailto:rhawkins@dccouncil.us) and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business October 28, 2013. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard. Please provide the Committee 20 copies of any written testimony.

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 to the Committee on Economic Development, Council of the District of Columbia, Suite 110 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.



**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING**

on

**Bill 20-433, Police and Firemen's Retirement and Relief Board Amendment Act of 2013;**

**Bill 20-440, Retired District Employee Annuity Amendment Act of 2013;**

&

**Bill 20-481, Fossil Fuel Divestment Act of 2013**

on

**Thursday, November 7, 2013**

**10:00 a.m., Council Chamber, John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on Bill 20-433, the "Police and Firemen's Retirement and Relief Board Amendment Act of 2013," Bill 20-440, the "Retired District Employee Annuity Amendment Act of 2013," and Bill 20-481, the "Fossil Fuel Divestment Act of 2013." The public hearing will be held Thursday, November 7, 2013, at 10:00 a.m. in the Council Chamber of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of Bill 20-433 is to amend the law to change the membership of, and provide for additional alternates to serve on, the Police and Firemen's Retirement and Relief Board.

The stated purpose of Bill 20-440 is to amend the law to amend the amount of salary that may be offset against any annuity due a re-employed District employee, to comply with federal law.

The stated purpose of Bill 20-481, Fossil Fuel Divestment Act of 2013 is to require the divestment, and prohibit the investment, of public funds in the stocks, securities, or other obligations of certain companies which hold the largest fossil fuel reserves and to provide for the identification of companies with the largest fossil fuel reserves.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Jessica Jacobs, Legislative Counsel, at [jjacobs@dccouncil.us](mailto:jjacobs@dccouncil.us) and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Tuesday, November 5, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Tuesday, November 5, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of Bill 20-433, Bill 20-440, and Bill 20-481 can be obtained through the Legislative Services Division of the Secretary of the Council's office or at <http://dcclims1.dccouncil.us/lims>.

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 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, November 21, 2013.

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

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

**ANNOUNCES A PUBLIC HEARING ON**

**THE “CRITICAL INFRASTRUCTURE FREEDOM OF  
INFORMATION AMENDMENT ACT OF 2013”, Bill 20-505**

**October, 21 2013, 2:00 PM  
Room 412 John A. Wilson Building  
1350 Pennsylvania Ave., NW  
Washington, D.C. 20004**

On October 21, 2013, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Government Operations will convene a public hearing on the “Critical Infrastructure Freedom of Information Amendment Act of 2013.” This public hearing will be held in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Ave, NW at 2:00 PM.

The purpose of this hearing is to give the public the opportunity to comment on this measure. The stated purpose of the “Critical Infrastructure Freedom of Information Amendment Act of 2013” is to amend, the District’s Administrative Procedure Act to protect certain critical infrastructure information.

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 for the Committee on Government Operations 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 Thursday October 17, 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 October 28, 2013.

**Council of the District of Columbia  
Committee on Finance and Revenue  
Notice of Public Hearing**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

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**COUNCILMEMBER JACK EVANS, CHAIR  
COMMITTEE ON FINANCE AND REVENUE**

**ANNOUNCES A PUBLIC HEARING ON:**

**PR 20-477, the “Chief Financial Officer of the District of Columbia Jeffrey S. DeWitt  
Confirmation Resolution of 2013”**

**Wednesday, October 23, 2013**

**10:00 a.m.**

**Room 412 - John A. Wilson Building  
1350 Pennsylvania Avenue, NW; Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public hearing to be held on Wednesday, October 23, 2013 at 10:00 a.m., in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 20-477, the “Chief Financial Officer of the District of Columbia Jeffrey S. DeWitt Confirmation Resolution of 2013” would confirm the Mayoral appointment of Mr. Jeffrey S. DeWitt as the Chief Financial Officer of the District of Columbia, in accordance with section 424(b) of the District of Columbia Home Rule Act, and for a term to end June 30, 2017.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or [sloy@dccouncil.us](mailto:sloy@dccouncil.us), and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Tuesday, October 22, 2013. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to [sloy@dccouncil.us](mailto:sloy@dccouncil.us) or mailed to: Council of the District of Columbia; 1350 Pennsylvania Ave., N.W.; Suite 114; Washington D.C. 20004.

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

REVISED

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC OVERSIGHT HEARING

on

**Office of Contracting and Procurement's Progress on Implementation  
of the Fiscal Year 2014 Budget and Update on the Contracting Reform Initiative**

on

**Tuesday, October 22, 2013  
11:00 a.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public oversight hearing of the Committee of the Whole on the Office of Contracting and Procurement's Progress on Implementation of the Fiscal Year 2014 Budget and Update on the Contracting Reform Initiative. The public oversight hearing will be held Tuesday, October 22, 2013, at 11:00 p.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW. **This notice has been revised to reflect a change in the date and time of the hearing.**

The purpose of this oversight hearing is to receive testimony from the Office of Contracting and Procurement (OCP) on its implementation of the Fiscal Year 2014 budget which takes effect on October 1, 2013. The Council-approved budget includes funding for additional staff, training, and continued implementation of a contracting reform initiative aimed at improving the procurement process. According to testimony during previous budget and oversight hearings, OCP has begun implementation of this initiative, however, the timeline has been delayed several times.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Evan Cash, Committee Director, at [ecash@dccouncil.us](mailto:ecash@dccouncil.us) and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Friday, October 18, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on October 18, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses.

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 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, November 5, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY  
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE**  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

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**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

**ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON  
FEMS APPARATUS ASSESSMENT AND PARAMEDIC VACANCIES**

**Thursday, November 14, 2013**

**11 a.m.**

**Council Chamber, Room 500**

**John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, D.C. 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, announces a public oversight roundtable on Thursday, November 14, 2013 beginning at 11 a.m. in the Council Chamber, Room 500 of the John A. Wilson Building.

The purpose of this oversight roundtable is to review and discuss the results of the third-party assessment recently conducted for the Fire and Emergency Medical Services Department (FEMS). This internal audit, which was performed over the summer, is expected to produce a framework for FEMS fleet purchasing, employee hiring, and general distribution of emergency medical services for the District. The roundtable will also discuss the current state of the Department as it relates to paramedic vacancies and the emergency medical services demands of the District.

The Committee invites the public to testify. Individuals and representatives of organizations who wish to testify should contact Tawanna Shuford at 724-7808 or [tshuford@dccouncil.us](mailto:tshuford@dccouncil.us), and furnish their name, address, telephone number, and organizational affiliation, if any, by 5 p.m. on Tuesday, November 12, 2013. Witnesses should bring 15 copies of their testimony. Testimony may be limited to 3 minutes for individuals and 5 minutes for those representing organizations or groups.

If you are unable to testify at the public hearing, written statements are encouraged and will be made part of the official record. Written statements should be submitted by 5 p.m. on Friday, November 29, 2013 to Ms. Shuford, Committee on the Judiciary and Public Safety, Room 109, 1350 Pennsylvania Ave., NW, Washington, D.C., 20004, or via email at [tshuford@dccouncil.us](mailto:tshuford@dccouncil.us).

Council of the District of Columbia  
Committee on Economic Development  
**Notice of Public Oversight Roundtable**  
1350 Pennsylvania Avenue, N.W. Washington, DC 20004

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**COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON  
COMMITTEE ON ECONOMIC DEVELOPMENT**

**ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

**On**

**Public Housing Maintenance and Repairs**

**NOVEMBER 14, 2013**

**10:00**

ROOM 120

JOHN A. WILSON BUILDING  
1350 PENNSYLVANIA AVENUE, N.W.

On November 14, 2013, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development, will hold a public oversight roundtable to consider maintenance issues in public housing. The Committee has received numerous complaints from public housing residents regarding inadequate maintenance of public housing sites, including mold, vermin and lack of electricity. Residents have also expressed concern over inadequate inspections and repairs of public housing units by the District of Columbia Housing Authority. The Committee will take testimony from public housing residents and housing providers, as well as agency officials from the District of Columbia Housing Authority.

The public oversight roundtable will begin at 10 o'clock in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Individuals and representatives of organizations wishing to testify should contact Kate Kountzman, Legislative Counsel to the Committee on Economic Development, at (202) 724-8198, or [kkountzman@dccouncil.us](mailto:kkountzman@dccouncil.us) and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business November 13, 2013. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Economic Development, Council of the District of Columbia, Suite 110 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY  
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE**  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

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**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

**ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON**

**THE DEPARTMENT OF CORRECTIONS RESPONSE TO RECENT SUICIDES AT  
THE D.C. JAIL**

**Thursday, November 7, 2013**

**11 a.m.**

**John A. Wilson Building, Room 120**

**1350 Pennsylvania Avenue, NW**

**Washington, D.C. 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, announces a public oversight roundtable on Thursday, November 7, 2013, beginning at 11 a.m. in Room 120 of the John A. Wilson Building.

The purpose of this public oversight roundtable is to discuss the Department of Corrections' (DOC) response to recent suicides at the D.C. Jail. Recently, the DOC conducted a comprehensive assessment of all operational protocols to determine what should be done to enhance suicide prevention within its facilities. The results of these assessments will be discussed.

The Committee invites the public to testify. Individuals and representatives of organizations who wish to testify should contact Tawanna Shuford at 724-7808 or [tshuford@dccouncil.us](mailto:tshuford@dccouncil.us), and furnish their name, address, telephone number, and organizational affiliation, if any, by 5 p.m. on Tuesday, November 5, 2013. Witnesses should bring 15 copies of their testimony. Testimony may be limited to 3 minutes for individuals and 5 minutes for those representing organizations or groups.

If you are unable to testify at the public hearing, written statements are encouraged and will be made part of the official record. Written statements should be submitted by 5 p.m. on Thursday, November 21, 2013 to Ms. Shuford, Committee on the Judiciary and Public Safety, Room 109, 1350 Pennsylvania Ave., NW, Washington, D.C., 20004, or via email at [tshuford@dccouncil.us](mailto:tshuford@dccouncil.us).

**Council of the District of Columbia  
Committee on Health  
Notice of Public Oversight Roundtable  
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004**

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**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON  
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC OVERSIGHT ROUND TABLE**

on

**The Medical Marijuana Program in the District of Columbia**

**Monday, October 21, 2013  
11:00 a.m., Room 500, John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public oversight round table on the state of the District of Columbia Medical Marijuana program. The roundtable will be held at 11:00 a.m. on Monday, October 21, 2013 in Room 500 of the John A. Wilson Building.

The purpose of this public oversight round table is to provide the public and Department of Health officials an opportunity to comment on the state of the Medical Marijuana program, including measures that might be undertaken to improve upon the operation of the program.

Those who wish to testify should contact Ronald King, Senior Policy Advisor at the Committee on Health, at 202-741-0909 or via e-mail at [rking@dccouncil.us](mailto:rking@dccouncil.us) and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Thursday, October 17, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Thursday, October 17, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those 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 Mr. King, or to Ms. Nyasha Smith, Secretary to the Council, Room 5 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on November 4, 2013.



Council of the District of Columbia  
Committee on Economic Development  
**Notice of Public Oversight Roundtable**  
1350 Pennsylvania Avenue, N.W. Washington, DC 20004

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**COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON  
COMMITTEE ON ECONOMIC DEVELOPMENT**

**ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

**ON**

**The New Communities Initiative**

**OCTOBER 22, 2013**

**10:00 AM**

**ROOM 120**

**JOHN A. WILSON BUILDING**

**1350 PENNSYLVANIA AVENUE, N.W.**

On October 22, 2013, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development, will hold a public oversight roundtable on the New Communities Initiative (NCI). This roundtable will be the second such roundtable, with the first having been held on February 12, 2013. The NCI is a comprehensive public-private partnership designed to improve the quality of life for families and individuals living in four neighborhoods in Washington, DC: **Northwest One (Ward 6), Barry Farm (Ward 8), Lincoln Heights/Richardson Dwellings (Ward 7), and Park Morton (Ward 1)**. Designated New Communities exhibit high rates of poverty and unemployment, as well as blight and deterioration of the housing stock.

The NCI is funded through the securitization of a dedicated portion of the Housing Production Trust Fund (HPTF). This funding acts as a financing tool and is managed by the District of Columbia Office of the Deputy Mayor for Planning and Economic Development (DMPED). The initiative is designed to catalyze the renewal of both the physical and social conditions of designated neighborhoods in Washington, DC. The NCI operates under four guiding principles:

- **One for One Replacement** of existing units to ensure that there is no net loss of the existing deeply subsidized units in the neighborhood.
- **The Opportunity to Return/Stay** to ensure that current families will be able to remain in their neighborhood through the redevelopment process.
- **Mixed-Income Housing** to ensure the long-term viability of the neighborhood by providing a range of housing options for all incomes.
- **Build First**, which calls for new housing on publicly-controlled lands to be built prior to the demolition of existing distressed housing to minimize displacement.

During the Roundtable, the Committee will focus on the achievement of these principles with respect to each of the four NCI neighborhoods.

The public oversight roundtable will begin at 10:00 AM in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Individuals and representatives of organizations wishing to testify should contact Kate Kountzman, Legislative Counsel to the Committee on Economic Development, at (202) 724-8198, or [kkountzman@dccouncil.us](mailto:kkountzman@dccouncil.us) and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business Monday, October 21, 2013. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Economic Development, Council of the District of Columbia, Suite 110 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

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

**B20-430**, “Transportation Infrastructure Mitigation Temporary Amendment Act of 2013”,  
**B20-499**, “Extension of Time to Dispose of the Strand Theater Temporary Amendment Act of 2013” was adopted on first reading on October 1, 2013. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on November 5, 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. 20-98:** Request to reprogram \$856,000 of Fiscal Year 2013 Local funds budget authority from the Department of Youth Rehabilitation Services (DYRS) to the Pay-As-You-Go (Paygo) Capital Agency was filed in the Office of the Secretary on September 24, 2013. This reprogramming ensures that DYRS will be able to implement an enhanced safety and security system at the New Beginnings Youth Development Center.

RECEIVED: 14 day review begins September 25, 2013

**Reprog. 20-99:** Request to reprogram \$750,000 of Fiscal Year 2013 Local funds budget authority within the Department of Corrections (DOC) was filed in the Office of the Secretary on September 24, 2013. This reprogramming is needed to pay for recently rendered settlements, judgments, legal fees, and prospective legal decisions through the end of the fiscal year.

RECEIVED: 14 day review begins September 25, 2013

**Reprog. 20-100:** Reprogram \$711,807 of Fiscal Year 2013 Local funds budget authority within the Board of Elections (BOE) was filed in the Office of the Secretary on September 25, 2013. This reprogramming ensures that BOE will be able to properly align its budget with expenditures incurred as a result of the April 2013 District-wide Special Election.

RECEIVED: 14 day review begins September 26, 2013

**Reprog. 20-101:** Request to reprogram \$1,250,000 of Local Funds budget within the Employees' Compensation Fund (ECF) was filed in the Office of the Secretary on September 25, 2013. This reprogramming ensures budgetary resources are available to cover projected indemnity claims for the remainder of fiscal year 2013.

RECEIVED: 14 day review begins September 26, 2013

**Reprog. 20-102:** Request to reprogram \$9,000,000 of Fiscal Year 2013 Local funds budget authority from the Workforce Investments Agency to the Department of Human Services (DHS) was filed in the Office of the Secretary on September 30, 2013. This reprogramming ensures that DHS will continue to provide services at the current funding level and maximizes Federal funding in FY 2013 and FY 2014.

RECEIVED: 14 day review begins October 1, 2013

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, OCTOBER 9, 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

- Show Cause Hearing (Status) 9:30 AM**  
**Case # 13-CMP-00211; DJ Zion, LLC, t/a Secret Restaurant & Lounge, 1414 9th Street NW, License #90210, Retailer CT, ANC 2F**  
**Failed to Obtain a Cover Charge Endorsement, No ABC Manager on Duty, Failed to Post Pregnancy Sign, Failed to Post Current Legal Drinking Age, Failed to Maintain on Premises Three Years of Adequate Books and Records Showing All Sales**
- Show Cause Hearing (Status) 9:30 AM**  
**Case # 12-251-00358; Samuel Payton Davis Sr., Inc., t/a S&P Wine & Liquors 2316 Pennsylvania Ave SE, License #17108, Retailer A, ANC 7B**  
**Allowed the Establishment to be Used for the Sale of Illegal Drugs and Paraphernalia, Allowed the Establishment to be Used for an Unlawful or Disorderly Purpose, No ABC Manager on Duty**
- Show Cause Hearing (Status) 9:30 AM**  
**Case # 13-AUD-00047; Restaurant Enterprises, Inc., t/a Smith Point, 1338 Wisconsin Ave NW, License #60131, Retailer CR, ANC 2E**  
**Failed to Maintain Documentation Showing All Sales and Purchase Invoices, Failed to Maintain on Premises Three Years of Adequate Books and Records Showing All Sales**
- Show Cause Hearing (Status) 9:30 AM**  
**Case # 12-CMP-00471, 1610 20, Inc., t/a Darlington House, 1610 20th Street NW, License #78028, Retailer CR, ANC 2B**  
**Failed to File Quarterly Statements (2nd Quarter 2012)**
- Show Cause Hearing (Status) 9:30 AM**  
**Case # 12-CMP-00187, Vita Restaurant and Lounge/Penthouse Nine (formerly Mood), 1318 9th Street NW, License #86037, Retailer CT, ANC 2F**  
**Failed to Comply With the Terms of it's Offer in Compromise dated October 24, 2012**

Board's Calendar

Page -2- October 9, 2013

**Fact Finding Hearing** **10:00 AM**

Temporary License Application, Applicant: Michael S. Tabb, Georgetown Events  
1315 K Street NW

**Date of Event: October 31, 2013**

**Size of Event: 800 attendees**

**Fact Finding Hearing** **10:30 AM**

Temporary License Application, Applicant: James M. Babin, Birch &, Barley/Churchkey, Flea Market, 1275 5<sup>th</sup> Street NE

**Date of Event: October 19, 2013**

**Size of Event: 7000 attendees**

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

Midagra, LLC, t/a DCanter, 545 8<sup>th</sup> Street SE, License No. 90639, ANC 6B

**Request to have a Caterer use a portion of the establishment to serve refreshments**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA**

**1:00 PM**

**Protest Hearing\*** **1:30 AM**

**Case # 13-PRO-00032;** Tropicalia Project, LLC, t/a Bossa Brazilian Bistro  
2463 18th Street NW, License #84505, Retailer CR, ANC 1C

**Renewal Application**

**\* The Board will hold a closed meeting for purposes of deliberating these hearings pursuant to D.C. Official Code §2-574(b)(13).**

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: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-001686  
License Class/Type: C Nightclub  
SMD: 1A08

Applicant: Linda & A Inc  
Trade Name: The House  
Premise Address: 3530 GEORGIA AVE NW

Endorsements:

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

License Number: ABRA-076801  
License Class/Type: C Nightclub  
SMD: 1B01

Applicant: The Art of Lounge, LLC  
Trade Name: Town  
Premise Address: 2009 8TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12:00pm - 2:00am	12:00pm -2:00am	-
MON:	12:00pm - 2:00am	12:00pm - 2:00am	-
TUE:	12:00pm - 2:00am	12:00pm - 2:00am	-
WED:	12:00pm - 2:00am	12:00pm - 2:00am	-
THU:	12:00pm - 2:00am	12:00pm - 2:00am	-
FRI:	12:00pm - 5:00am	12:00pm - 3:00am	-
SAT:	12:00pm - 5:00am	12:00pm - 3:00am	-



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POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-071156  
License Class/Type: C Nightclub  
SMD: 1B02

Applicant: Bar 9, LLC  
Trade Name: DC 9  
Premise Address: 1940 9TH ST 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 - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	-
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	-

License Number: ABRA-060369  
License Class/Type: C Nightclub  
SMD: 2B03

Applicant: Dupont Imp LLC  
Trade Name: Gazuza  
Premise Address: 1629 CONNECTICUT AVE NW A

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 - 2 am	11 am - 2 am	5 pm - 1:30 am	5 pm - 1:30 am	-
MON:	11 am - 2 am	11 am - 2 am	5 pm - 1:30 am	5 pm - 1:30 am	-
TUE:	11 am - 2 am	11 am - 2 am	5 pm - 1:30 am	5 pm - 1:30 am	-
WED:	11 am - 2 am	11 am - 2 am	5 pm - 1:30 am	5 pm - 1:30 am	-
THU:	11 am - 2 am	11 am - 2 am	5 pm - 1:30 am	5 pm - 1:30 am	-
FRI:	11 am - 3 am	11 am - 3 am	5 pm - 2:30 am	5 pm - 2:30 am	-
SAT:	11 am - 3 am	11 am - 3 am	5 pm - 2:30 am	5 pm - 2:30 am	-

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-071564  
License Class/Type: C Nightclub  
SMD: 2B05

Applicant: Down Under Inc  
Trade Name: Bravo Bravo  
Premise Address: 1001 CONNECTICUT AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	9 pm - 2 am	9 pm - 2 am	-
MON:	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 3 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 4 am	11 am - 3 am	-
SAT:	9 pm - 4 am	9 pm - 3 am	-

License Number: ABRA-000931  
License Class/Type: C Nightclub  
SMD: 2B05

Applicant: Harco Inc  
Trade Name: Archibald's/Fast Eddies Billiards Cafe  
Premise Address: 1520 K ST NW

Endorsements:

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

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
 PETITION DATE: 11/18/2013  
 HEARING DATE: 12/2/2013

License Number: ABRA-083133  
 License Class/Type: C Nightclub  
 SMD: 2B06

Applicant: 1716 I, LLC  
 Trade Name: Eye Bar/Garden of Eden  
 Premise Address: 1716 I ST 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 - 3:30 am	11 am - 2 am	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am
MON:	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am
TUE:	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am
WED:	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am
THU:	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am	11 am - 2 am	11 am - 3:30 am
FRI:	11 am - 4:30 am	11 am - 3 am	11 am - 4:30 am	11 am - 3 am	11 am - 4:30 am
SAT:	11 am - 4:30 am	11 am - 3 am	11 am - 4:30 am	11 am - 3 am	11 am - 4:30 am

License Number: ABRA-086035  
 License Class/Type: C Nightclub  
 SMD: 2B06

Applicant: 1720 I LLC  
 Trade Name: Cafe Asia  
 Premise Address: 1720 I ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
MON:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
TUE:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
WED:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
THU:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
FRI:	11 am - 4:30 am	11 am - 3 am	11 am - 3 am
SAT:	11 am - 4:30 am	11 am - 3 am	11 am - 3 am

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POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-071717  
License Class/Type: C Nightclub  
SMD: 2B06

Applicant: 1900 M Restaurant Associates, Inc.  
Trade Name: Rumors Restaurant  
Premise Address: 1900 M ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
MON:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
TUE:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
WED:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
THU:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
FRI:	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	-
SAT:	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	-

License Number: ABRA-025542  
License Class/Type: C Nightclub  
SMD: 2C01

Applicant: Trade Center Management Associates, LLC  
Trade Name: The International Trade Center/Air  
Premise Address: 1300 PENNSYLVANIA 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:	7 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	-
MON:	7 am - 2 am	8 am - 2 am	8 am - 2 am	8 am - 2 am	-
TUE:	7 am - 2 am	8 am - 2 am	8 am - 2 am	8 am - 2 am	-
WED:	7 am - 2 am	8 am - 2 am	8 am - 2 am	8 am - 2 am	-
THU:	7 am - 2 am	8 am - 2 am	8 am - 2 am	8 am - 2 am	-
FRI:	7 am - 3 am	8 am - 3 am	8 am - 3 am	8 am - 3 am	-
SAT:	7 am - 3 am	8 am - 3 am	8 am - 3 am	8 am - 3 am	-

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POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-087638  
License Class/Type: C Nightclub  
SMD: 2C01

Applicant: CCHH GHDC, LLC  
Trade Name: Grand Slam  
Premise Address: 1000 H ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	9 am - 2 am	10 am - 2 am	-
MON:	9 am - 2 am	10 am - 2 am	-
TUE:	9 am - 2 am	10 am - 2 am	-
WED:	9 am - 2 am	10 am - 2 am	-
THU:	9 am - 2 am	10 am - 2 am	-
FRI:	9 am - 3 am	10 am - 3 am	-
SAT:	9 am - 3 am	10 am - 3 am	-

License Number: ABRA-001273  
License Class/Type: C Nightclub  
SMD: 2F02

Applicant: Kittrell, Edith Mae & Jessie L  
Trade Name: Vegas Lounge  
Premise Address: 1415 P ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 2 am	12 pm - 1:45 am	-
MON:	12 pm - 2 am	12 pm - 1:45 am	-
TUE:	12 pm - 2 am	12 pm - 1:45 am	-
WED:	12 pm - 2 am	12 pm - 1:45 am	-
THU:	12 pm - 2 am	12 pm - 1:45 am	-
FRI:	12 pm - 3 am	12 pm - 2:45 am	-
SAT:	12 pm - 3 am	12 pm - 2:45 am	-

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POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-075548  
License Class/Type: C Nightclub  
SMD: 2F05

Applicant: Park Place, Inc.  
Trade Name: The Park Place at 14th  
Premise Address: 920 14TH ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	8 am - 3 am	8 am -2 am	8 am - 2 am	8 am - 2 am	-
MON:	8 am - 3 am	8 am - 2 am	8 am - 2 am	8 am - 2 am	-
TUE:	8 am - 3 am	8 am - 2 am	8 am - 2 am	8 am - 2 am	-
WED:	8 am - 3 am	8 am - 2 am	8 am - 2 am	8 am - 2 am	-
THU:	8 am - 3 am	8 am - 2 am	8 am - 2 am	8 am - 2 am	-
FRI:	8 am - 4 am	8 am - 3 am	8 am - 3 am	8 am - 3 am	-
SAT:	8 am - 4 am	8 am - 3 am	8 am - 3 am	8 am - 3 am	-

License Number: ABRA-072225  
License Class/Type: C Nightclub  
SMD: 2F08

Applicant: Jasper Ventures, LLC  
Trade Name: Capitale  
Premise Address: 1301 K ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	3 pm - 3:30 am	3 pm -2 am	3 pm - 3 am	3 pm - 2 am	-
MON:	3 pm - 3:30 am	3 pm - 2 am	3 pm - 2 am	3 pm - 2 am	-
TUE:	3 pm - 3:30 am	3 pm - 2 am	3 pm - 2 am	3 pm - 2 am	-
WED:	3 pm - 3:30 am	3 pm - 2 am	3 pm - 2 am	3 pm - 2 am	-
THU:	3 pm - 3:30 am	3 pm - 2 am	3 pm - 2 am	3 pm - 2 am	-
FRI:	3 pm - 4:30 am	3 pm - 3 am	3 pm - 2 am	3 pm - 2 am	-
SAT:	3 pm - 4:30 am	3 pm - 3 am	3 pm - 3 am	3 pm - 3 am	-

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-000899  
License Class/Type: C Nightclub  
SMD: 3B02

Applicant: 3124 Corporation  
Trade Name: The Good Guys Restaurant  
Premise Address: 2311 WISCONSIN AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	3 pm - 2 am	3 pm - 2 am	-
MON:	9 am - 2 am	9 am - 2 am	-
TUE:	9 am - 2 am	9 am - 2 am	-
WED:	9 am - 2 am	9 am - 2 am	-
THU:	9 am - 2 am	9 am - 2 am	-
FRI:	9 am - 3 am	9 am - 3 am	-
SAT:	9 am - 3 am	9 am - 3 am	-

License Number: ABRA-060187  
License Class/Type: C Nightclub  
SMD: 4B03

Applicant: Haydee Corporation  
Trade Name: Haydee's 2000  
Premise Address: 6303 GEORGIA AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	-
MON:	10 am - 2 am	10 am - 2 am	-
TUE:	10 am - 2 am	10 am - 2 am	-
WED:	10 am - 2 am	10 am - 2 am	-
THU:	10 am - 2 am	10 am - 2 am	-
FRI:	10 am - 3 am	10 am - 3 am	-
SAT:	10 am - 3 am	10 am - 3 am	-

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PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-000771  
License Class/Type: C Nightclub  
SMD: 4D01

Applicant: Jefferson Grill Inc  
Trade Name: Macombo Lounge  
Premise Address: 5335 GEORGIA AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	2 pm - 2 am	2 pm -2 am	-
MON:	2 pm - 2 am	2 pm - 2 am	-
TUE:	2 pm - 2 am	2 pm - 2 am	-
WED:	2 pm - 2 am	2 pm - 2 am	-
THU:	2 pm - 2 am	2 pm - 2 am	-
FRI:	2 pm - 3 am	2 pm - 3 am	-
SAT:	2 pm - 3 am	2 pm - 3 am	-

License Number: ABRA-009238  
License Class/Type: C Nightclub  
SMD: 6B02

Applicant: Pennsylvania Rail Inc  
Trade Name: Remington's  
Premise Address: 639 PENNSYLVANIA AVE SE

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11:30 am - 2 am	11:30 am -2 am	-
MON:	11:30 am - 2 am	11:30 am - 2 am	-
TUE:	11:30 am - 2 am	11:30 am - 2 am	-
WED:	11:30 am - 2 am	11:30 am - 2 am	-
THU:	11:30 am - 2 am	11:30 am - 2 am	-
FRI:	11:30 am - 3 am	11:30 am - 3 am	-
SAT:	11:30 am - 3 am	11:30 am - 3 am	-



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POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-087875  
License Class/Type: C Nightclub  
SMD: 6E05

Applicant: 476 K, LLC  
Trade Name: Cloakroom  
Premise Address: 476 K ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10:30 am - 2 am	10:30 am - 2 am	-
MON:	10:30 am - 2 am	10:30 am - 2 am	-
TUE:	10:30 am - 2 am	10:30 am - 2 am	-
WED:	10:30 am - 2 am	10:30 am - 2 am	-
THU:	10:30 am - 2 am	10:30 am - 2 am	-
FRI:	10:30 am - 3 am	10:30 am - 3 am	-
SAT:	10:30 am - 3 am	10:30 am - 3 am	-

License Number: ABRA-001271  
License Class/Type: C Nightclub  
SMD: 8C02

Applicant: Georgene Thompson  
Trade Name: Player's Lounge  
Premise Address: 2737 M.L. KING JR., AVE SE

Endorsements:

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

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-088290  
License Class/Type: C Tavern  
SMD: 1B02

Applicant: Solomon Enterprises, LLC  
Trade Name: Climax Restaurant & Hookah Bar  
Premise Address: 900 FLORIDA AVE NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	11 am - 2 am	8 pm - 2 am
MON:	10 am - 2 am	11 am - 2 am	8 pm - 2 am
TUE:	10 am - 2 am	11 am - 2 am	8 pm - 2 am
WED:	10 am - 2 am	11 am - 2 am	8 pm - 2 am
THU:	10 am - 2 am	11 am - 2 am	8 pm - 2 am
FRI:	10 am - 3 am	11 am - 3 am	8 pm - 3 am
SAT:	10 am - 3 am	11 am - 3 am	8 pm - 3 am

License Number: ABRA-086419  
License Class/Type: C Tavern  
SMD: 1A03

Applicant: Irving Restaurant Group, LLC  
Trade Name: Lou's Bar & Grill  
Premise Address: 1400 IRVING ST NW

Endorsements: Cover Charge, Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
MON:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
TUE:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
WED:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
THU:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
FRI:	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	6 pm - 3 am
SAT:	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	6 pm - 3 am

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-083926  
License Class/Type: C Tavern  
SMD: 1A06

Applicant: Notta Bike or Bar, LLC  
Trade Name: Joint Chiefs  
Premise Address: 3400 11TH ST NW

Endorsements: Cover Charge, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
MON:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
TUE:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
WED:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
THU:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
FRI:	9 am - 3 am	9 am - 3 am	6 pm - 3 am
SAT:	9 am - 3 am	9 am - 3 am	6 pm - 3 am

License Number: ABRA-080606  
License Class/Type: C Tavern  
SMD: 1A06

Applicant: Notta Bike or Bar, LLC  
Trade Name: Meridian Pint  
Premise Address: 3400 11TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	6 pm - 2 am
MON:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	6 pm - 2 am
TUE:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	6 pm - 2 am
WED:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	6 pm - 2 am
THU:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	6 pm - 2 am
FRI:	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am	6 pm - 3 am
SAT:	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am	6 pm - 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: 10/4/2013  
 PETITION DATE: 11/18/2013  
 HEARING DATE: 12/2/2013

License Number: ABRA-074765  
 License Class/Type: C Tavern  
 SMD: 1A08

Applicant: The Whiskey, LLC  
 Trade Name: The Looking Glass Lounge at Temperance Hall  
 Premise Address: 3634 GEORGIA AVE NW

Endorsements: Cover Charge, Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	6 pm - 2 am
MON:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
TUE:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
WED:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
THU:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
FRI:	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am	6 pm - 3 am
SAT:	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am	6 pm - 3 am

License Number: ABRA-082215  
 License Class/Type: C Tavern  
 SMD: 1A08

Applicant: Georgia Avenue Media Lounge, LLC  
 Trade Name: The Blue Banana  
 Premise Address: 3632 GEORGIA AVE NW

Endorsements: Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	12 pm - 2 am	12 pm - 2 am	12 pm - 2 am	12 pm - 2 am	6 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-087045  
License Class/Type: C Tavern  
SMD: 1A08

Applicant: Market Bars LLC  
Trade Name: DC Reynolds  
Premise Address: 3628 GEORGIA AVE NW

Endorsements: Cover Charge, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	10am - 2am	10am -2am	10am - 2am	10am - 2am	6pm - 2am
MON:	9am - 2am	9am - 2am	10am - 2am	10am - 2am	6pm - 2am
TUE:	9am - 2am	9am - 2am	10am - 2am	10am - 2am	6pm - 2am
WED:	9am - 2am	9am - 2am	10am - 2am	10am - 2am	6pm - 2am
THU:	9am - 2am	9am - 2am	10am - 2am	10am - 2am	6pm - 2am
FRI:	9am - 3am	9am - 3am	10am - 3am	10am - 3am	6pm - 3am
SAT:	9am - 3am	9am - 3am	10am - 3am	10am - 3am	6pm - 3am

License Number: ABRA-090823  
License Class/Type: C Tavern  
SMD: 1B01

Applicant: Brilliant LLC  
Trade Name: Flash  
Premise Address: 645 FLORIDA AVE NW

Endorsements: Cover Charge, Dancing, Entertainment, Sidewalk Cafe, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Summer Garden Operation	Hours of Entertainment
SUN:	8 am - 2 am	10 am -2 am	12pm - 2 am	8 am - 2 am	6 pm - 2 am
MON:	8 am - 2 am	8 am - 2 am	12 pm - 2 am	8 am - 2 am	6 pm - 2 am
TUE:	8 am - 2 am	8 am - 2 am	12 pm - 2 am	8 am - 2 am	6 pm - 2 am
WED:	8 am - 2 am	8 am - 2 am	12 pm - 2 am	8 am - 2 am	6 pm - 2 am
THU:	8 am - 2 am	8 am - 2 am	12 pm - 2 am	8 am - 2 am	6 pm - 2 am
FRI:	8 am - 3 am	8 am - 3 am	12 pm - 3 am	8 am - 2 am	6 pm - 3 am
SAT:	8 am - 3 am	8 am - 3 am	12 pm - 3 am	8 am - 2 am	6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-078749                      Applicant: 917 U LLC (Two Summer Gardens)  
License Class/Type: C Tavern                      Trade Name: Dodge City  
SMD: 1B02    Premise Address: 917 U ST NW

Endorsements: Cover Charge, Dancing, Entertainment, 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 - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
MON:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
TUE:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
WED:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
THU:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
FRI:	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am	6 pm - 3 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	6 pm - 3 am

License Number: ABRA-078816                      Applicant: Lounge of Three, Inc.  
License Class/Type: C Tavern                      Trade Name: Lounge of Three  
SMD: 1B02    Premise Address: 1013 U ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM
MON:	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM
TUE:	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM
WED:	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM
THU:	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM	10:00 AM - 2:00 AM
FRI:	10:00 AM - 3:00 AM	10:00 AM - 3:00 AM	10:00 AM - 3:00 AM
SAT:	10:00 AM - 3:00 AM	10:00 AM - 3:00 AM	10:00 AM - 3:00 AM

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-077567  
License Class/Type: C Tavern  
SMD: 1B12

Applicant: Knz, LLC  
Trade Name: Next Door  
Premise Address: 1211 U ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	6 pm - 3 am
SAT:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

License Number: ABRA-060380  
License Class/Type: C Tavern  
SMD: 1B12

Applicant: Twins Inc.  
Trade Name: Twin Jazz  
Premise Address: 1344 U ST NW

Endorsements: Cover Charge, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	8 pm - 1 am
MON:	11 am - 2 am	11 am - 2 am	8 pm - 1 am
TUE:	11 am - 2 am	11 am - 2 am	8 pm - 1 am
WED:	11 am - 2 am	11 am - 2 am	8 pm - 1 am
THU:	11 am - 2 am	11 am - 2 am	8 pm - 1 am
FRI:	11 am - 3 am	11 am - 3 am	9 pm - 2 am
SAT:	11 am - 3 am	11 am - 3 am	9 pm - 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-072472  
License Class/Type: C Tavern  
SMD: 1B12

Applicant: Pilar Hospitality Group, LLC  
Trade Name: Bar Pilar  
Premise Address: 1833 14TH ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	-
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	-

License Number: ABRA-026466  
License Class/Type: C Tavern  
SMD: 1C03

Applicant: Marabu, Inc.  
Trade Name: Bukom Cafe  
Premise Address: 2442 18TH ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	9 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	9 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	9 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	9 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	9 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	9 pm - 2 am
SAT:	11 am - 3 am	11 am - 3 am	9 pm - 2 am



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
 PETITION DATE: 11/18/2013  
 HEARING DATE: 12/2/2013

License Number: ABRA-014272                      Applicant: Cafe Dallul, Inc.  
 License Class/Type: C Tavern                      Trade Name: Rendezvous Lounge  
 SMD: 1C03    Premise Address: 2226 18TH ST NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	10 am - 12 am	10 am - 12 am	9 pm - 2 am
MON:	10 am - 2 am	10 am - 2 am	10 am - 12 am	10 am - 12 am	9 pm - 2 am
TUE:	10 am - 2 am	10 am - 2 am	10 am - 12 am	10 am - 12 am	9 pm - 2 am
WED:	10 am - 2 am	10 am - 2 am	10 am - 12 am	10 am - 12 am	9 pm - 2 am
THU:	10 am - 2 am	10 am - 2 am	10 am - 1 am	10 am - 1 am	9 pm - 2 am
FRI:	10 am - 3 am	10 am - 3 am	10 am - 2 am	10 am - 2 am	9 pm - 3 am
SAT:	10 am - 3 am	10 am - 3 am	10 am - 2 am	10 am - 2 am	9 pm - 3 am

License Number: ABRA-079996                      Applicant: 2323 Restaurant on 18th  
 License Class/Type: C Tavern                      Trade Name: The Town Tavern  
 SMD: 1C07    Premise Address: 2323 18TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	12 pm - 2 am	12 pm - 2 am	10 pm - 2 am
MON:	8 am - 2 am	8 am - 2 am	12 pm - 2 am	12 pm - 2 am	10 pm - 2 am
TUE:	8 am - 2 am	8 am - 2 am	12 pm - 2 am	12 pm - 2 am	10 pm - 2 am
WED:	8 am - 2 am	8 am - 2 am	12 pm - 2 am	12 pm - 2 am	10 pm - 2 am
THU:	8 am - 2 am	8 am - 2 am	12 pm - 2 am	12 pm - 2 am	10 pm - 2 am
FRI:	8 am - 3 am	8 am - 3 am	12 pm - 3 am	12 pm - 3 am	10 pm - 3 am
SAT:	8 am - 3 am	8 am - 3 am	12 pm - 3 am	12 pm - 3 am	10 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-088772  
License Class/Type: C Tavern  
SMD: 1C07

Applicant: New Asylum, LLC  
Trade Name: Smoke & Barrel  
Premise Address: 2471 18TH ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	9 am - 2 am	10 am - 2 am	6 pm - 2 am
MON:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
TUE:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
WED:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
THU:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
FRI:	9 am - 3 am	9 am - 3 am	6 pm - 2 am
SAT:	9 am - 3 am	9 am - 3 am	6 pm - 3 am

License Number: ABRA-070823  
License Class/Type: C Tavern  
SMD: 1C07

Applicant: Twenty Year Venture Inc.  
Trade Name: Bourbon  
Premise Address: 2321 18TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment, Sidewalk Cafe, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Summer Garden Operation	Hours of Entertainment
SUN:	8 am - 2 am	10 am - 2 am	5 pm - 12 am	8 am - 2 am	6 pm - 2 am
MON:	8 am - 2 am	8 am - 2 am	5 pm - 12 am	8 am - 2 am	6 pm - 2 am
TUE:	8 am - 2 am	8 am - 2 am	5 pm - 12 am	8 am - 2 am	6 pm - 2 am
WED:	8 am - 2 am	8 am - 2 am	5 pm - 12 am	8 am - 2 am	6 pm - 2 am
THU:	8 am - 2 am	8 am - 2 am	5 pm - 12 am	8 am - 2 am	6 pm - 2 am
FRI:	8 am - 3 am	8 am - 3 am	5 pm - 12 am	8 am - 3 am	6 pm - 3 am
SAT:	8 am - 3 am	8 am - 3 am	10 am - 12 am	8 am - 3 am	6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
 PETITION DATE: 11/18/2013  
 HEARING DATE: 12/2/2013

License Number: ABRA-024663  
 License Class/Type: C Tavern  
 SMD: 1D04

Applicant: NHV Corporation  
 Trade Name: Haydee's Restaurant  
 Premise Address: 3102 MT PLEASANT ST NW

Endorsements: Cover Charge, Dancing, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	24hrs -	11:00 am -2:00 am	11:00 am - 2:00 am	11:00 am - 1:30 am	6 pm - 2:00 am
MON:	24hrs -	11:00 am - 2:00 am	11:00 am - 2:00 am	11:00 am - 1:30 am	6:00 pm - 2:00 am
TUE:	24hrs -	11:00 am - 2:00 am	11:00 am - 2:00 am	11:00 am - 1:30 am	6:00 pm - 2:00 am
WED:	24hrs -	11:00 am - 2:00 am	11:00 am - 2:00 am	11:00 am - 1:30 am	6:00 pm - 2:00 am
THU:	24hrs -	11:00 am - 2:00 am	11:00 am - 2:00 am	11:00 am - 1:30 am	6:00 pm - 2:00 am
FRI:	24hrs -	11:00 am - 3:00 am	11:00 am - 3:00 am	11:00 am - 2:30 am	6:00 pm - 3:00 am
SAT:	24hrs -	11:00 am - 3:00 am	11:00 am - 3:00 am	11:00 am - 2:30 am	6:00 pm - 3:00 am

License Number: ABRA-005864  
 License Class/Type: C Tavern  
 SMD: 1D04

Applicant: Murray C Warren Inc  
 Trade Name: Raven Grill  
 Premise Address: 3125 MT PLEASANT ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am -2 am	-
MON:	10 am - 2 am	10 am - 2 am	-
TUE:	10 am - 2 am	10 am - 2 am	-
WED:	10 am - 2 am	10 am - 2 am	-
THU:	10 am - 2 am	10 am - 2 am	-
FRI:	10 am - 3 am	10 am - 3 am	-
SAT:	10 am - 3 am	10 am - 3 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-076344  
License Class/Type: C Tavern  
SMD: 2B01

Applicant: TJP, INC  
Trade Name: Black Fox  
Premise Address: 1723 CONNECTICUT AVE NW

Endorsements: Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am -1:30 am	6 pm - 1 am
MON:	11 am - 2 am	11 am - 1:30 am	6 pm - 1 am
TUE:	11 am - 2 am	11 am - 1:30 am	6 pm - 1 am
WED:	11 am - 2 am	11 am - 1:30 am	6 pm - 1 am
THU:	11 am - 2 am	11 am - 1:30 am	6 pm - 1 am
FRI:	11 am - 3 am	11 am - 2:30 am	6 pm - 2 am
SAT:	11 am - 3 am	11 am - 2:30 am	6 pm - 2 am

License Number: ABRA-081479  
License Class/Type: C Tavern  
SMD: 2B01

Applicant: Bistro Inc.  
Trade Name: French Bistro Bistro B Lounge  
Premise Address: 1727 CONNECTICUT AVE NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	8 am - 2 am	10 am -2 am	6 pm - 2 am
MON:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
TUE:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
WED:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
THU:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
FRI:	9 am - 3 am	9 am - 3 am	6 pm - 3 am
SAT:	9 am - 3 am	9 am - 3 am	6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-014419  
License Class/Type: C Tavern  
SMD: 2B02

Applicant: The Fireplace Restaurant, Inc.  
Trade Name: The Fireplace  
Premise Address: 2161 P ST NW

Endorsements: Cover Charge, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
MON:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
TUE:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
WED:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
THU:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
FRI:	1 pm - 3 am	1 pm - 3 am	6 pm - 3 am
SAT:	1 pm - 3 am	1 pm - 3 am	6 pm - 3 am

License Number: ABRA-081161  
License Class/Type: C Tavern  
SMD: 2B05

Applicant: 1620 DC, LLC  
Trade Name: Blackfinn  
Premise Address: 1620 I ST NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-085120  
License Class/Type: C Tavern  
SMD: 2B06

Applicant: DC Irish, LLC  
Trade Name: Sign of the Whale  
Premise Address: 1825 M ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	10 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	10 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	10 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	10 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	10 pm - 2 am
FRI:	11 am - 5:30 am	11 am - 3 am	10 pm - 3 am
SAT:	11 am - 5:30 am	11 am - 3 am	10 pm - 3 am

License Number: ABRA-087668  
License Class/Type: C Tavern  
SMD: 2B06

Applicant: Cafe AKA White House LLC  
Trade Name: Cafe AKA  
Premise Address: 1710 H ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	7am - 12am	12pm - 12am	6pm - 10pm
MON:	7am - 12am	12pm - 12am	6pm - 10pm
TUE:	7am - 12am	12pm - 12am	6pm - 10pm
WED:	7am - 12am	12pm - 12am	6pm - 10pm
THU:	7am - 12am	12pm - 12am	6pm - 10pm
FRI:	7am - 12am	12pm - 12am	6pm - 10pm
SAT:	7am - 12am	12pm - 12am	6pm - 10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
 PETITION DATE: 11/18/2013  
 HEARING DATE: 12/2/2013

License Number: ABRA-082034  
 License Class/Type: C Tavern  
 SMD: 2B06

Applicant: The Black Rooster, LLC  
 Trade Name: Black Rooster Pub  
 Premise Address: 1919 L ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
MON:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
TUE:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
WED:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
THU:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
FRI:	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 2 am	11:30 am - 2 am	-
SAT:	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 2 am	11:30 am - 2 am	-

License Number: ABRA-000755  
 License Class/Type: C Tavern  
 SMD: 2B06

Applicant: CRV Corporation  
 Trade Name: The Bottom Line  
 Premise Address: 1716 I ST NW A

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 2 am	11:30 am - 1:30 am	11:30 am - 1:30 am	11:30 am - 1:30 am	6 pm - 1:30 am
MON:	11 am - 2 am	11:30 am - 1:30 am	11:30 am - 1:30 am	11:30 am - 1:30 am	6 pm - 1:30 am
TUE:	11 am - 2 am	11:30 am - 1:30 am	11:30 am - 1:30 am	11:30 am - 1:30 am	6 pm - 1:30 am
WED:	11 am - 2 am	11:30 am - 1:30 am	11:30 am - 1:30 am	11:30 am - 1:30 am	6 pm - 1:30 am
THU:	11 am - 2:30 am	11:30 am - 1:30 am	11:30 am - 1:30 am	11:30 am - 1:30 am	6 pm - 1:30 pm
FRI:	11am - 3:30 am	11:30 am - 2:30 am	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2:30 am
SAT:	11:30 am - 3:30 am	11:30 am - 2:30 am	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2:30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-021211  
License Class/Type: C Tavern  
SMD: 2B06

Applicant: Yfe Inc.  
Trade Name: 18th Street Lounge  
Premise Address: 1212 18TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment, 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 - 2 am	11 am - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
MON:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
TUE:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
WED:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
THU:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
FRI:	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am	6 pm - 2:45 am
SAT:	11 am - 3 am	11 am - 3 am	5 pm - 3 am	5 pm - 3 am	6 pm - 2:45 am

License Number: ABRA-016642  
License Class/Type: C Tavern  
SMD: 2B06

Applicant: PMF, Inc.  
Trade Name: The Improvisation  
Premise Address: 1140 CONNECTICUT AVE NW

Endorsements: Cover Charge, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	6 pm - 1 am	6 pm - 1 am	6 pm - 1 am
MON:	6 pm - 1 am	6 pm - 1 am	6 pm - 1 am
TUE:	6 pm - 1 am	6 pm - 1 am	6 pm - 1 am
WED:	6 pm - 1 am	6 pm - 1 am	6 pm - 1 am
THU:	6 pm - 1 am	6 pm - 1 am	6 pm - 1 am
FRI:	6 pm - 1 am	6 pm - 1 am	6 pm - 1 am
SAT:	6 pm - 1 am	6 pm - 1 am	6 pm - 1 am



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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-071698  
License Class/Type: C Tavern  
SMD: 2B06

Applicant: James Mackey Investors,I.P.  
Trade Name: Mackey's  
Premise Address: 1823 L ST NW

Endorsements: Cover Charge, Dancing, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	9 am - 1 am	10 am -1 am	3 pm - 12 am	3 pm - 12 am	6 pm - 1 am
MON:	9 am - 2 am	9 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
TUE:	9 am - 2 am	9 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
WED:	9 am - 2 am	9 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
THU:	9 am - 2 am	9 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
FRI:	9 am - 3 am	9 am - 3 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 3 am
SAT:	9 am - 3 am	9 am - 3 am	3 pm - 12 am	3 pm - 12 am	6 pm - 3 am

License Number: ABRA-060144  
License Class/Type: C Tavern  
SMD: 2B06

Applicant: Malaysian Kopitiam Inc  
Trade Name: Malaysia Kopitiam  
Premise Address: 1827 M ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 10 pm	12 pm -10 pm	-
MON:	11:30 am - 10 pm	11:30 am - 10 pm	-
TUE:	11:30 am - 10 pm	11:30 am - 10 pm	-
WED:	11:30 am - 10 pm	11:30 am - 10 pm	-
THU:	11:30 am - 10 pm	11:30 am - 10 pm	-
FRI:	11:30 am - 11 pm	11:30 am - 11 pm	-
SAT:	11:30 am - 11 pm	11:30 am - 11 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-026519  
License Class/Type: C Tavern  
SMD: 2B08

Applicant: 1624 U Street, Inc.  
Trade Name: Chi-Cha Lounge  
Premise Address: 1624 U ST NW

Endorsements: Cover Charge, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
MON:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
TUE:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
WED:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
THU:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 2 am
FRI:	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 3 am
SAT:	11:30 am - 3 am	11:30 am - 3 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 3 am

License Number: ABRA-060738  
License Class/Type: C Tavern  
SMD: 2C01

Applicant: Hyppocampe, Inc.  
Trade Name: Bistro Doc  
Premise Address: 518 10TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11:30 am - 9 pm	11:30 am - 9 pm	-
MON:	11:30 am - 10 pm	11:30 am - 10 pm	-
TUE:	11:30 am - 10 pm	11:30 am - 10 pm	-
WED:	11:30 am - 10 pm	11:30 am - 10 pm	-
THU:	11:30 am - 10 pm	11:30 am - 10 pm	-
FRI:	11:30 am - 11 pm	11:30 am - 11 pm	-
SAT:	11:30 am - 11 pm	11:30 am - 11 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-060581  
License Class/Type: C Tavern  
SMD: 2C01

Applicant: Matchbox, LLC  
Trade Name: The Matchbox  
Premise Address: 711 - 713 H ST NW

Endorsements: Cover Charge, Dancing, Entertainment, 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 - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	7 pm - 1 am
MON:	11 am - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	7 pm - 1 am
TUE:	11 am - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	7 pm - 1 am
WED:	11 am - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	7 pm - 1 am
THU:	11 am - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	7 pm - 1 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 1 am	11 am - 1 am	7 pm - 1 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 1 am	11 am - 1 am	7 pm - 1 am

License Number: ABRA-075642  
License Class/Type: C Tavern  
SMD: 2C01

Applicant: Harriets, Llc  
Trade Name: Harriets  
Premise Address: 432 11TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	6 am - 1 am	10 am - 1 am	-
MON:	6 am - 1 am	10 am - 1 am	-
TUE:	6 am - 1 am	10 am - 1 am	-
WED:	6 am - 1 am	10 am - 1 am	-
THU:	6 am - 1 am	10 am - 1 am	-
FRI:	6 am - 2 am	10 am - 2 am	-
SAT:	6 am - 2 am	10 am - 2 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-021562  
License Class/Type: C Tavern  
SMD: 2C01

Applicant: J.W.B. Inc  
Trade Name: Harry's  
Premise Address: 436 11TH ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 3 am	11 am - 3 am	11 am - 2 am	11 am - 2 am	-
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	-

License Number: ABRA-079786  
License Class/Type: C Tavern  
SMD: 2C01

Applicant: 1306 G Street Investors, LLC  
Trade Name: Laughing Man  
Premise Address: 1310 G ST NW

Endorsements: Cover Charge, Entertainment, Sidewalk Cafe

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-084584  
License Class/Type: C Tavern  
SMD: 2C02

Applicant: Engine 6 LLC  
Trade Name: Sixth Engine  
Premise Address: 438 MASSACHUSETTS AVE NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	11 am - 12 am	11 am - 12 am	-
MON:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
TUE:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
WED:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
THU:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
FRI:	8 am - 3:30 am	8 am - 3 am	11 am - 12 am	11 am - 12 am	-
SAT:	8 am - 3:30 am	8 am - 3 am	11 am - 12 am	11 am - 12 am	-

License Number: ABRA-076039  
License Class/Type: C Tavern  
SMD: 2C03

Applicant: Top Shelf, LLC  
Trade Name: Penn Quarter Sports Tavern  
Premise Address: 639 INDIANA AVE NW

Endorsements: Cover Charge, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	6:30 am - 2 am	11 am - 1:30 am	11 am - 11 pm	11 am - 11 pm	6 pm - 1:30 am
MON:	6:30 am - 2 am	11 am - 1:30 am	11 am - 11 pm	11 am - 11 pm	6 pm - 1:30 am
TUE:	6:30 am - 2 am	11 am - 1:30 am	11 am - 11 pm	11 am - 11 pm	6 pm - 1:30 am
WED:	6:30 am - 2 am	11 am - 1:30 am	11 am - 11 pm	11 am - 11 pm	6 pm - 1:30 am
THU:	6:30 am - 2 am	11 am - 1:30 am	11 am - 11 pm	11 am - 11 pm	6 pm - 1:30 am
FRI:	6:30 am - 3 am	11 am - 2:30 am	11 am - 12 am	11 am - 12 am	6 pm - 2 am
SAT:	6:30 am - 3 am	11 am - 2:30 am	11 am - 12 am	11 am - 12 am	6 pm - 2 am

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-076925  
License Class/Type: C Tavern  
SMD: 2E05

Applicant: 3287 M LLC  
Trade Name: Modern  
Premise Address: 3287 M ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 2 am	12 pm - 2 am	6 pm - 2 am
MON:	4 pm - 2 am	4 pm - 2 am	6 pm - 2 am
TUE:	4 pm - 2 am	4 pm - 2 am	6 pm - 2 am
WED:	4 pm - 2 am	4 pm - 2 am	6 pm - 2 am
THU:	4 pm - 2 am	4 pm - 2 am	6 pm - 2 am
FRI:	4 pm - 3 am	4 pm - 3 am	6 pm - 3 am
SAT:	12 pm - 3 am	12 pm - 3 am	6 pm - 3 am

License Number: ABRA-000604  
License Class/Type: C Tavern  
SMD: 2E05

Applicant: 1218 Wisconsin Incorporated  
Trade Name: El Centro D. F.  
Premise Address: 1218 WISCONSIN AVE NW

Endorsements: Cover Charge, Dancing, Entertainment, 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 - 2 am	11 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	9 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	9 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	9 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	9 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	11:30 am - 2 am	11:30 am - 2 am	9 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	9 pm - 3 am
SAT:	11 am - 3 am	11 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	9 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-088785  
License Class/Type: C Tavern  
SMD: 2F01

Applicant: HGH 1610 LLC  
Trade Name: The Ghibellina  
Premise Address: 1610 14TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11am - 1am	11am -1am	6pm - 1am
MON:	11am - 1am	11am - 1am	6pm - 1am
TUE:	11am - 1am	11am - 1am	6pm - 1am
WED:	11am - 1am	11am - 1am	6pm - 1am
THU:	11am - 1am	11am - 1am	6pm - 1am
FRI:	11am - 2am	11am - 2am	6pm - 2am
SAT:	11am - 2am	11am - 2am	6pm - 2am

License Number: ABRA-086037  
License Class/Type: C Tavern  
SMD: 2F06

Applicant: Mimi & D, LLC  
Trade Name: Vita Restaurant and Lounge/Penthouse Nine  
Premise Address: 1318 9TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	5 pm - 2 am	5 pm -2 am	5 pm - 2 am
MON:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
TUE:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
WED:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
THU:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
FRI:	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am
SAT:	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-079644  
License Class/Type: C Tavern  
SMD: 3B02

Applicant: 2408 Wisconsin Avenue, LLC  
Trade Name: Mason Inn  
Premise Address: 2408 WISCONSIN AVE NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
MON:	4 pm - 2 am	4 pm - 2 am	7 pm - 2 am
TUE:	4 pm - 2 am	4 pm - 2 am	7 pm - 2 am
WED:	4 pm - 2 am	4 pm - 2 am	7 pm - 2 am
THU:	4 pm - 2 am	4 pm - 2 am	7 pm - 2 am
FRI:	4 pm - 3 am	4 pm - 3 am	6 pm - 3 am
SAT:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

License Number: ABRA-071753  
License Class/Type: C Tavern  
SMD: 3C01

Applicant: Kennedy Warren Club, LLC  
Trade Name: Kennedy Warren Club LLC  
Premise Address: 3133 CONNECTICUT AVE NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
MON:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
TUE:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
WED:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
THU:	10 am - 11 pm	10 am - 10 pm	6 pm - 10 pm
FRI:	10 am - 1 am	10 am - 12 am	6 pm - 11 pm
SAT:	10 am - 1 am	10 am - 12 am	6 pm - 11 pm



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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-073821  
License Class/Type: C Tavern  
SMD: 3C04

Applicant: BBH, LLC  
Trade Name: Cleveland Park Bar & Grill  
Premise Address: 3421 CONNECTICUT 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 - 1:30 am	11 am -1:30 am	11 am - 1:30 am	11 am - 1:30 am	-
MON:	5 pm - 1:30 am	5 pm - 1:30 am	5 pm - 1:30 am	5 pm - 1:30 am	-
TUE:	5 pm - 1:30 am	5 pm - 1:30 am	5 pm - 1:30 am	5 pm - 1:30 am	-
WED:	5 pm - 1:30 am	5 pm - 1:30 am	5 pm - 1:30 am	5 pm - 1:30 am	-
THU:	5 pm - 1:30 am	5 pm - 1:30 am	5 pm - 1:30 am	5 pm - 1:30 am	-
FRI:	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am	-
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	-

License Number: ABRA-089491  
License Class/Type: C Tavern  
SMD: 3C05

Applicant: Connecticut Avenue NW LLC  
Trade Name: The Uptown Tap House  
Premise Address: 3412 CONNECTICUT AVE NW

Endorsements: Cover Charge, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am -2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
MON:	10 am - 2 am	10 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
TUE:	10 am - 2 am	10 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
WED:	10 am - 2 am	10 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
THU:	10 am - 2 am	10 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
FRI:	10 am - 3 am	10 am - 3 am	11 am - 3 am	11 am - 3 am	6 pm - 3 am
SAT:	10 am - 3 am	10 am - 3 am	11 am - 3 am	11 am - 3 am	6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-060040  
License Class/Type: C Tavern  
SMD: 3E03

Applicant: Club Cinema Of Mazza, Inc.  
Trade Name: Club Cinema  
Premise Address: 5300 WISCONSIN AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 12 am	10 am - 12 am	-
MON:	10 am - 12 am	10 am - 12 am	-
TUE:	10 am - 12 am	10 am - 12 am	-
WED:	10 am - 12 am	10 am - 12 am	-
THU:	10 am - 12 am	10 am - 12 am	-
FRI:	10 am - 12 am	10 am - 12 am	-
SAT:	10 am - 12 am	10 am - 12 am	-

License Number: ABRA-079370  
License Class/Type: C Tavern  
SMD: 4B02

Applicant: MDM, LLC  
Trade Name: Takoma Station Tavern  
Premise Address: 6914 4TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	10 am - 1:30 am
MON:	10 am - 2 am	10 am - 2 am	10 am - 1:30 am
TUE:	10 am - 2 am	10 am - 2 am	10 am - 1:30 am
WED:	10 am - 2 am	10 am - 2 am	10 am - 1:30 am
THU:	10 am - 2 am	10 am - 2 am	10 am - 1:30 am
FRI:	10 am - 3 am	10 am - 3 am	10 am - 2:30 am
SAT:	10 am - 3 am	10 am - 3 am	10 am - 2:30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-090258  
License Class/Type: C Tavern  
SMD: 4C10

Applicant: Fusion D & Q LLC  
Trade Name: Hitching Post Restaurant  
Premise Address: 200 UPSHUR ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10am - 2am	10am -2am	-
MON:	10am - 2am	10am - 2am	-
TUE:	10am - 2am	10am - 2am	-
WED:	10am - 2am	10am - 2am	-
THU:	10am - 2am	10am - 2am	-
FRI:	10am - 2am	10am - 2am	-
SAT:	10am - 2am	10am - 2am	-

License Number: ABRA-090274  
License Class/Type: C Tavern  
SMD: 4D02

Applicant: Hache Lounge, LLC  
Trade Name: Hache Lounge  
Premise Address: 441 KENNEDY ST NW

Endorsements: Entertainment

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-060477  
License Class/Type: C Tavern  
SMD: 5C04

Applicant: Z Z W, Inc.  
Trade Name: Aqua Restaurant  
Premise Address: 1818 NEW YORK AVE NE A

Endorsements: Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am
MON:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am
TUE:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am
WED:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am
THU:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am
FRI:	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am
SAT:	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am

License Number: ABRA-079238  
License Class/Type: C Tavern  
SMD: 5D01

Applicant: Bud and Papa, Inc.  
Trade Name: Layla Lounge  
Premise Address: 501 MORSE ST NE

Endorsements: Cover Charge, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	24 hours -	10 am - 2 am	6 pm - 2 am
MON:	24 hours -	8 am - 2 am	6 pm - 2 am
TUE:	24 hours -	8 am - 2 am	6 pm - 2 am
WED:	24 hours -	8 am - 2 am	6 pm - 2 am
THU:	24 hours -	8 am - 2 am	6 pm - 3 am
FRI:	24 hours -	8 am - 3 am	6 pm - 4 am
SAT:	24 hours -	8 am - 3 am	6 pm - 4 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-089186  
License Class/Type: C Tavern  
SMD: 5E04

Applicant: Spo-dee-o-dee, LLC  
Trade Name: The Showtime  
Premise Address: 113 RHODE ISLAND AVE NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	3 pm - 1:30 am	3 pm -1:30 am	6 pm - 1:30 am
MON:	10 am - 1:30 am	10 am - 1:30 am	6 pm - 1:30 am
TUE:	10 am - 1:30 am	10 am - 1:30 am	6 pm - 1:30 am
WED:	10 am - 1:30 am	10 am - 1:30 am	6 pm - 1:30 am
THU:	10 am - 1:30 am	10 am - 1:30 am	6 pm - 1:30 am
FRI:	10 am - 2:30 am	10 am - 2:30 am	6 pm - 2:30 am
SAT:	10 am - 2:30 am	10 am - 2:30 am	6 pm - 2:30 am

License Number: ABRA-085617  
License Class/Type: C Tavern  
SMD: 5E07

Applicant: AED, LLC  
Trade Name: Rustik Tavern  
Premise Address: 84 T ST NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 12 am	11 am -12 am	11 am - 10 pm	11 am - 10 pm	6 pm - 10 pm
MON:	11 am - 12 am	11 am - 12 am	11 am - 10 pm	11 am - 10 pm	8 pm - 10 pm
TUE:	11 am - 12 am	11 am - 12 am	11 am - 10 pm	11 am - 10 pm	8 pm - 10 pm
WED:	11 am - 12 am	11 am - 12 am	11 am - 10 pm	11 am - 10 pm	8 pm - 10 pm
THU:	11 am - 12 am	11 am - 12 am	11 am - 10 pm	11 am - 10 pm	8 pm - 10 pm
FRI:	11 am - 1 am	11 am - 1 am	11 am - 11 pm	11 am - 11 pm	8 pm - 10 pm
SAT:	11 am - 1 am	11 am - 1 am	11 am - 11 pm	11 am - 11 pm	6 pm - 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-083980  
License Class/Type: C Tavern  
SMD: 5E07

Applicant: Bloomingdale Hospitality LLC  
Trade Name: Boundary Stone Public House  
Premise Address: 116 RHODE ISLAND AVE NW

Endorsements: Entertainment, Sidewalk Cafe, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Summer Garden Operation	Hours of Entertainment
SUN:	9 am - 2 am	10 am - 2 am	9 am - 2 am	9 am - 2 am	6 pm - 1 am
MON:	9 am - 2 am	10 am - 2 am	9 am - 2 am	9 am - 2 am	6 pm - 1 am
TUE:	9 am - 2 am	10 am - 2 am	9 am - 2 am	9 am - 2 am	6 pm - 1 am
WED:	9 am - 2 am	10 am - 2 am	9 am - 2 am	9 am - 2 am	6 pm - 1 am
THU:	9 am - 2 am	10 am - 2 am	9 am - 2 am	9 am - 2 am	6 pm - 1 am
FRI:	9 am - 3 am	10 am - 3 am	9 am - 3 am	9 am - 3 am	6 pm - 1 am
SAT:	9 am - 3 am	10 am - 3 am	9 am - 3 am	9 am - 3 am	6 pm - 1 am

License Number: ABRA-083356  
License Class/Type: C Tavern  
SMD: 6A01

Applicant: The Hamilton Restaurant Group, Inc.  
Trade Name: Liberty Tree  
Premise Address: 1016 H ST NE

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:	10 am - 1 am	10 am - 1 am	10 am - 10 pm	10 am - 10 pm	-
MON:	10 am - 1 am	10 am - 1 am	10 am - 10 pm	10 am - 10 pm	-
TUE:	10 am - 1 am	10 am - 1 am	10 am - 10 pm	10 am - 10 pm	-
WED:	10 am - 1 am	10 am - 1 am	10 am - 10 pm	10 am - 10 pm	-
THU:	10 am - 1 am	10 am - 1 am	10 am - 10 pm	10 am - 10 pm	-
FRI:	10 am - 2 am	10 am - 2 am	10 am - 11 pm	10 am - 11 pm	-
SAT:	10 am - 2 am	10 am - 2 am	10 am - 11 pm	10 am - 11 pm	-

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-086141  
License Class/Type: C Tavern  
SMD: 6A01

Applicant: Lola's, LLC  
Trade Name: Lola's  
Premise Address: 711 8TH ST SE

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	-
MON:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	-
TUE:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	-
WED:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	-
THU:	10 am - 2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am	-
FRI:	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am	-
SAT:	10 am - 3 am	10 am - 3 am	10 am - 3 am	10 am - 3 am	-

License Number: ABRA-087558  
License Class/Type: C Tavern  
SMD: 6A01

Applicant: Raso, Corporation  
Trade Name: Sahra Hooka Lounge  
Premise Address: 1200 H ST NE

Endorsements:

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
 PETITION DATE: 11/18/2013  
 HEARING DATE: 12/2/2013

License Number: ABRA-089342                      Applicant: Rose's Dream, Inc.  
 License Class/Type: C Tavern                      Trade Name: Roses Dejavu  
 SMD: 6A06    Premise Address: 1378 H ST NE

Endorsements: Cover Charge, Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	12 pm - 2 am	12 pm - 2 am	12 pm - 11 pm	12 pm - 11 pm	6 pm - 2 am
MON:	12 pm - 2 am	12 pm - 2 am	12 pm - 11 pm	12 pm - 11 pm	6 pm - 2 am
TUE:	12 pm - 2 am	12 pm - 2 am	12 pm - 11 pm	12 pm - 11 pm	6 pm - 2 am
WED:	12 pm - 2 am	12 pm - 2 am	12 pm - 11 pm	12 pm - 11 pm	6 pm - 2 am
THU:	12 pm - 2 am	12 pm - 2 am	12 pm - 11 pm	12 pm - 11 pm	6 pm - 2 am
FRI:	12 pm - 3 am	12 pm - 3 am	12 pm - 1 am	12 pm - 1 am	6 pm - 3 am
SAT:	12 pm - 3 am	12 pm - 3 am	12 pm - 1 am	12 pm - 1 am	6 pm - 3 am

License Number: ABRA-075915                      Applicant: Hamilton Restaurant Group, Inc.  
 License Class/Type: C Tavern                      Trade Name: Hamilton's Bar & Grill  
 SMD: 6C02    Premise Address: 233 2ND ST NW

Endorsements: Cover Charge, Entertainment, 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 - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	6 pm - 3 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	6 pm - 3 am



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-060457  
License Class/Type: C Tavern  
SMD: 6C02

Applicant: Lounge 201 Llc  
Trade Name: The 201 Bar  
Premise Address: 201 D ST NE

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11:30 am - 2 am	11:30 am - 2 am	4 pm - 2 am
MON:	11:30 am - 2 am	11:30 am - 2 am	4 pm - 2 am
TUE:	11:30 am - 2 am	11:30 am - 2 am	4 pm - 2 am
WED:	11:30 am - 2 am	11:30 am - 2 am	4 pm - 2 am
THU:	11:30 am - 2 am	11:30 am - 2 am	4 pm - 2 am
FRI:	11:30 am - 2:30 am	11:30 am - 2:30 am	4 pm - 2:30 am
SAT:	11:30 am - 2:30 am	11:30 am - 2:30 am	4 pm - 2:30 am

License Number: ABRA-072023  
License Class/Type: C Tavern  
SMD: 6C03

Applicant: The Old Siam, LLC  
Trade Name: The Old Siam  
Premise Address: 406 8TH ST SE

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 12 am	11 am - 12 am	11 am - 11 pm	11 am - 11 pm	-
MON:	11 am - 12 am	11 am - 12 am	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 12 am	11 am - 12 am	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 12 am	11 am - 12 am	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 12 am	11 am - 12 am	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 12 am	11 am - 12 am	11 am - 11 pm	11 am - 11 pm	-
SAT:	11 am - 12 am	11 am - 12 am	11 am - 11 pm	11 am - 11 pm	-

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-087398  
License Class/Type: C Tavern  
SMD: 6C04

Applicant: Drane Flannery Restaurant, LLC  
Trade Name: The Big Board  
Premise Address: 421 H ST NE

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	10 am - 2 am
MON:	10 am - 2 am	10 am - 2 am	5 pm - 2 am
TUE:	10 am - 2 am	10 am - 2 am	5 pm - 2 am
WED:	10 am - 2 am	10 am - 2 am	5 pm - 2 am
THU:	10 am - 2 am	10 am - 2 am	5 pm - 2 am
FRI:	10 am - 3 am	10 am - 3 am	5 pm - 2 am
SAT:	10 am - 3 am	10 am - 3 am	5 pm - 3 am

License Number: ABRA-089141  
License Class/Type: C Tavern  
SMD: 6D07

Applicant: Stadium Sports LLC  
Trade Name: Willie's Sports Brew & Que  
Premise Address: 300 Tingey ST SE 110

Endorsements: Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	8am - 2am	8am - 2am	12pm - 11pm	12pm - 11pm	12pm - 11pm
MON:	8am - 2am	8am - 2am	12pm - 11pm	12pm - 11pm	12pm - 11pm
TUE:	8am - 2am	8am - 2am	12pm - 11pm	12pm - 11pm	12pm - 11pm
WED:	8am - 2am	8am - 2am	12pm - 11pm	12pm - 11pm	12pm - 11pm
THU:	8am - 2am	8am - 2am	12pm - 11pm	12pm - 11pm	12pm - 11pm
FRI:	8am - 3am	8am - 3am	12pm - 1am	12pm - 1am	12pm - 1am
SAT:	8am - 3am	8am - 3am	12pm - 1am	12pm - 1am	12pm - 1am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-088569  
License Class/Type: C Tavern  
SMD: 6E02

Applicant: Shaw's Tavern LLC  
Trade Name: Shaws Tavern  
Premise Address: 520 FLORIDA AVE NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	8 am - 1 am	8 am -12:30 am	8 am - 12 am	8 am - 11:30 pm	11 am - 11:30 pm
MON:	8 am - 1 am	11 am - 12:30 am	8 am - 12 am	11 am - 11:30 pm	6 pm - 11:30 pm
TUE:	8 am - 1 am	11 am - 12:30 am	8 am - 12 am	11 am - 11:30 pm	6 pm - 11:30 pm
WED:	8 am - 1 am	11 am - 12:30 am	8 am - 12 am	11 am - 11:30 pm	6 pm - 11:30 pm
THU:	8 am - 1 am	11 am - 12:30 am	8 am - 12 am	11 am - 11:30 pm	6 pm - 11:30 pm
FRI:	8 am - 3 am	11 am - 2:30 am	8 am - 12 am	11 am - 11:30 pm	6 pm - 11:30 pm
SAT:	8 am - 3 am	8 am - 2:30 am	8 am - 12 am	8 am - 11:30 pm	11 am - 11:30 pm

License Number: ABRA-086397  
License Class/Type: C Tavern  
SMD: 6E04

Applicant: Eagle N Exile, LLC  
Trade Name: DC Eagle  
Premise Address: 639 NEW YORK AVE NW

Endorsements:

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

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RENEWAL NOTICES

POSTING DATE: 10/4/2013  
PETITION DATE: 11/18/2013  
HEARING DATE: 12/2/2013

License Number: ABRA-092773  
License Class/Type: D Tavern  
SMD:

Applicant: DACI ENTERPRISES, LLC  
Trade Name: DACHA BEER GARDEN  
Premise Address: 1600 7TH ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	12pm - 10:30pm	12pm -10pm	12pm - 10:30pm	12pm - 10pm	-
MON:	4pm - 10:30pm	4pm - 10pm	4pm - 10:30pm	4pm - 10pm	-
TUE:	4pm - 10:30pm	4pm - 10pm	4pm - 10:30pm	4pm - 10pm	-
WED:	4pm - 10:30PM	4pm - 10pm	4pm - 10:30pm	4pm - 10pm	-
THU:	4pm - 10:30pm	4pm - 10pm	4pm - 10:30pm	4pm - 10pm	-
FRI:	4pm - 11:59pm	4pm - 11:30pm	4pm - 11:59pm	4pm - 11:30pm	-
SAT:	12pm - 11:59pm	12pm - 11:30pm	12pm - 11:59pm	12pm - 11:30pm	-

License Number: ABRA-085095  
License Class/Type: D Tavern  
SMD: 2F03

Applicant: RLJ III - HS Washington, DC Lessee, LLC  
Trade Name: Homewood Suites  
Premise Address: 1475 MASSACHUSETTS AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	24 HR - 24 HR	5 pm -8 pm	-
MON:	24 HR - 24 HR	5 pm - 8 pm	-
TUE:	24 HR - 24 HR	5 pm - 8 pm	-
WED:	24 HR - 24 HR	5 pm - 8 pm	-
THU:	24 HR - 24 HR	5 pm - 8 pm	-
FRI:	24 HR - 24 HR	5 pm - 8 pm	-
SAT:	24 HR - 24 HR	5 pm - 8pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARING

Thursday, October 24, 2013

9:30 a.m. – 11:30 p.m.

2000 14<sup>th</sup> Street N.W.  
The Reeves Building  
Board Hearing Room, 4<sup>th</sup> Floor  
Washington, D.C. 20009

The Alcoholic Beverage Control Board (Board) will conduct a hearing to receive public comment on two proposals regarding the renewal of the East Dupont Circle Moratorium Zone. One proposal, submitted by Advisory Neighborhood Commission (ANC) 2B proposes to renew the existing East Dupont Circle Moratorium Zone for another three year period with certain modifications. A second proposal submitted by the Dupont Circle Citizens Association seeks additional time to collect relevant data regarding the existing Moratorium Zone to include the status of inactive licenses. The Board believes both of these proposals merit further evaluation, and thus adopted emergency rules to extend the existing Moratorium for another 120 days to receive public comment.

The hearing will be held on Thursday, October 24, 2013 at 9:30 a.m. at 2000 14<sup>th</sup> Street, N.W., Board Hearing Room, Suite 400, Washington, D.C. 20009. Individuals and representatives of organizations who wish to testify should contact Martha Jenkins, General Counsel, at (202) 442-4456, or by e-mail at [martha.jenkins@dc.gov](mailto:martha.jenkins@dc.gov) by October 18, 2013.

E-mail contacts should include the full name, title, and affiliation, if applicable, of the person(s) testifying. Testimony may be limited to five (5) minutes in order to permit everybody an opportunity to be heard. Witnesses should bring nine (9) copies of their written testimony to the Board.

If you are unable to testify and wish to comment, written statements are encouraged and will be made a part of the Board's official record. Copies of written statements should be submitted to Ruthanne Miller, Chairperson, Alcoholic Beverage Control Board, at 2000 14<sup>th</sup> Street, NW, Suite 400, Washington, D.C. 20009, no later than 4:00 p.m., Friday, October 18, 2013.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 4, 2013
Petition Date: November 18, 2013
Roll Call Hearing Date: December 2, 2013
Protest Hearing Date: January 29, 2014

License No.: ABRA90303
Licensee: Penthouse Navy Yards, LLC
Trade Name: Penthouse Navy Yards
License Class: Retailer's Class "C" Tavern
Address: 1212 4th Street, SE.
Contact: Michael D. Fonseca: 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 license on the Roll Call 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 on January 29, 2014 at 1:30 pm.

NATURE OF OPERATION

A Penthouse Lounge with Swimming Pool and ancillary food and beverage service 1st-4th floors. There will be occasional DJ performances and recorded music. No nude performances. Summer Garden with 235 Seats. Live Entertainment. Total Occupancy Load 299.

HOURS OF OPERATION

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

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT

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

SUMMER GARDEN HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION OF ALCOHOL

Sunday through Thursday: 8am-12am, Friday and Saturday: 8am-1am

HOURS OF LIVE ENTERTAINMENT ON SUMMER GARDEN

Sunday through Thursday: 6pm-12am, Friday and Saturday: 6pm-1am

**DEPARTMENT OF HEALTH**  
**STATE HEALTH PLANNING AND DEVELOPMENT AGENCY**  
**NOTICE OF PUBLIC HEARING**

Pursuant to 22 DCMR B § 4302, the District of Columbia State Health Planning and Development Agency ("SHPDA") will hold a public hearing on the following certificate of need application:

Proposal by Sibley Memorial Hospital for the Establishment of Outpatient Pediatric Radiation Oncology Services - Certificate of Need Registration No. 13-3-1

The hearing will be held on Wednesday, October 23, 2013, beginning at 11:00 a.m., at 899 North Capitol Street, N.E., 2<sup>nd</sup> Floor, Room 216, Washington, D.C. 20002.

Testimony from affected persons will be received at the hearing. Comments may be submitted in writing before the hearing, or they may be presented at the hearing orally or in writing. Written statements may also be submitted to the SHPDA, 899 North Capitol Street, N.E., Second Floor, Washington, D.C. 20002, until 4:45 p.m. on Wednesday, October 30, 2013 before the record closes. The referenced application is available at the SHPDA for review.

Persons who wish to testify should contact the SHPDA on (202) 442-5875 before 4:45 p.m., by Tuesday, October 22, 2013. Each member of the public who wishes to testify will be allowed a maximum of five (5) minutes.

**DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING****NOTICE OF FINAL RULEMAKING**

The Commissioner of the Department of Insurance, Securities, and Banking (“Department”), pursuant to the authority set forth in Section 18 of the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.18 (2012 Repl.)), hereby gives notice of the adoption of the following amendments to Subtitle A of Title 26 (Insurance), Chapter 1 (Licensure as Insurance Producer), of the District of Columbia Municipal Regulations (DCMR).

The amendments require producers to submit applications for licensure within one (1) year of taking the pre-licensure examination pursuant to D.C. Official Code § 31-1131.05, or risk having their score deemed invalid and the associated fee forfeited. The one-year requirement implements § 31-1131.05 and is consistent with the Commissioner’s obligation of ensuring that producer applicants demonstrate knowledge of the most up-to-date insurance laws and regulations of the District, the latest trends relative to the lines of authority for which the application is made, and the current practices associated with the duties and responsibilities of insurance producers. The amendments also codify the requirement that producer applicants achieve a minimum passing examination score of 70.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 23, 2013, at 60 DCR 12224. No substantive changes were made to the rulemaking. The rules shall become effective upon the publication in the *D.C. Register*.

**Chapter 1 (Licensure as Insurance Producer), Title 26A (Insurance), District of Columbia Municipal Regulations, is amended as follows:****Subsection 100.3 is amended to read as follows:**

- 100.3           (a)     An applicant for a resident producer license shall:
- (i)     Submit a properly completed application and pay the required fee as provided in Section 105 of this chapter;
  - (ii)    Have passed the written examination required by D.C. Official Code § 31-1131.05 with a minimum score of 70, and within one (1) year of submitting an application; and
  - (iii)   Comply with the procedures established by the service provider selected by the Commissioner to administer the examination and collect the non-refundable fee applicable thereto.
- (b)     If an applicant fails to submit an application within one (1) year of passing the written examination as required by this subsection, the examination score shall be deemed invalid and the applicable fee shall be forfeited.



- (c) An applicant whose examination score is determined to be invalid under paragraph (b) of this subsection may reapply for the examination.

## DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

**NOTICE OF EXTENSION OF PUBLIC COMMENT PERIOD**

Notice is hereby given that the comment period on the Notice of Proposed Rulemaking for Publisher Boxes is extended such that all public comments will now be due by Monday, November 4, 2013, at 5 p.m.

The proposed rules were published in the *D.C. Register* at 60 DCR 012226 on August 23, 2013.

A copy of the proposed rulemaking is available at the following link:  
<http://www.dcregs.org/Gateway/NoticeHome.aspx?NoticeID=4519150>

**Comment Submission:**

All persons interested in submitting comments on the subject matter of this proposed rulemaking may do so in writing to Alice Kelly, Manager, Policy Branch, Policy, Planning and Sustainability Administration, District Department of Transportation, 55 M Street, S.E., 5<sup>th</sup> Floor, Washington, D.C. 20003. An interested person may also send comments electronically to [publicspace.policy@dc.gov](mailto:publicspace.policy@dc.gov). Copies of this proposed rulemaking are available at cost by writing to the above address and may be obtained at no cost at the websites listed above.

Electronic submission is preferred.

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

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority under Section 101(b) of the Omnibus Regulatory Reform Amendment Act of 1998, effective April 29, 1998 (D.C. Law 12-86; D.C. Official Code § 47-2851.04(c)(1) (2012 Repl.)); District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009, effective July 2, 2011 (D.C. Law 18-378; D.C. Official Code § 29-102.12(a) (2012 Repl.)); and Mayor's Order 2011-178, dated October 25, 2011, hereby gives notice of the adoption of the following emergency rulemaking amending Chapter 5 (Basic Business License Schedule of Fees) and Chapter 6 (DCRA Corporations Division Schedule of Fees) of Title 17 (Business, Occupations and Professions) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessitated by the immediate need to maintain the agency's balanced budget through a continuation of the fees charged on DCRA Business Licensing Division and Corporations Division transactions to cover the costs of enhanced technological capabilities for each division.

This emergency rulemaking was adopted on September 17, 2013 and became effective immediately. It will remain in effect for up to one hundred twenty (120) days from the date of effectiveness, expiring on January 15, 2014, unless earlier superseded by a Notice of Final Rulemaking.

A Notice of Proposed Rulemaking was previously published in the *D.C. Register* on August 9, 2013 at 60 DCR 11636. Pursuant to DC Official Code § 47-2851.04(c)(1)(B)) and D.C. Official Code § 29-102.12(d), an approval resolution will be submitted to the Council of the District of Columbia for a thirty- (30-) day and forty-five- (45-) day period of review, respectively.

**Title 17 (BUSINESS, OCCUPATIONS AND PROFESSIONS), Chapter 5 (Basic Business License Schedule of Fees), Section 500.4 of the DCMR is amended to read as follows:**

500.4 Starting on October 1, 2010, the Director shall charge an additional fee of ten percent (10%) on the total cost of each basic business license issued pursuant to this chapter to cover the costs of enhanced technological capabilities of the basic business licensing system.

**Title 17 (BUSINESS, OCCUPATIONS AND PROFESSIONS), Chapter 6 (DCRA Corporations Division Schedule of Fees), Section 600.1 of the DCMR is amended to read as follows:**

600.1 This chapter establishes the fees and charges for filings, certifications, and reports submitted to or requested of the Corporations Division of the Department of Consumer and Regulatory Affairs. In addition to the amounts set out in this section, the Director shall charge an additional fee of ten percent (10%) on the total cost of any filing or document that is submitted to, or requested from, the Corporations Division to cover the costs of enhanced technological capabilities.

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**  
**NOTICE OF EMERGENCY RULEMAKING**

**Soil Erosion and Sediment Control and Stormwater Management Infractions**

The Director of the District Department of the Environment (DDOE or Department), in accordance with the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code 8-151.01 *et seq.* (2013 Repl.)); Section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2012 Repl.)); the Water Pollution Control Act of 1984, as amended, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.16(f) and 8-103.20 (2013 Repl.)); and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of an emergency rulemaking to amend Section 3646 (Soil Erosion and Sediment Control and Stormwater Management Infractions) of Chapter 36 (Department of Health (DOH) Infractions), Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

Emergency rulemakings are used only for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR § 311.4(e). This emergency rulemaking action is necessary to ensure the protection of the waters of the District of Columbia by seeking compliance with the Department's new stormwater management and soil erosion and sediment control permitting regulations at sites currently undergoing construction. The revised regulations were published in the *D.C. Register* on July 19, 2013 at 60 DCR 10640.

This emergency rulemaking was adopted on September 23, 2013, and became effective immediately on that date. This emergency rulemaking will expire one hundred twenty (120) days from the date of effectiveness, on January 22, 2014, unless earlier superseded by a Notice of Final Rulemaking. The infractions listed below, as well as additional provisions in the transition period that do not immediately take effect in the new stormwater regulations, will be proposed for stakeholder comment with a comprehensive revision to the Department's schedule of fines.

Chapter 32 (Civil Infractions: Schedule of Fines) of Title 16 of the District of Columbia Municipal Regulations (16 DCMR §§ 3200-3201) explains how infractions are classified and lists the fine amounts. The stormwater management and soil erosion and sediment control infractions have been scheduled as follows: Class 1 infractions include the failure to submit a plan or obtain Department approval, the failure to maintain the ongoing environmental obligations of the installed stormwater management system, and the failure to comply with a stop work order; Class 2 infractions are generally those relating to the failure to comply with the conditions in the Department-approved plans, including installing adequate soil erosion and sediment controls at a construction site; Class 3 infractions are violations that are housekeeping in nature, for example, not complying with notice requirements; and Class 4 infractions are violations not scheduled elsewhere.

**CHAPTER 36 (Department of Health (DOH) Infractions) OF TITLE 16 DCMR (Civil Infractions Schedule of Fines), SECTION 3646 (Soil Erosion and Sediment Control and Stormwater Management) IS AMENDED TO READ AS FOLLOWS:**

**3646 SOIL EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT INFRACTIONS**

3646.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 21 DCMR § 504.1 (upon notice from the Department, failure to stop work identified);
- (b) 21 DCMR § 504.5 (unauthorized removal of a posted stop work order);
- (c) 21 DCMR § 504.6 (continuing work stopped by a Department order);
- (d) 21 DCMR § 509.1 (failure to correct soil erosion occurring as the result of natural forces or past land-disturbing activities after an inspection and an order from the Department);
- (e) 21 DCMR § 516.1 (failure to obtain a Department-approved stormwater management plan);
- (f) 21 DCMR § 519.1(b) (failure to comply with the maintenance activities in a Department-approved stormwater management plan);
- (g) 21 DCMR § 527.2 (failure to maintain or achieve the off-site retention volume);
- (h) 21 DCMR § 528.1 (failure to conduct maintenance required by the stormwater management plan approved by the Department);
- (i) 21 DCMR § 528.3 (failure to ensure that a best management practice or a land cover on a lot or parcel is maintained in good working order);
- (j) 21 DCMR § 528.4 (converting natural land cover associated with a stormwater retention requirement to compacted or impervious land cover, resulting in the loss of retention capacity associated with the land conversion);
- (k) 21 DCMR § 528.5 (converting compacted land associated with a stormwater retention requirement to impervious land cover, resulting in the loss of retention capacity associated with the land conversion);

- (l) 21 DCMR § 531.3 (failure to maintain the retention capacity for a best management practice or land cover for the period of time for which the Department certified a Stormwater Retention Credit);
- (m) 21 DCMR § 532.5(b) (failure to replace a certified Stormwater Retention Credit associated with a retention failure);
- (n) 21 DCMR § 534.2 (failure to maintain the retention capacity for a best management practice or land cover for the period of time for which the Department certified the Stormwater Retention Credit);
- (o) 21 DCMR § 532.5 (failure to replace a Stormwater Retention Credit (SRC) for which retention failure has occurred with another SRC or pay the in-lieu fee corresponding to the SRC);
- (p) 21 DCMR § 540.1 (engaging in razing or land-disturbing activity, including stripping, clearing, grading, grubbing, excavating, and filling of land, without obtaining the Department's approval of a soil erosion and sediment control plan); or
- (q) 21 DCMR § 540.5 (working outside the scope of the Department-approved soil erosion and sediment control plan).

3646.2

Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 21 DCMR § 502.2 (failure to conduct all work in accordance with a Department-approved plan or approved plan change);
- (b) 21 DCMR § 503.3 (changing a Department-approved plan or its implementation without Department approval);
- (c) 21 DCMR § 503.6 (proceeding past a stage of construction without obtaining the required Department inspection and approval);
- (d) 21 DCMR § 503.13 (upon notice from the Department, failure to promptly correct work that fails to comply with a Department-approved plan);
- (e) 21 DCMR § 516.3(b) (failure to comply with the terms and conditions of the Department-approved stormwater management plan);
- (f) 21 DCMR § 516.3(c) (failure to comply with the Department's orders and directions to achieve compliance with the Department-approved stormwater management plan);
- (g) 21 DCMR § 516.5 (failure to comply with a Department-approved stormwater management plan);

- (h) 21 DCMR § 518.12 (failure to submit a complete as-built stormwater management plan package within twenty-one (21) days of the Department's final construction inspection);
- (i) 21 DCMR § 518.13 (failure to submit an as-built stormwater management plan or a Record Drawing for a project consisting entirely of work in the public right-of-way);
- (j) 21 DCMR § 528.10 (using soil media removed from a best management practice receiving drainage from an area intended for use or storage of motor vehicles for planting or as fill material);
- (k) 21 DCMR § 528.11 (failure to dispose non-vegetative waste material from cleaning, maintaining, repairing, or replacing a best management practice into a landfill or other facility approved for processing these materials);
- (l) 21 DCMR § 533.3 (transferring ownership of a Stormwater Retention Credit without the Department's approval);
- (m) 21 DCMR § 540.2 (engaging in a demolition project that results in debris, dust, or sediment leaving the site without instituting the necessary control measure(s));
- (n) 21 DCMR § 540.3 (failure to apply each necessary control measure upon receiving instruction to do so by the Department after exposing erodible material and causing erosion);
- (o) 21 DCMR § 542.12 (failure to request the Department's approval at the scheduled stage(s) of construction);
- (p) 21 DCMR § 543.3 (failure to use adequate soil erosion and sediment control measures to prevent transportation of sediment from the site);
- (q) 21 DCMR § 543.5 (failure to protect a best management practice from sedimentation and other damage during construction);
- (r) 21 DCMR § 543.6 (failure to have adequate erosion and sediment control measures in place before and during land disturbance);
- (s) 21 DCMR § 543.7 (failure to have soil erosion and sediment control measures in place to stabilize an exposed area as soon as practicable after construction activity has temporarily or permanently ceased);

- (t) 21 DCMR § 543.9 (failure to implement measures to prevent the discharge of erodible material or waste material to District sewers or District waterbodies);
- (u) 21 DCMR § 543.10(a) (failure to comply with a stormwater pollution prevention plan);
- (v) 21 DCMR § 543.12 (except for the area undergoing construction, failure to stabilize area and install perimeter controls within one (1) week of initial land disturbance or redisturbance);
- (w) 21 DCMR § 543.13 (failure to control runoff from the site by either diverting or conveying the runoff through areas with soil erosion and sediment control measures, such as through the installation of lined conveyance ditches, channels, or checkdams);
- (x) 21 DCMR § 543.14 (failure to apply critical area stabilization to each cut and fill slope);
- (y) 21 DCMR § 543.16(a) (failure to establish and maintain perimeter controls around the stockpile material that is actively being used during a phase of construction);
- (z) 21 DCMR § 543.16 (b) (failure to stabilize stockpiled material with mulch, temporary vegetation, hydro-seed, or plastic within fifteen (15) calendar days after last use or addition of material);
- (aa) 21 DCMR § 543.17 (failure to install required sediment traps or basins and other soil erosion and sediment controls);
- (bb) 21 DCMR § 543.18 (failure to seed and mulch or install a sod or a stabilization blanket immediately after building debris basins, diversions, waterways, or related structures);
- (cc) 21 DCMR § 543.19 (failure to install measures to minimize off-site vehicle tracking at the construction site access);
- (dd) 21 DCMR § 543.20 (failure to remove off-site accumulations of sediment);
- (ee) 21 DCMR § 543.21 (failure to maintain and prevent stabilized areas from becoming unstabilized);
- (ff) 21 DCMR § 545.2 (failure to install measures to achieve a non-eroding velocity for stormwater exiting from a roof or downspout or to temporarily pipe that stormwater directly to a storm drain);



- (gg) 21 DCMR § 545.3 (failure to maximize the preservation of natural vegetation and limit the removal of vegetation to that is necessary for construction or landscaping activity);
- (hh) 21 DCMR § 546.1(a) (exposing more than five hundred linear feet (500 ft) of open trench at any one time for land-disturbing activity that involves work on an underground utility);
- (ii) 21 DCMR § 546.1 (b) (failure to place all excavated material on the uphill side of a trench for land-disturbing activity that involves work on an underground utility);
- (kk) 21 DCMR § 546.1 (c) (failure to install interim or permanent stabilization upon completion of refilling for land-disturbing activity that involves work on an underground utility);
- (ll) 21 DCMR § 546.1 (d) (failure to use mulches and matting to minimize soil erosion when natural or artificial grass filter strips are used to collect sediment from excavated material for land-disturbing activity that involves work on an underground utility); or
- (mm) 21 DCMR § 547.1 (failure to ensure that a responsible person (as described in the Chapter) is present or available if a site involves a land disturbance of five thousand square feet (5,000 ft<sup>2</sup>) or more).

3646.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 21 DCMR § 502.4 (failure to notify the Department of a material change in the performance provided for in a Department-approved stormwater pollution prevention plan, including a material change in the volume of stormwater flowing into a best management practice (BMP), a shared BMP, or a land cover);
- (b) 21 DCMR § 503.7(a) (failure to schedule a preconstruction meeting or field visit with the Department at least three (3) business days before commencement of a land-disturbing activity);
- (c) 21 DCMR § 503.7(b) (failure to schedule a preconstruction inspection with the Department at least three (3) business days before beginning construction of a best management practice);
- (d) 21 DCMR § 503.7(c) (failure to schedule an inspection required for a stage of construction or other construction event at least three (3) business days before the anticipated inspection);

- (e) 21 DCMR § 503.7(d) (failure to give notice to the Department within two (2) weeks of completion of the land-disturbing activity); or
- (f) 21 DCMR § 503.7(e) (failure to request a final construction inspection one (1) week before completion of a best management practice).

3646.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 21 DCMR § 542.2 (failure to make the Department-approved soil erosion and sediment control plan for a project available on site for Department review);
- (b) 21 DCMR § 543.10(b) (failure to post a copy of the Department-approved stormwater pollution prevention plan on site);
- (c) 21 DCMR § 543.22 (failure to post a sign that notifies the public to contact the Department in the event of soil erosion or other pollution); or
- (d) Violation of any provision of the District of Columbia Stormwater Management, Soil Erosion and Sedimentation Control Regulations (21 DCMR, Chapter 5) that is not cited elsewhere in this section.

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

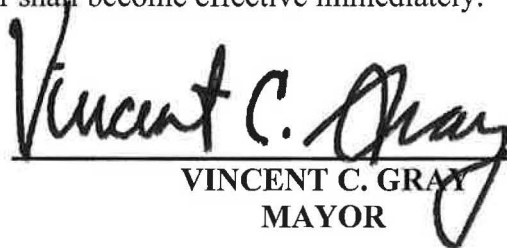
Mayor's Order 2013-179  
September 26, 2013


**SUBJECT:** Appointments – District of Columbia Police and Firemen's Retirement and Relief Board

**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 Repl.), and in accordance with section 122 of An Act to increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974, 88 Stat. 1041, Pub. L. 93-407, D.C. Official Code § 5-722 (2012 Repl.), it is hereby **ORDERED** that:

1. **DEPUTY FIRE CHIEF MILTON DOUGLAS** is appointed, to replace Kenneth Jackson, as a member of the District of Columbia Police and Firemen's Retirement and Relief Board ("Board"), representing the District of Columbia Fire and Emergency Medical Services Department, and shall serve at the pleasure of the Mayor.
2. **BATTALION FIRE CHIEF BRIAN LEE** is appointed as an alternate member of the Board, representing the District of Columbia Fire and Emergency Medical Services Department, and shall serve at the pleasure of the Mayor.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
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 2013-180  
September 27, 2013


**SUBJECT:** Appointment – District of Columbia Public Charter Schools Credit Enhancement Fund Committee

**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 Repl.), and in accordance with section 153 of the District of Columbia Appropriations Act of 1999, approved November 29, 1999, 113 Stat. 1501, 1526, Pub. L. 106-113, 20 U.S.C. § 1155(e)(2)(B) (2006), it is hereby **ORDERED** that:

1. **W. FRANK WILLIAMS, III** is appointed as a member of the District of Columbia Public Charter Schools Credit Enhancement Fund Committee, replacing Derrick Perkins, and shall serve in that capacity at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
\_\_\_\_\_  
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 2013-181  
September 27, 2013


**SUBJECT:** Appointment – District of Columbia Workforce Investment Council

**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) and (11) 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) and (11) (2012 Repl.), and in accordance with Mayor's Order 2011-114, dated July 1, 2011, it is hereby **ORDERED** that:

1. **ROBIN LYNN ANDERSON** is appointed to the District of Columbia Workforce Investment Council, as a private retail sector representative, for a term to end October 11, 2016.
2. **EFFECTIVE DATE:** This Order shall become 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  
AGENDA

WEDNESDAY, OCTOBER 9, 2013 AT 1:00 PM  
2000 14<sup>th</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Supplemental Documentation for Pending Grocery Store B Application. ANC 6C. SMD 6C05. *Giant*, 300 H Street NE, Retailer B, Lic#: 91952.

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2. Review Request to Increase Seating Capacity. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. ANC 6B. SMD 6B03. *Rose's Luxury*, 717 8<sup>th</sup> Street SE, Retailer CR, Lic#: 90884.

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3. Review of Application for Manager's License for *Charles W. Idol*, ABRA-93345.\*

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4. Review of Application for Manager's License for *Dennis Philipson*, ABRA-93337.\*

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5. Review of Application for Manager's License for *Kenon C Pratt*, ABRA-92482.\*

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6. Review of Application for Manager's License for *Donald L. Spencer*, ABRA-93326.\*

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7. Review of Application for Manager's License for *Celestina B. Ferrufino*, ABRA-92613.\*

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8. Review of Motion to Continue the Protest Hearing dated September 30, 2013 from Sara Green of ANC4B01. *Sunshine Bar & Lounge*, 7331 Georgia Avenue NW, Retailer CR, Lic#: 085239.

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9. Review Request dated September 18, 2013 to Reinstate the Protest of Group of Five or More from Jeremy Sigmon. *Climax*, 900 Florida Avenue NW, Retailer CT, Lic#: 088290.\*

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10. Review Request dated September 19, 2013 to Reinstate the Protest of ANC 1B. *Climax*, 900 Florida Avenue NW, Retailer CT, Lic#: 088290.\*

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11. Review of Request dated September 6, 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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12. Review of Request dated September 30, 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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13. Review of Request dated September 23, 2013 from Crown Imports for approval to provide retailers with products valued at more than \$50 and less than \$500.

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14. Review of Settlement Agreement dated September 24, 2013 between ANC 1A and El Atardecer, LLC. *El Atardecer Restaurant*, 3475 14<sup>th</sup> Street NW, Retailer CR, Lic#: 092346.\*

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15. Review of Settlement Agreement dated September 18, 2013 between Group of Five or More and Marvin. *Marvin*, 2007 14<sup>th</sup> Street NW, Retailer CT, Lic#:76116.\*

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16. Review of Settlement Agreement dated September 15, 2013 between ANC 6B and District Taco. *District Taco*, 656 Pennsylvania Avenue SE, Retailer D, Lic#: 092797.\*

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**\* In accordance with D.C. Official Code §2-574(b) Open Meetings Act, 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.**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSE CANCELLATIONS

WEDNESDAY, OCTOBER 9, 2013 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. ABRA-078578- *SOVA Espresso & Wine*- Retailer CT, 1359 H Street NE, [Ceased Operations; Surrender License and Request Immediate Cancellation; Email dated September 27, 2013]

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2. ABRA-10581-*Café Japone* - Retailer CR, 2032 P Street NW, [Ceased Operations; Surrender of License and Request Immediate Cancellation; Letter dated September 24, 2013]

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3. ABRA-60626-*Fur Factory*-Retailer CN, 33 Patterson Street NE, [Ceased operations; Surrender of License and Request Immediate Cancellation; Letter dated September 24, 2013]

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\* In accordance with D.C. Official Code §2-574(b) Open Meetings Act, 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.



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

**NOTICE OF MEETING  
INVESTIGATIVE AGENDA**

**WEDNESDAY, OCTOBER 9, 2013  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On October 9, 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-CC-00099 Bambu, 5101 MACARTHUR BLVD NW Retailer C Restaurant, License#: ABRA-075442

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2. Case#13-CC-00074 Asian Spice, 717 - 719 H ST NW Retailer C Restaurant, License#: ABRA-076750

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3. Case#13-251-00099 Johana's Restaurant, 4728 14TH ST NW Retailer C Tavern, License#: ABRA-025996

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4. Case#13-251-00114 Fur Factory, 33 PATTERSON ST NE Retailer C Nightclub, License#: ABRA-060626

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5. Case#13-251-00110 7 Food Store, 1830 BENNING RD NE Retailer B Retail - Grocery, License#: ABRA-060663

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6. Case#13-CMP-00355 Awash, 2218 - 2220 18TH ST NW Retailer C Restaurant, License#: ABRA-020102

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7. Case#13-CC-00104 Night 'N' Day 24 Hour Convenience Store, 5026 BENNING RD SE Retailer B Retail - Grocery, License#: ABRA-081343

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8. Case#13-CC-00073 Liberty Tree, 1016 H ST NE Retailer C Tavern, License#: ABRA-083356

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9. Case#13-CMP-00411 Woodward Table/WTF(Woodward Takeout Food), 1426 H ST NW  
Retailer C Restaurant, License#: ABRA-090596

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10. Case#13-CMP-00381 Sahra Hooka Lounge, 1200 H ST NE Retailer C Tavern, License#:  
ABRA-087558

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**CAPITAL CITY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Capital Campaign Consultant**

Capital City Public Charter School invites all interested and qualified vendors to submit proposals for Capital Campaign Consultant. Proposals are due no later than 5 P.M. October 25, 2013. The RFP with bidding requirements and supporting documentation can be obtained by contacting Arogya Singh at 202-808-9800 or emailing [asingh@ccpcs.org](mailto:asingh@ccpcs.org).

**Payroll System**

Capital City Public Charter School invites all interested and qualified vendors to submit proposals for enhancing our current payroll system. Proposals are due no later than 5 P.M. October 11, 2013. The RFP with bidding requirements and supporting documentation can be obtained by contacting Arogya Singh at 202-808-9800 or emailing [asingh@ccpcs.org](mailto:asingh@ccpcs.org).

**Trash**

Capital City Public Charter School invites all interested and qualified vendors to submit proposals for Trash. Proposals are due no later than 5 P.M. October 18, 2013. The RFP with bidding requirements and supporting documentation can be obtained by contacting Elle Carne 202-808-9800 or emailing [ecarne@ccpcs.org](mailto:ecarne@ccpcs.org).

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****OFFICE OF THE SURVEYOR****NOTICE OF AN OPPORTUNITY TO SUBMIT COMMENTS**

The District of Columbia Office of the Surveyor, pursuant to Section 9-101.06 of the D.C. Official Code, gives notice of an opportunity to submit comments on the proposal to remove the Highway Plan for a portion of 28<sup>th</sup> and Austin Streets S.E., abutting Parcel 213/52 in Square 5632, from the Plan of Permanent System of Highways.

All persons desiring to comment on the proposal should submit comments in writing to Diana Dorsey Hill, Program Specialist, Office of the Surveyor, 1100 Fourth Street, S.W., Room E320, Washington, D.C. 20024 or via e-mail at [diana.dorsey@dc.gov](mailto:diana.dorsey@dc.gov), not later than thirty (30) days after publication of this notice in the *D.C. Register*.

A map showing the proposed modification is in the files in the Office of the Surveyor at the address above. The file number is S.O. 13-11875. This map may be examined during business hours, from 8:30 am to 4:15pm Monday through Friday.

For further information, you may contact Roland F. Dreist, Jr., Surveyor of the District of Columbia at 202-442-4699.

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS**

**Certification of Filling a Vacancy  
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 vacancy has been filled in the following single-member district by the individual listed below:

Michael I. Morrison  
Single-Member District 5B03

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2014

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue permit renewal (#6324-R1) to the Architect of the Capitol to operate one (1) existing 300 kW diesel-fired emergency generator set at the Rayburn House Office Building, Washington, DC 20515. The contact person for the facility is William M. Weidemeyer, PE, Superintendent, House Office Buildings at (202) 225-4142.

The renewal application to operate the generator set and the draft renewal permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours  
Chief, Permitting Branch  
Air Quality Division  
District Department of the Environment  
1200 First Street NE, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after November 4, 2013 will be accepted.**

For more information, please contact Stephen S. Ours at (202) 535-1747.

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2013

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue permit renewal (#6325-R1) to the Architect of the Capitol to operate one (1) existing 505 kW diesel-fired emergency generator set at the Rayburn House Office Building, Washington, DC 20515. The contact person for the facility is William M. Weidemeyer, PE, Superintendent, House Office Buildings at (202) 225 4142.

The renewal application to operate the generator set and the draft renewal permit are all available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2014

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue an air quality permit (#6788) to Celtic Demolition, Inc. to construct and operate a portable crushing plant at the former Dunbar High School site located at 1301 New Jersey Avenue NW, Washington, DC 20001. The contact person for the applicant is Ross Tumulty, President, at (703) 739-9103. The applicant's mailing address is 2121 Eisenhower Avenue, Suite 200 Alexandria, VA 22314.

The proposed overall emission limits for the equipment are as follows:

- a. Emissions of dust shall be minimized in accordance with the requirements of 20 DCMR 605 and the "Operational Limitations" of the permit.
- b. The emission of fugitive dust from any material handling, screening, crushing, grinding, conveying, mixing, or other industrial-type operation or process is prohibited. [20 DCMR 605.2]
- c. Emissions from the engine powering the crusher shall not exceed those achieved by proper operation of the equipment in accordance with manufacturer's specifications.
- d. Visible emissions shall not be emitted into the outdoor atmosphere from stationary sources; provided, that the discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, soot blowing, adjustment of combustion controls, or malfunction of the equipment. [20 DCMR 606.1]
- e. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

Emissions from the unit are not expected to exceed the following:

<b>Pollutant</b>	<b>Maximum Annual Emissions (tons/yr)</b>
Particulate Matter (PM)	0.30
Carbon Monoxide (CO)	1.62
Oxides of Nitrogen (NO <sub>x</sub> )	7.05
Volatile Organic Compounds (VOC)	0.19



Pollutant	Maximum Annual Emissions (tons/yr)
Oxides of Sulfur (SO <sub>x</sub> )	1.19

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

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Air Quality Division  
District Department of the Environment  
1200 First Street NE, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after November 4, 2013 will be accepted.**

For more information, please contact Stephen S. Ours at (202) 535-1747.

**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 at 441 4<sup>th</sup> Street NW, Suite 820 N on Wednesday, **October 9, 2013**, at 5:30 pm. The call in number is 1-877-668-4493, Access code 643 238 086.

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 Respiratory Care hereby gives notice of a change in its regularly scheduled monthly meeting dates for the months of October 2013 and November 2013 pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2009).

For the month of October 2013, the District of Columbia Board of Respiratory Care's regularly scheduled monthly meeting will be moved to **Monday, October 7, 2013**.

For the month of November 2013, the District of Columbia Board of Respiratory Care's regularly scheduled monthly meeting will be moved to **Monday, November 4, 2013**.

These meeting date changes are due to the District of Columbia government offices being closed for the Columbus Day and Veteran's Day holidays on the Board's regularly scheduled meeting dates.

Thereafter, the Board will return to its normal meeting schedule, which is the second Monday of each month at 9:00 a.m. The open (public) session begins at 9:00 a.m.

The Board of Respiratory Care meets at 899 North Capitol Street, NE, 2<sup>nd</sup> Floor, Washington, D.C. 20002.

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

October 8, 2013  
815 Florida Avenue, NW  
Washington, DC 20001  
5:30 pm

AGENDA

- I. Call to order and verification of quorum.
- II. Vote to close meeting to discuss the approval of a Final Bond Resolution for the Trinity Plaza project and bond transaction and an Eligibility Resolution for the 7611 & 7701 Georgia Avenue Apartments project and bond transaction.  
  
Pursuant to the District of Columbia Administrative Procedure Act, the Chairperson of the Board of Directors will call a vote to close the meeting in order to discuss, establish, or instruct the public body's staff or negotiating agents concerning the position to be taken in negotiating the price and other material terms of the Trinity Plaza project and bond transaction and the 7611 & 7701 Georgia Avenue Apartments project and bond transaction. An open meeting would adversely affect the bargaining position or negotiation strategy of the public body. (D.C. Code §2-405(b)(2)).
- III. Re-open meeting.
- IV. Consideration of DCHFA Final Bond Resolution No. 2013-10 for the approval of the Trinity Plaza project and bond transaction.
- V. Consideration of DCHFA Eligibility Resolution No. 2013-11 for the approval of the 7611 & 7701 Georgia Avenue Apartments project and bond transaction.
- VI. Re-open meeting.
- VII. Executive Director's Report.
  - Parkway Overlook Update
  - Shutdown Plan Update
  - Credit Card Review Process Update Discussion
- VIII. Other Business.
- IX. Adjournment.

**KIPP DC PUBLIC CHARTER SCHOOL**

**REQUEST FOR PROPOSALS**

**Environmental Site Assessment Services**

KIPP DC invites all interested and qualified firms to submit proposals to provide Environmental Site Assessment services. Proposals are due no later than 5:00 pm on Friday, October 11, 2013. The RFP can be obtained by contacting via email:

Lindsay Snow, Real Estate Manager  
KIPP DC  
1003 K Street NW, Suite 700  
Washington, DC 20001  
Lindsay.Snow@kipfdc.org  
(202) 315-6927

**OFFICE OF THE DEPUTY MAYOR FOR  
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC MEETING REGARDING  
SURPLUS RESOLUTION PURSUANT TO D.C. OFFICIAL CODE §10-801**

The District will conduct a public meeting to receive public comments on the proposed surplus of District property. The date, time and location shall be as follows:

**Property:** 1300 H Street, NE (former RL Christian Library site)  
Parcels 0097, 0098, 0099, 0100, 0101, 0102, 0103 in Square 1026

**Date:** Thursday, October 24, 2013

**Time:** 6:30 p.m.

**Location:** Sherwood Recreation Center  
Multipurpose Room (2<sup>nd</sup> Floor)  
6410 10th Street NE  
Washington, DC

**Contact:** Reyna Alorro, [Reyna.Alorro@dc.gov](mailto:Reyna.Alorro@dc.gov)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DC TAXICAB COMMISSION**

**NOTICE OF GENERAL COMMISSION MEETING**

The District of Columbia Taxicab Commission will hold its regularly scheduled General Commission Meeting on Wednesday, October 9, 2013 at 10:00 am. The meeting will be held in the Old Council Chambers at 441 4th Street, NW, Washington, DC 20001.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at [www.dctaxi.dc.gov](http://www.dctaxi.dc.gov).

Members of the public must register to speak. The time limit for registered speakers is five (5) minutes. A speaker should also submit two (2) copies of any prepared statement to the Assistant Secretary to the Commission. Registration to speak closes at 3:30 pm the day prior to the meeting. Contact the Assistant Secretary to the Commission, Ms. Mixon, on 202-645-6018, selection 4. Registration consists of your name; your phone number or email contact; and your subject matter.

**DRAFT AGENDA**

- I. Call to Order
- II. Commission Communication
- III. Commission Action Items
- IV. Government Communications and Presentations
- V. General Counsel's Report
- VI. Staff Reports
- VII. Public Comment Period
- VIII. Adjournment

OFFICE ON WOMEN'S POLICY AND INITIATIVES  
DISTRICT OF COLUMBIA COMMISSION FOR WOMEN

NOTICE OF PUBLIC MEETING

**Thursday, October 3, 2013**  
**6:45 PM to 8:45 PM**  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW,  
Room 301  
Washington, DC 20004

The District of Columbia Commission for Women will be holding its monthly meeting on Thursday, October 3, 2013 at 6:45 p.m. The meeting will be held at the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 301, Washington, DC 20004.

For additional information, please contact Terese Lowery, Executive Director at (202) 724-7690 or [women@dc.gov](mailto:women@dc.gov).

**DRAFT AGENDA**

- I. Call to Order
- II. Presentation on Best Practices for Increasing Workforce Development Opportunities for Women
- III. Post-presentation Discussion and Review of Position Paper on Employment Opportunities for District Women
- IV. Discussion of Next Steps and Commission's Role in Improving Opportunities
- V. Questions, Comments, Concerns
- VI. Adjournment

Please note that this is a draft agenda and subject to change.



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

**Application No. 18477-A of Abdo 14th St LLC**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the building height setback requirements under subsection 1902.1(b), a variance from the off-street parking requirements under subsection 2101.1, and a special exception from the rear yard requirements under subsection 774.2, in the ARTS/C-3-A District at premises 1400-1404 14th Street, N.W. (Square 210, Lots 82, 102, and 800).

**HEARING DATE:** January 8, 2013  
**DECISION DATE:** January 8, 2013  
**FINAL ORDER DATE:** January 30, 2013  
**RECONSIDERATION  
DECISION DATE:** April 9, 2013

**ORDER DISMISSING  
MOTION FOR RECONSIDERATION, REHEARING, AND STAY**

The order of the Board of Zoning Adjustment (“Board”) approving the application of Abdo 14th St LLC (“Applicant”) was issued on January 30, 2013 (“Order”). On March 4, 2013, a motion for a waiver of the Board’s rules for reconsideration and rehearing and for a stay of the Order (“Motion”) was filed by Gelman Management Company (“Gelman”), which had not requested party status. The motion itself does not indicate the time period for which a stay is requested. As will be explained, the Board concludes that the stay is sought during the pendency of the requested rehearing.

The waivers sought are from two preconditions to filing a motion for reconsideration and rehearing, namely that the motion must be filed by a party and must be filed within ten days after a final order is issued. The Applicant filed an Opposition to the Motion (“Opposition”) on March 14, 2013.

For the reasons set forth below, the Board found that Gelman failed to establish good cause to waiver either of these requirements and voted to dismiss the portion of the motion that requested reconsideration and rehearing. Since the motion only sought to stay the effectiveness of the order during the rehearing and since no rehearing will occur, the Board also dismissed the portion of the motion requesting the stay relief.

**The Request for Waivers**

Pursuant to § 3126.2 of the Board’s Rules of Practice and Procedure (Chapter 31 of Title 11 DCMR):

**BZA APPLICATION NO. 18477-A**  
**PAGE NO. 2**

Any party may file a motion for reconsideration or rehearing of any decision of the Board, provided that the motion is filed with the Director within ten (10) days from the date of issuance of a final written order by the Board.

As noted, the Order was issued<sup>1</sup> on January 30, 2013. Therefore, any party<sup>2</sup> who wished to file a motion for reconsideration was required to do so by February 11, 2013.<sup>3</sup> A non-party could not file such a motion at all.

Gelman filed its motion for reconsideration and rehearing on March 4, 2013, well after this period had expired and, as noted, Gelman was not a party.

Pursuant to § 3100.5 of the Board's Rules, the Board may, for good cause shown, waive many of its rules, including the party and timelines requirements of § 3126.2. Gelman's claim of "good cause" for the Board to waive its prohibition against non-parties filing motions for reconsideration and rehearing is that it did not receive mailed notice of the hearing, and therefore was unable to avail itself of the opportunity to request and receive party status. The good cause claimed for waiving the ten day filing rule is based upon this same claimed lack of notice.

The Board concludes that Gelman received mailed notice of the hearing within the time period prescribed by the Board's rules and that even had it not, notice was given through the other forms of notice required by §§ 3113.13 through 3113.15.

Subsections 3113.13 through 3113.15 prescribe several different means by which notice of a Board public hearing is given. One of these is that the Director of the Office of Zoning must give such notice not less than forty days before the date of the hearing by "mailing the notice to the applicant and to the owners of all property within two hundred feet (200 ft.) of the property involved in the application." Gelman claims not to have been given this form of notice. The Board concludes otherwise.

First, the Board finds that the notice was mailed to Gelman's address. The Order states as much. Moreover Gelman does not deny that its correct name and address was provided by the Applicant to the Office of Zoning (Motion at 4) and the Board has no reason to doubt that the notice was mailed to that address. Gelman's claim that this did not occur is based solely upon two affidavits; one by an affiant "responsible for receiving and distributing mail" addressed to

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<sup>1</sup> The Board rejects Gelman's contention that this time period started when it received a copy of the Order from the Office of Zoning. The language of the rule plainly calls for the ten day period to commence upon the "issuance" of a final order. The Board's rules cannot plausibly be read as allowing the time for filing a reconsideration motion to restart whenever the Office of Zoning responds to a request for a copy of a final order.

<sup>2</sup> No requests for party status were received by the Board. Therefore the only parties to this proceeding were the Applicant and ANC 2F.

<sup>3</sup> The tenth day fell on a Saturday. When this is the case, the § 3110.2 of the Board's rules provide that a time period is extended to the next business day, which in this case was Monday February 11.

**BZA APPLICATION NO. 18477-A**  
**PAGE NO. 3**

Gelman and the other by an affiant “responsible for reviewing and processing” such mail. Both claim to have “received no notice of any kind” about the application, yet neither offer any objective evidence to support these assertions, such as logs of mail received, processed, distributed, or reviewed. Therefore this attempt to prove a negative appears based only upon a lack of recollection. The Board concludes that the notice of the hearing was mailed to Gelman and that there is no credible evidence to suggest otherwise.

Even if the mailed notice was not sent, the Board concludes that Gelman was given notice of the hearing through the other applicable forms of notice required by §§ 3113.13 through 3113.15 including, but not limited to, the posting of the notice on the subject property “in plain view of the public”, publication of the notice in the District of Columbia Register, and the mailing of the notice to Advisory Neighborhood Commission 2F, which hosted multiple meetings involving presentations by the Applicant, held a properly noticed hearing on the application, and ultimately voted in support of the Application. Contrary to the assertion made in the Motion, this is not “a case of first impression.” Rather, the Board has on at least two occasions ruled that the absence of mailed notice does not warrant the continuation of a hearing when the other forms of notice were given. *See Application 16412 of Florida Avenue Partnership* (1999); *Application 15825 of David Dale* (1993).

Gelman does not dispute that the other notice requirements of §§ 3113.13 through 3113.15 were met. Instead, the Motion attempts to downplay the significance of the posting of the notice through the affidavit of Gelman employee Peter Kelly who states he is “responsible for multiple properties” and therefore was not in a position to view” and did not view “any posting on the adjacent property.” The Board agrees with the Applicant that this statement is not credible given the large bright orange signs posted in plain view of the public.

The Board therefore finds that Gelman was given notice of the public hearing. Since the claimed lack of notice is the basis of the two waivers sought, both are denied.

**The Request for to Stay**

As noted, the motion to stay does not identify the proceeding to which the stay relates. The Board is aware that a petition for review of the Order was filed in the Court of Appeals on March 3, 2013 and that the proceeding has been held in abeyance pending the issuance of this decision. However, Gelman does not claim that this motion was filed pursuant to Court of Appeals Rule 18(a)(2)(ii), which provides that a “petitioner<sup>4</sup> must ordinarily move first before the agency for a stay pending review of its decision or order.” In addition, the Motion does not claim that a stay is warranted because the petition for review will succeed on its merits, but rather that Gelman will succeed on the merits of the Motion before the Board. For these reasons the Board concludes that the requested stay was predicated upon the Board’s grant of a rehearing and was

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<sup>4</sup> Gelman is not the Petitioner.

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intended to remain in place during its pendency. Since the Board has dismissed the request for a rehearing, the associated stay request has been rendered moot and is also dismissed.<sup>5</sup>

For the reasons stated above, it is **ORDERED** that the motion for reconsideration, rehearing, and stay is **DISMISSED**.

**VOTE:**                   **4-0-1**     (Nicole C. Sorg, Jeffrey L. Hinkle, Lloyd J. Jordan (by absentee ballot), and Marcie I. Cohen (by absentee ballot) to Dismiss; No other Board member participating.)

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

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 26, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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<sup>5</sup> Even if the stay was requested for the duration of the petition for review, the Applicant has demonstrated that Gelman has failed to meet the standard for the Board to grant such relief. *See* Opposition at pages 12-14.

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

**Application No. 18506 of Ontario Residential LLC**, as amended,\* pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception from the roof structure provisions under subsection 777.1 (subsections 411.2, 411.3 and 411.5), for the number, location, and varying height of the roof structures on the proposed building, a special exception from the requirement that all **compact spaces** be placed in groups of at least five contiguous spaces with access from the same aisle under § 2115.4,\* a variance from the off-street parking requirements under subsection 2101.1, and a variance from the loading berth and delivery space provisions under subsection 2201.1, to allow a mixed-use residential building with ground floor retail in the C-2-B District at premises 1700 Columbia Road, N.W. (Square 2565, Lot 52).

**HEARING DATE:** February 26, 2013

**DECISION DATE:** February 26, 2013

**DECISION AND ORDER**

The applicant in this case is Ontario Residential LLC (“Applicant”). The application was filed by 1700 Columbia Road, LLC on November 26, 2012. The Property was subsequently sold to Ontario Residential LLC, which filed a pre-hearing application, complete with an updated agent authorization letter, on February 12, 2013. (Exhibits 1-9.) The caption has been revised to reflect the change in the Applicant’s identity.

The application sought a variance under 11 DCMR § 3103.1 from the parking requirements for retail uses and the loading requirements for the residential and retail uses in the C-2-B Zone District. At the hearing, the Applicant amended\* its request to add variance relief from the requirement that all compact spaces be placed in groups of at least five contiguous spaces with access from the same aisle.

The Applicant also requested special exception relief for the proposed roof structures, which exceed the permitted number, are of varying heights, and do not meet the setback requirement at one point.

The Board of Zoning Adjustment (“Board”) held a public hearing on February 26, 2013. Following the hearing, the Board closed the record and deliberated on the application. The Board voted 5-0 to grant the application for the variance and special exception relief, subject to conditions.

**PRELIMINARY MATTERS**

Application. The application requested special exception relief pursuant to § 3104.1 of the Zoning Regulations (Title 11 DCMR) from the roof structure requirements of §§ 777, 411.2,

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411.3, and 411.5; variance relief pursuant to § 3103.2 from the number and amount of required loading facilities (§ 2201.1); variance relief from the number of required parking spaces (§ 2101.1), and the requirement that all compact spaces be placed in groups of at least five contiguous spaces with access from the same aisle (§ 2115.4). (Exhibits 1, 3.)

Notice of Application and Notice of Public Hearing. By memoranda dated November 27, 2012, the Office of Zoning ("OZ") advised the D.C. Office of Planning ("OP"), the Zoning Administrator, the District of Columbia Department of Transportation ("DDOT"), the Councilmember for Ward 1, Advisory Neighborhood Commission ("ANC") 1C, the ANC within which the Property is situated, and the Single Member District Commissioner, ANC 1C06, of the application. (Exhibits 12-16.)

Pursuant to 11 DCMR § 3113.13, OZ mailed the Applicant, the owners of all property within 200 feet of the Property, and ANC 4A, notice of the February 26, 2013, hearing. Notice was also published in the *D.C. Register*. The Applicant's affidavits of posting and maintenance indicate that three zoning posters were posted beginning on February 7, 2013, in plain view of the public. (Exhibits 17-20.)

Requests for Party Status. ANC 1C was automatically a party in this proceeding. The Board granted party status to Adams Morgan for Reasonable Development ("AMFRD"), an unincorporated nonprofit association. (Exhibit 22.)

Motion for Postponement. On February 25, 2013, AMFRD filed a motion for postponement of the February 26, 2013 public hearing. (Exhibit 27.) AMFRD cited two reasons for the postponement: (i) the lack of a report from the Department of Housing and Community Development ("DHCD") in the record; and (ii) the need for additional time to review the proposed rear yard, including time for OP to coordinate and confer with the DC Department of Fire and Emergency Services ("FEMS") regarding the proposed driveway in the rear yard. At the public hearing on February 26, 2013, the Board denied the Motion for Postponement. In regard to the first issue, the need for a DHCD report, the Board notes that AMFRD cited § 725 as the basis for the requirement that it was necessary for OP to seek DHCD's input in this case. However, § 725 is only applicable when an application is made for certain special exception uses in the C-2 Zone District. The Applicant is not seeking such special exception use. Therefore, § 725 is not applicable in this case. In regard to the second issue, regarding the proposed rear yard, the Board determined that it was entirely appropriate to move forward with the case at the public hearing, it was not necessary to seek FEMS review of a standard zoning issue such as a required rear yard, and that AMFRD could present relevant information on this issue during the public hearing process. (Exhibit 27.)

**FINDINGS OF FACT**

1. Applicant's Case. The Applicant presented testimony and evidence from Jeffrey Parana, representative of the Applicant; Steven Fotiu, an expert in architecture; and Michael

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Workosky, an expert in traffic engineering. Their relevant testimony is reflected in the Findings of Fact that follow.

2. ANC 1C: In a letter dated February 7, 2013, the Chair of ANC 1C informed the Board that at a properly noticed public meeting held on February 6, 2013, and with a quorum present, the ANC passed a resolution supporting the granting of the special exception and variance relief requested. (Exhibit 23, Tab E.) The resolution concluded that the requested relief would be in harmony with the Zoning Regulations and would not adversely affect neighboring properties. It further found that the unique features of the property, including its shape and context, created practical difficulties in providing parking and loading. Finally, the resolution stated that the Applicant had agreed to propose a traffic demand management plan, a loading management plan, and additional conditions of approval to the Board. The Applicant in fact offered these conditions in Tab F of Exhibit 23 and confirmed at the hearing its agreement with those requirements. (Hearing Transcript of February 26, 2013 (“Transcript”) at p. 222.)
3. Parties and Persons in Support of Application. Jessica Racine-White submitted a request for party status in support of the application on January 31, 2013. Ms. White owns several properties in the vicinity of the Property and supports the effect the Project will have on property values. Ms. White did not attend the public hearing; accordingly, the Board did not grant her party status but accepted her filing as a submission in support of the application. (Exhibit 21.)
4. Parties and Persons in Opposition to the Application. AMFRD filed a request for party status in opposition to the application on February 11, 2013. In written materials and in testimony at the public hearing, AMFRD representatives stated that the proposed project will adversely affect the light, air, land values, noise, and traffic of neighboring properties. (Exhibits 22, 27, 30; Transcript, pp. 223-23.)

**The Subject Property and the Surrounding Area**

5. The Property is located in the C-2-B Zone District in the Adams Morgan neighborhood of Ward 1 in Northwest D.C. The Property is irregularly shaped and has frontage along Columbia Road, NW and 17<sup>th</sup> Street, N.W. The Property does not have any alley access.
6. The Property is located among a number of retail uses that line Columbia Road and across the street from residential buildings that vary from three to seven stories in height. The properties located to the south of the Property in Square 2565 are comprised primarily of medium density apartment houses and row dwellings. H.D. Cooke Elementary School is also located to the south of the Property, at 2525 17<sup>th</sup> Street, N.W. (Exhibit 3.)

**The Applicant's Proposed Project**

7. The Applicant is proposing to redevelop the site with a six story mixed-use building. The

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building will include up to 9,500 square feet of retail space and approximately 65-85 residential units ("Project"). (Exhibits 3, 23, 31.)

8. . The Project will provide 29 parking spaces. All of the parking spaces will be dedicated to residential use; accordingly, the Applicant only sought variance relief from the retail parking requirements. The Applicant proposed a Transportation Demand Management plan ("TDM") that included the following elements:
- The Applicant will provide to each initial residential lessee or purchaser, either: (i) a SmarTrip card with a value of \$75; or (ii) a first year membership to Capital Bikeshare or a car sharing service (valued at \$75).<sup>1</sup>
  - The Applicant will coordinate with a car sharing service to determine the feasibility of locating car sharing vehicles in the adjacent public space. The final determination on whether and how many car sharing vehicles will be located in the adjacent public space will be made by the car sharing service and DDOT.
  - Significant bicycle parking will be provided on-site for both retail employees and residents. Bicycle parking for the retail employees will be provided on the ground floor. Bicycle parking for the residents will be provided on the ground floor or in the garage. New bike racks are also proposed along Columbia Road.
  - The Applicant will unbundle all costs related to the parking spaces from the sales price or lease amount of each residential unit.

(Exhibits 23, 31.)

The Applicant also proposed a loading management plan that included the following elements:

- All loading associated with the building will be from Columbia Road in public space. The Applicant and DDOT will establish a 55-foot loading zone on Columbia Road. The Applicant will agree to a limitation on deliveries in the public space along Columbia Road between the hours of 7:00 a.m. to 4:00 p.m., Monday-Saturday.
- The Applicant shall designate a Loading Coordinator for the site to coordinate residential move-in/move-out. All residents shall be required to notify the Loading Coordinator of move-in/move-out dates.
- No truck idling shall be permitted.

(Exhibit 23, Tab C)

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<sup>1</sup> At the public hearing, the Applicant agreed to modify this element of the TDM to require that each new residential lessee or purchaser will be provided a SmarTrip card or a one year membership to Capital Bikeshare or a car sharing service.



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9. The proposed building will be 70 feet tall with a floor area ratio (“FAR”) of 4.2, a lot occupancy of 74%, and a 15 foot rear yard. (Exhibits 23, 31.)
10. The Project does not include any loading facilities on-site, but intends to use a 55-foot loading space in public space on Columbia Road, NW, adjacent to the site, to meet the expected loading demand for the project. (Exhibits 23, 31.) The Applicant therefore needs a variance from the applicable loading requirements set forth in § 2201.1.
11. The Project includes 10 roof structures with heights between 10 feet and 18 feet, six inches. There is a minimum set back of 14 feet, eight inches for the 18 foot penthouse. The remaining penthouses are set back the requisite distance from the exterior walls of the building. (Exhibits 23, 31.)

**Office of Planning Report**

12. By a report dated February 19, 2013, supplemented by testimony at the public hearing, OP recommended approval of the special exception and variance relief requested in the application, subject to four conditions:
  - No retail parking spaces shall be provided.
  - All loading associated with the building shall be in Columbia Road public space, with delivery between the hours of 7:00 a.m. and 4:00 p.m., Monday through Saturday only.
  - The Applicant shall designate a Loading Coordinator to coordinate residential move-in/move-out, and residents shall be required to notify the Loading Coordinator of residential moves.
  - No truck idling shall be permitted. (Exhibit 26.)
13. The Applicant has agreed to OP’s proposed conditions of approval.
14. OP noted that the triangular shape of the property and its lack of alley access was an exceptional condition that created a practical difficulty in complying with the parking requirements of the Zoning Regulations as the ramp would occupy almost the entire length of the property along the south side of the lot, reducing the size of the triangularly shaped garage. The OP report noted that the shape of the garage does not lend itself to an efficient utilization of space and results in an inefficient parking layout, areas that cannot be devoted to parking, and compact parking in groups of less than five contiguous spaces. The OP report noted that:

The required number of parking spaces for the residential portion of the building would be provided. Provision of bicycle parking within the building and within the public space of Columbia Road for the retail users of the building, in combination with the other transportation options

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available within the neighborhood, including Metrobus, Metrorail and car sharing, make the building easily accessible by means other than private automobile. (Exhibit 26, p. 4.)

15. Thus, the OP report concluded that relief from the parking requirements would not result in a detriment to the public good and that no substantial harm to the Zoning Regulations would result from the reduction in parking. (*Id.*)
16. In regard to the request for loading relief, OP noted the narrow roadway width of 17<sup>th</sup> Street (30 feet), the desire of DDOT to not have vehicular access to the building from Columbia Road (a busy commercial corridor), and the existence of on-street parking on both sides of 17<sup>th</sup> Street as unique attributes that created a practical difficulty in complying with the loading requirements of the Zoning Regulations. OP concluded that there would be no substantial detriment to the public good in granting the loading relief with the adoption of the proposed conditions regarding the loading space on Columbia Road, the hours the loading space could be used, the establishment of the Loading Coordinator, and the prohibition on truck idling. (*Id.*)
17. OP also concluded that granting the roof structure special exception relief would be consistent with the Zoning Regulations and Zoning Maps and that the proposal would not tend to adversely affect the use of neighboring properties. Specifically, it found that a matter-of-right roof structure could exceed the proposed structures in both height and density; accordingly, the proposed roof structures minimized the impact on neighboring property owners since their size was minimized. (*Id.*)

**Department of Transportation Report**

18. DDOT, by its report dated February 19, 2013, supported the application subject to three conditions:
  - Provide one bicycle parking space for every two units;
  - Reduce the width of the curb cut along 17<sup>th</sup> Street from 24 feet to 20 feet; and
  - Install 16 bike spaces (eight inverted U-racks) on the street for public use. (Exhibit 25.)
19. The Applicant has agreed to DDOT's proposed conditions of approval.

***Special Exception Relief – Roof Structures***

20. In this case, the Applicant seeks relief pursuant to § 411.11, from § 777.1, which applies the roof structure requirements of § 411 to Commercial Zones. The Applicant seeks specific relief from §§ 411.2, 411.3, and 411.5. Subsection 411.2 requires that all penthouses are subject to the provisions of § 770.6 (which requires a 1:1 setback from all exterior walls). Subsection 411.3 requires that all penthouses and mechanical equipment be placed in a

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single enclosure. Subsection 411.5 requires penthouses to consist of a uniform height. (Exhibits 3, 23.)

21. The Project requires roof structure relief for multiple roof structures of varying heights, one of which is not set back from the exterior wall the requisite distance (§§ 411.2, 411.3, and 411.5).
22. The Project provides 11 stair structures that provide direct access to the roof from private units and one elevator override and mechanical penthouse. The configuration of these roof structures results in a total of 10 roof structures. (Exhibit 23.)
23. The stair structures are approximately 10 feet in height while the elevator override is approximately 18 feet tall. Each of the stair structures is set back from the exterior walls at least one foot for every foot of height. The elevator override, however, is set back approximately 14 feet, eight inches, which does not satisfy the roof structure set back requirement. (Exhibits 23, 31.)
24. The reduced setback is at the rear of the building, which is set back an additional depth of 15 feet from the rear lot line. The combined effect of the set back of the building at grade and the set back of the roof structure on the roof, reduces the visual impact of the proposed elevator overrun from neighboring properties. (*Id.*)
25. The Project also provides the stair structures at a lower height than the elevator overrun in an effort to minimize any impact the stairs may have on neighboring properties. Though the Zoning Regulations require a penthouse to be of uniform height, the intent of the Zoning Regulations is to reduce impacts of development on neighboring property. In this instance, the desired result is better achieved by providing varying heights for the rooftop structures. Reducing the height of the stairs ensures that they will have less of an impact on neighboring property owners than if they were the same height as the elevator overrun, as otherwise required by the Zoning Regulations. (Exhibits 3, 23, 31.)
26. Finally, providing multiple roof structures enables private access to the roof, creating a distinct space that will contribute to the vibrancy of the building and create a new plane of passive activity along Columbia Road. (*Id.*)
27. Due to the siting of the building on the Property and the location and treatment of the proposed penthouse structures, these structures will have a minimal effect, if any, on the light and air of neighboring properties. (*Id.*)

***Variance – Parking and Loading***

28. The property is a landlocked parcel that does not have alley access, requiring all loading and parking to be accessed from one of the Property's two street frontages. (Exhibits 3, 26.)

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29. The Property is a triangular lot, which limits the location of the required loading and the efficiency of the below-grade parking level. (*Id.*)
30. Due to pedestrian traffic, DDOT did not support a curb cut along Columbia Road to access loading. A curb cut along Columbia Road would break up the flow of pedestrian traffic, disrupt the flow of the retail, and it would create potential vehicular and pedestrian conflicts. Seventeenth Street, however, is only 50 feet wide, has two-way traffic, and has parallel parking on both sides of the roadway. The street has a functional width of 30 feet, making the roadway too narrow for trucks to access the loading dock. There is an existing loading space along Columbia Road that DDOT agreed to lengthen to 55 feet to accommodate the loading needs of the Project. (Exhibits 23, 25.)
31. The Applicant agreed to work with DDOT to provide all loading from the loading zone on Columbia Road. Although the required loading will not be provided on-site, it will be provided adjacent to the Project, minimizing any impacts resulting from the request for relief. (*Id.*)
32. The Applicant is providing 29 parking spaces in the project, fulfilling the residential parking requirement and is requesting relief from the required parking spaces for the retail uses, as well as relief from providing contiguous compact spaces. Due to the irregularly shaped lot and the space that is lost for ramps and aisle widths, the one below-grade parking level is very inefficient. In order to satisfy the Zoning Regulations' requirement to provide 37 parking spaces for this project, it would necessary to add a second level of below-grade parking. Providing this second level of parking would be inefficient, extremely expensive (putting the financial viability of the Project in question), and would also result in "over-parking" the Project, which is not supported by DDOT. (*Id.*)
33. The irregular shape of the lot and the resulting shape of the garage also make it challenging to provide the compact spaces in contiguous groups of five. In an effort to maximize the amount of parking provided in the garage, the Applicant is providing as many compact spaces as possible despite the fact they do not satisfy Section 2115.4. Granting a waiver from this requirement will not have an adverse impact on the community; on the contrary, it allows the Applicant to provide more on-site parking than it could otherwise accommodate in the garage. (*Id.*)
34. The request for parking relief will not have an adverse effect on neighboring properties. The Project is providing all of the required residential parking and seeks relief only for the retail parking requirement. The Property is ideally served by public transportation with significant Metrobus service along Columbia Road and nearby 16<sup>th</sup> Street. The proximity to two Metro Stations (the red line station of Woodley Park-Zoo/Adams Morgan, and the green/yellow line station of Columbia Heights) is also likely to discourage vehicular traffic to the site. The Applicant is providing bicycle racks in public space for use by the public.

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Finally, the retail is located along a popular pedestrian strip. Each of these factors increases the likelihood that the patrons of the stores will either walk to the Property, take public transportation, or bike, rather than arriving by motor vehicle. (*Id.*)

**CONCLUSIONS OF LAW AND OPINION****Special Exception Relief**

The Applicant has requested special exception relief for the proposed roof structures, which exceed the permitted number, are of varying heights, and do not meet the setback requirement at one point. The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR § 3104.1.)

As noted, § 777.1 applies the roof structure requirement of § 411 to Commercial Zones. The Applicant seeks specific relief from § 411.2 which requires that all penthouses are subject to the provisions of § 770.6 (which requires a 1:1 setback from all exterior walls). The Applicant also seeks relief from § 411.3, which requires that all penthouses and mechanical equipment be placed in a single enclosure and § 411.5, which requires penthouses to consist of a uniform height.

Subsection 411.11 of the Zoning Regulations provides in part that

Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under Section 3104, the location, design, number, and all other aspects of such structure, even if such structures do not meet the normal setback requirements...; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely. 11 DCMR § 411.11.

The Board finds that the requested roof structure relief will not adversely affect, or be objectionable to, the surrounding properties. The elevator penthouse is located such that there is a sufficient setback between the roof structure and the adjacent property line even if the structure is not set back the requisite distance from the exterior wall on the southern edge of the building. As noted in the OP report, "Although set back a distance less than its height from the edge of the south side of the building, its visibility would be minimized by the building's set back of approximately fifty feet from the property in the vicinity of the elevator override." To further mitigate the effects of the roof structures, the Applicant is reducing the height of the stairways in

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order to minimize their effect. Finally, the Applicant is providing multiple enclosures rather than a single enclosure in order to minimize the overall bulk of the roof structure, which, in turns minimizes their effect on neighboring properties. The roof plan minimizes both the height and bulk of the roof structures which serves as a positive feature for neighboring properties.

**Variance Relief**

The Applicant also seeks variance under 11 DCMR § 3103.1 from the parking requirement for retail uses and the loading requirements for residential and retail uses in the C-2-B Zone District as well as relief from the requirement that all compact spaces be placed in groups of at least five contiguous spaces with access from the same aisle. The Board is authorized to grant variances from the strict application of the Zoning Regulations where “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition” of the property, the strict application of the Zoning Regulations would “result in particular and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property....” D.C. Official Code § 6-641.07(g) (3) (2001, 11 DCMR § 3103.2. The “exceptional situation or condition” of a property need not arise from the land and/or structures thereon, but can also arise from “subsequent events extraneous to the land.” *De Azcarate v. Bd. of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C. 1978). Relief can be granted only “without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.” D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2.

A showing of “practical difficulties” must be made for an area variance, while the more difficult showing of “undue hardship,” must be made for a use variance. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). Since area variances are sought by the Applicant, the Applicant must comply with the three prong test: (1) that an exceptional situation results in a “practical difficulty” in complying with the Zoning Regulations; (2) the granting of the relief will not be substantial detriment to the public good; and (3) the granting of the variances will not substantially harm the Zone Plan.

The application has satisfied all three elements. As to the first prong the property is subject to an exceptional situation because it is triangular in shape, does not have alley access and has frontage on only two roadways, one of which is only 50 feet wide and the other being a pedestrian corridor. The shape of the lot creates challenges in designing an efficient floor plan complete with both loading and a below-grade garage. Since the Property does not have alley access, all loading and parking maneuvers would need to be accessed from a curb cut along one of the building’s two street frontages. DDOT does not support a curb cut on Columbia Road, thus, the curb cut would have to be provided on 17<sup>th</sup> Street. Seventeenth Street has an effective street width of 30 feet, which makes it impossible for trucks to undertake the maneuvers necessary to access a loading dock. Accordingly, all loading will take place from a public loading zone on Columbia Road. This loading zone already exists and will be lengthened in order to

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accommodate the loading needs of the building. Providing loading in public space along Columbia Road is the least disruptive and most effective way to provide loading for the Project.

Given the sensitivity to providing a curb cut on Columbia Road, the parking garage will be accessed via a curb cut along 17<sup>th</sup> Street. The Board finds that the Applicant is faced with a practical difficulty in providing the required number of parking spaces due to the triangular shaped, land-locked property, which creates an inefficient parking layout and areas that cannot be devoted to parking. If another garage level were provided, the Project would provide too much parking, which DDOT discourages. In an effort to maximize the amount of parking provided in the garage, the Applicant is providing as many compact spaces as possible despite the fact they do not satisfy § 2115.4. The Applicant has proffered a TDM and loading management plan which will help mitigate any potential adverse impacts that may arise as a result of granting the requested parking and loading relief. Accordingly, the Board finds that the Applicant is providing enough parking for its residents and it will encourage those patronizing the retail stores to walk, bike, or take public transportation to the stores. For all of these reasons, the Board concludes that the Applicant has satisfied the enumerated standards for variance relief and that granting this variance relief will not impair the intent, purpose, and integrity of the zone plan.

**Issues Raised by the Party in Opposition**

The Board notes the various issues raised by AMFRD and finds that a majority of those issues are not relevant to the Board's scope of review in granting the relief requested by the Applicant. As discussed previously, the Board notes that AMFRD was incorrect in its assertion that § 725 of the Zoning Regulations required OP to seek input and analysis from other District agencies, including DHCD, FEMS, and the Department of the Environment ("DDOE"). Subsection 725 is only applicable when an applicant is seeking special exception approval (pursuant to §§ 726-734) for certain uses in the C-2 Zone District that are not permitted as a matter of right. The Applicant in this case is not requesting such special exception relief.

AMFRD also argued that § 774.4 of the Zoning Regulations required the Applicant to provide additional information to the Board. However, § 774.4 only applies when an applicant is seeking relief from the rear yard requirements. Since the Applicant is not seeking such relief, § 774.4 is not applicable in this case.

Finally, AMFRD cited numerous provisions of the Comprehensive Plan that they claimed this project was not consistent with. The Board noted that the proposed uses in the Project, the building height, and building mass were all permitted in the C-2-B Zone District as a matter of right. Therefore, it was not necessary for the Board to conduct further review of the Project's consistency with the Comprehensive Plan.

In regard to the relevant issues that AMFRD raised regarding this application, the Board believes that the approved roof structures are in fact smaller in size than what would be permitted as a matter of right, and thus, do not have an adverse impact on neighboring properties. The Board

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also notes that the elevator overrun is set back from the property line to such an extent that any impact it may have on neighboring properties is mitigated. In making its decision, the Board considered those factors that pertain to zoning issues including noise, light and air, and traffic. The Board notes that AMFRD did not put forth any evidence to suggest that the requested relief would have a negative impact on any of the above factors, nor did it provide any evidence that it would result in a decrease in land values.

**Great Weight**

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations of OP. (D.C. Official Code §§ 1- 309.10(d) and 6-623.04 (2001).) Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive.

ANC 1C recommended approval of the Applicant's special exception and variance requests subject to conditions. The Board agrees with the ANC's recommendation of approval. The Board is aware that the ANC's recommendation was based in part upon the Applicant's promise to propose the conditions attached to the ANC's resolution and in fact the Applicant did so. However, the Board concludes that some of these conditions are not aimed at mitigating potential adverse impacts of the zoning relief sought, but address issues that are not germane to the Board's consideration of this application. Accordingly, the Board only incorporates those conditions that pertain to the zoning relief requested by the Applicant, as noted below.

OP recommended conditional approval of the special exception and variance requests. OP recommended a list of four conditions, which the Board accepts as conditions of its approval. The Board concludes that all of OP's concerns are adequately recognized, addressed, and dealt with in the conditions to this Order.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof with respect to an application for variance and special exception relief pursuant to §§ 3103, 411.11 and 3104, from the provisions of §§ 411 (§§ 411.2, 411.3, 411.5), 777, 2101 (§§ 2101.1 and 2115.4), and 2201 (§ 2201.1) to construct a residential building with ground floor retail in the Adams Morgan neighborhood. **THEREFORE**, it is hereby **ORDERED** that the application is **GRANTED, SUBJECT** to the plans at Exhibit 23B, and subject to the following **CONDITIONS, NUMBERED 1 THROUGH 10**. For the purposes of these conditions the term "Applicant" shall mean the person or entity then holding title to the Subject Property. If there is more than one owner, the obligations under the order shall be joint and several. If a person or entity no longer holds title to the Subject Property, that party shall have no further obligations under the order; however, that party remains liable for any violation of any condition that occurred while an owner.

1. At least 29 parking spaces shall be dedicated to the residential tenants/unit owners and their guests. No retail parking spaces will be provided.



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2. Each residential lessee or purchaser shall be provided either: (i) a SmarTrip card with a value of \$75; or (ii) a first year membership to Capital Bikeshare or a car sharing service (valued at \$75). ). The Applicant shall work with DDOT and the car sharing company to determine the feasibility of locating the vehicles in public space, with the final determination being made by DDOT and the car sharing company.
3. All costs related to the parking spaces will be unbundled from the sales price or lease amount of each residential unit.
4. All loading associated with the building shall be located in the Columbia Road public space, with deliveries limited to between 7:00 a.m. and 4:00 p.m., Monday through Saturday only.
5. A Loading Coordinator shall be designated to coordinate residential move-in/move-out, and residents shall be required to notify the Loading Coordinator of upcoming residential moves.
6. No truck idling shall be permitted when using the loading zone on Columbia Road.
7. One bicycle parking space shall be provided for every two residential units.
8. The Applicant shall work with DDOT in determining the width of the curb cut on 17<sup>th</sup> Street.
9. Subject to Public Space approval, the Applicant shall install 16 bike spaces (eight inverted U-racks) on the street for public use.
10. Subject to Public Space approval, the Applicant shall maintain the landscaping along Columbia Road adjacent to the Project.

**VOTE:**     **5-0-0**   (Lloyd J. Jordan, Nicole C. Sorg, S. Kathryn Allen, Jeffrey L. Hinkle and Peter G. May to Approve; one Board seat vacant.)

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

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 27, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.

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

**Application No. 18576 of the Fort Lincoln Banneker Townhouses, LLC**<sup>1</sup>, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception to construct more than one building on a record lot under § 2516, and variances from the front yard requirements under § 2516.5 and theoretical lot to comply with open space requirements under § 2516.4, to allow the construction of forty-two (42) townhouses in the R-5-D and C-2-B Districts along Fort Lincoln Drive, N.E. and Banneker Drive, N.E. (Square 4325, Lots 29, 31, 813 and 814).<sup>2</sup>

**HEARING DATES:** June 28, 2013 and July 9, 2013

**DECISION DATE:** September 17, 2013

**SUMMARY ORDER**

**SELF CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 5C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C submitted a report dated June 18, 2013, indicating that at a properly noticed public meeting on June 12, 2013 at which a quorum was present, the ANC voted 4:1 to request the Board continue or postpone the hearing to allow it more time to meet with the Applicant. The ANC did not submit a recommendation on the application, nor appear at the hearing.

The Office of Planning ("OP") submitted a timely report dated June 18, 2013, in which OP stated that it "generally supports the application." OP's report further explained that it was in support of the request for a variance from § 2516.5(b) but could not recommend approval of the requested special exception from § 2516 and recommended denial of the request from side yard requirements under § 405. (Exhibit 24.) At the public hearing on July 9, 2013, OP testified that the Applicant had revised its plans and thereby had addressed OP's concerns and that OP was in support of the revised application. OP also

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<sup>1</sup> At the outset of the public hearing, Board member Allen recused herself from the case, since she had a business relationship with the Applicant.

<sup>2</sup> The Applicant amended the application to add variance relief under § 2516.4 and revised the site plan (Exhibit 34) to address OP's concerns. The Applicant indicated in its pre-hearing statement in which it requested the additional relief that the ANC was made aware of this additional area of relief prior to their vote on the application. (Exhibit 27.) The caption has been amended accordingly.

**BZA APPLICATION NO. 18576****PAGE NO. 2**

recommended some conditions to which the Applicant agreed. The Applicant proffered two conditions.<sup>3</sup> (Exhibit 33.) By its letter dated June 18, 2013, the District Department of Transportation ("DDOT") expressed "no objection" to the application and provided comment on a number of issues attendant to larger planning policies. (Exhibit 26.)

A letter dated June 30, 2013, requesting to intervene in the case and to waive the time limits for making such a request was submitted by the Fort Lincoln Civic Association ("FLCA"). FLCA raised concerns about the amount of notice and community involvement in the review of the application. They asked for a postponement to October. (Exhibit 29.) FLCA appeared at the hearing on July 9, 2013, and withdrew its request for intervention or party status and participated as a person or organization. Prior to the hearing, the Applicant submitted a reply to FLCA's letter and motions. (Exhibit 30.) A letter of concern that requested that a structural and civil impact study be made prior to construction was submitted for the record by Bernard Snowden, Summit Village III of Fort Lincoln. (Exhibit 28.) A letter of opposition to the application was submitted by Andrea B. Jackson and Colin A. Jackson, residents of Summit Village-Fort Lincoln III. (Exhibit 31.)

At the conclusion of the Board's public hearing on July 9, 2013 on the application, the Board requested that the Applicant make a presentation to the FLCA regarding the application. The Applicant made the requested presentation to the FLCA on September 10, 2013 at which approximately 13 people attended, according to the Applicant's post-hearing submission dated September 13, 2013. (Exhibit 37.) The Board gave leave to reopen the record for the September 10 post-hearing submission and accepted it into the record.

Variance Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for variances from the front yard requirements under § 2516.5 and theoretical lot to comply with open space requirements under § 2516.4, to allow the construction of forty-two (42) townhouses in the R-5-D and C-2-B Districts. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the OP report<sup>4</sup> filed in this case, the

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<sup>3</sup> The Board added a requirement to the two proffered conditions that they both be made part of the bylaws and placed in a separate document, such as the Townhome Offering Statement or a separate covenant, which would be recorded against the Property in the Land Records in the District of Columbia

<sup>4</sup> As the ANC's letter did not make any recommendation, there was nothing to which great weight could be applied.

**BZA APPLICATION NO. 18576****PAGE NO. 3**

Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for area variances from §§ 2516.5 and 2516.4, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under § 2516. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2516 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 34 AND WITH THE FOLLOWING CONDITIONS:**

1. Private trash removal shall be provided for the 42 townhouses on the property and all trash bins must be removed from the internal street within 18 hours of trash removal. The Applicant shall include this condition in the bylaws and in a document, such as the Townhome Offering Statement or a separate covenant, which will be recorded against the Property in the Land Records of the District of Columbia.
2. All residents and guests shall be prohibited from parking their cars in a driveway in a manner that would block the sidewalk or extend the car into the street. The Applicant shall include this condition in the bylaws and in a document, such as the Townhome Offering Statement or a separate covenant, which will be recorded against the Property in the Land Records of the District of Columbia.

**BZA APPLICATION NO. 18576****PAGE NO. 4**

**VOTE:**           **3-0-2** (Lloyd J. Jordan, Jeffrey L. Hinkle, and Marcie I. Cohen, to APPROVE; S. Kathryn Allen, recused; and one Board seat vacant.)

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

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 30, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**BZA APPLICATION NO. 18576****PAGE NO. 5**

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.

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

**Application No. 18583 of Oliver Samuels**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a second story addition to an existing one-family detached dwelling under section 223, not meeting the side yard (section 405) requirements in the R-1-B District at premises 3014 South Dakota Avenue, N.E. (Square 4340, Lot 821).

**MEETING DATE:** July 9, 2013 (Expedited Review Calendar)  
**HEARING DATE:** September 24, 2013  
**DECISION DATE:** September 24, 2013

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR'S OFFICE**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

Pursuant to 11 DCMR § 3181 this application was tentatively placed on the Board's expedited calendar for decision without hearing as a result of the applicant's waiver of their right to a hearing.

The Board provided proper and timely notice of the decision meeting for this application together with the information required by 11 DCMR § 3118.5 by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 5C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application. The Department of Transportation submitted a report having no objection to the application. The Board received letters in support from neighboring property owners.

No objections to expedited calendar consideration were made by any person or entity entitled to do by §§ 2118.6 and 2118.7 and no requests for party status were received. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.



BZA APPLICATION NO. 18583

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Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 7- Plans) be **GRANTED**.

**VOTE:**       **3-0-2** (Lloyd J. Jordan, Marcie I. Cohen and Jeffrey L. Hinkle to APPROVE.  
                  S. Kathryn Allen not present, not voting, and the third Board seat vacant.)

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

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 24, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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,

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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.

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

**Application No. 18605 of The American Enterprise Institute**, as amended,\* pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception from the roof structure provisions under §§ 411.2, 411.5 and 537.1, a variance from the floor area ratio requirements under § 531.1, a variance from the height requirements under § 530.1, and a variance from the nonconforming structure provisions under § 2001.3, to allow the renovation of and addition to an existing historic landmark office building in the DC/SP-2 District at premises 1785 Massachusetts Avenue, N.W. (Square 157, Lot 112).

**\*Note:** The Applicant amended the relief to include a variance under 11 DCMR § 2001.3.

**HEARING DATE:** September 17, 2013  
**DECISION DATE:** September 17, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2.

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC-2B, which is automatically a party to this application. ANC 2B submitted a resolution expressing support for the application. (Exhibit 38.) The Office of Planning (“OP”) submitted a report in support of the application. (Exhibit 31.) The D.C. Department of Transportation also filed a report in conditional support of the application. (Exhibit 32.)

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from §§ 531.1, 530.1 and 2001.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 531.1, 530.1 and 2001.3, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief

**BZA APPLICATION NO. 18605**  
**PAGE NO. 2**

can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under §§ 411.2, 411.5, and 537.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 411.2, 411.5, and 537.1, that the requested relief can be granted, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application, **SUBJECT** to the approved plans, as shown on Exhibit 29, and the following **CONDITIONS**:

1. The Applicant shall offer employees an option for pre-tax payroll deduction to be used for transit expenses.
2. The Applicant shall provide an on-site facility with showers and lockers for employee use.
3. The Applicant's use of the penthouse usable space shall not create an adverse impact on the neighborhood.
4. Applicant shall provide down lighting on the penthouse usable space.
5. The Applicant shall follow the District of Columbia government's requirements regarding noise and sound in the use of the penthouse space.

**VOTE: 4-0-1** (Lloyd J. Jordan, Michael G. Turnbull, S. Kathryn Allen, and Jeffrey L. Hinkle to Approve; one Board seat vacant.)

**BZA APPLICATION NO. 18605**  
**PAGE NO. 3**

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

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 25, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.

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

**Application No. 18606 of The Family Place**, pursuant to 11 DCMR §§ 3104.1, for a special exception for a community service center under section 334, (last approved by BZA Order No. 17728) in the R-5-B District at premises 3309 16<sup>th</sup> Street, N.W. (Square 2676, Lot 469).

**HEARING DATE:** September 17, 2013

**DECISION DATE:** September 17, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (“Board” or “BZA”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission (“ANC”) 1A, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 1A, which is automatically a party to this application. A letter in support of the application was received from ANC 1A. (Exhibit 24.)

The Office of Planning (“OP”) submitted a report in support of the application, subject to conditions. (Exhibit 27.) The District Department of Transportation (DDOT) submitted a letter of “no objection.” (Exhibit 25.) Eight (8) letters of support were received into the record, including a letter from Councilmember Jim Graham. (Exhibits 9 and 10.) No members of the public testified in support or opposition before the Board.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under § 3104.1 from the strict application of the regulations pertaining to § 334. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

**BZA APPLICATION NO. 18606****PAGE NO. 2**

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of **eight (8) years**.
2. The hours of operation shall be from 9:00 AM to 7:30 PM, Monday through Friday, with occasional meetings on weekends or week nights.
3. The number of full time employees shall not exceed 13.
4. There shall not be more than 45 persons participating at the center at one time.
5. Two (2) parking spaces shall be provided on-site.
6. All loading and trash pick-up shall occur at the rear of the building from the public alley.
7. Trash shall be picked up from the center two (2) times a week. Bulk trash shall not be placed outside more than 24 hours prior to its scheduled removal.
8. Dusk-to-dawn lighting shall be maintained at the front and rear of the building.
9. Bilingual signage shall be maintained at the front door indicating the times that donations are accepted and that loitering is not permitted.
10. The Family Place shall hold meetings to discuss the center's operations on a quarterly basis with the neighbors in the 3300 block of 16th Street, the Advisory Neighborhood Commission and the Single Member District Commissioner. The meetings shall be advertised through hand-delivered flyers and electronic media.
11. The applicant shall offer a commute incentive to employees/or transit use.

**VOTE:**       **4-0-1** (Lloyd L. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE with one Board seat vacant.)

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

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER: September 25, 2013**

**BZA APPLICATION NO. 18606****PAGE NO. 3**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.



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

**Application No. 18617 of the 1320 Harvard Street LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements under § 401.3, to convert a substance abuse treatment facility into an apartment building in the R-4 District at premises 1318 – 1320 Harvard Street, N.W. (Square 2855, Lot 79).

**HEARING DATE:** September 24, 2013

**DECISION DATE:** September 24, 2013

**SUMMARY ORDER**

**SELF CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 1A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 2E submitted a timely letter of support and Form 129 indicating that at a properly noticed public meeting on July 10, 2013, at which a quorum was present, the ANC voted 11-0-0 in support of the application. (Exhibit 26.)

The Office of Planning ("OP") submitted a timely report dated September 17, 2013, recommending denial of the application. (Exhibit 30.) By its letter dated September 3, 2013, the District Department of Transportation ("DDOT") submitted a recommendation of no objection to the application. (Exhibit 27.)

Forty-four letters of support from neighbors of the subject property were submitted to the record. (Exhibit 29J.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for a variance from the strict application of the lot occupancy requirements under § 401.3, to convert a substance abuse treatment facility into a 16-unit apartment building. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for an area variance from § 401.3, that there exists an exceptional or

**BZA APPLICATION NO. 18617****PAGE NO. 2**

extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED PURSUANT TO THE APPROVED PLANS IN EXHIBIT 13.**

**VOTE:**       **3-0-2** (Lloyd J. Jordan, Marcie I. Cohen, and Jeffrey L. Hinkle to Approve; S. Kathryn Allen, not present or participating, and one Board seat vacant.)

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

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 27, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE

**BZA APPLICATION NO. 18617****PAGE NO. 3**

WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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.

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

**Application No. 18619 of Square 737 LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the parking space location requirements under subsection 2116.12, for a mixed-use (grocery store and apartment house) development in the C-3-C District at premises 800 New Jersey Avenue, S.E. (Square 737, Lot 76).

**HEARING DATE:** September 24, 2013

**DECISION DATE:** September 24, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 6D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6D, which is automatically a party to this application. The ANC submitted a letter in support of the application. The Office of Planning (“OP”) submitted a report in support of the application. The Department of Transportation had no objection to the application.

Variance

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 2116.12. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from § 2116.12, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED** subject to the following **CONDITION**:

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1. Screening of the parking adjacent to H Street shall be substantially similar to and commensurate with the design, details and quality of materials as depicted in the supplementary materials, specifically Sheets 6 and 7 of Exhibit 23 - Plans.

**VOTE: 3-0-2** Lloyd J. Jordan, Jeffrey L. Hinkle and Marcie I. Cohen to APPROVE. S. Kathryn Allen not present, not voting and the third mayoral seat vacant.

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

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 24, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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.

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

**Application No. 18645 of John Rosenthal**, for a special exception for an addition to a one-family semi-detached dwelling under section 223, not meeting the lot occupancy (section 403) and nonconforming structure (subsection 2001.3) requirements in the R-3 District at premises 3128 P Street, N.W. (Square 1256, Lot 861).

**DECISION DATE:** September 24, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

Pursuant to 11 DCMR § 3181 this application was tentatively placed on the Board's expedited calendar for decision without hearing as a result of the applicant's waiver of their right to a hearing.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. ANC 2E did not participate in the application. The Office of Planning ("OP") submitted a report and testified at the hearing in support of the application. The Board received a letter from a neighbor in support of the application. The Department of Transportation submitted a letter of no objection.

No objections to expedited calendar consideration were made by any person or entity entitled to do by §§ 2118.6 and 2118.7 and no requests for party status were received. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under subsection 223.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes

BZA APPLICATION NO. 18645

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that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibits 11 as revised by Exhibit 24 – Plans) be **GRANTED**.

**VOTE:**       **3-0-2** (Lloyd J. Jordan, Marcie I. Cohen and Jeffrey L. Hinkle to APPROVE. S. Kathryn Allen not present, not voting, and the third Board seat vacant.)

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

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 24, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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

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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.



**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 09/24/13, the Board of Zoning Adjustment voted 4-0-1 to hold closed meetings telephonically on Monday, September 30<sup>th</sup>, October 7<sup>th</sup>, 21<sup>st</sup> and 28<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 October 1<sup>st</sup>, 8<sup>th</sup>, 22<sup>nd</sup>, and 29<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.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 13-04  
Z.C. Case No. 13-04  
ICG 16th STREET ASSOCIATES, LLC  
(Consolidated Planned Unit Development and Related Map Amendment  
@ Square 185, Lot 41)  
September 9, 2013**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on June 17, 2013, to consider applications for a consolidated planned unit development (“PUD”) and related zoning map amendment filed by ICG 16th Street Associates, LLC (the “Applicant”). The Commission considered the applications 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 applications.

**FINDINGS OF FACT**

**The Applications, Parties, and Hearings**

1. On February 22, 2013, the Applicant filed an application with the Commission for consolidated review of a PUD and related map amendment to rezone the property at 900 16<sup>th</sup> Street, N.W. (Square 185, Lot 41) (“Property”) from the SP-2 to the C-3-C Zone District.
2. The Property is situated in Downtown Washington and has a land area of approximately 17,483 square feet. The site is presently occupied by the Third Church of Christ, Scientist and the Christian Science Monitor Building, which are historic landmarks listed in the D.C. Inventory of Historic Sites. The Property is also located in the 16<sup>th</sup> Street Historic District. The buildings will be demolished to allow for new construction on the site, as endorsed by the D.C. Historic Preservation Review Board. The property is located within the boundaries of the Dupont Circle Advisory Neighborhood Commission (“ANC”) 2B.
3. The Applicant proposes to redevelop the Property with an office building that includes ground floor retail, a church and below grade parking. Upon completion, the project will include approximately 141,026 square feet of gross floor area, or an aggregate floor area ratio (“FAR”) of approximately 8.07. The overall height of the building will be 112 feet, 3.5 inches.
4. By report dated March 29, 2013, the Office of Planning (“OP”) recommended that the applications be set down for a hearing. At its public meeting held on April 8, 2013, the Commission voted to schedule a public hearing on the applications.

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5. The Applicant submitted a pre-hearing statement for the project on April 9, 2013, and a hearing was timely scheduled for the matter on June 17, 2013. A description of the proposed development and the notice of the public hearing in this matter were published in the D.C. Register on April 26, 2013. The notice of public hearing was mailed or emailed to all property owners within 200 feet of the PUD Site as well as to ANC 2B on April 30, 2013.
6. The parties to the case were the Applicant and ANC 2B in support of the application, and BFP 1625 Eye Street Co., LLC ("BFP") in opposition to the application. The Commission denied the request for party status from the Committee of 100 on the Federal City as it failed to demonstrate that its interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public. (11 DCMR § 3022.4.)
7. The Commission convened a hearing on June 17, 2013, which was concluded that same evening. At the hearing, the Applicant presented four witnesses in support of its applications: David Stern, ICG Properties on behalf of ICG 16th Street Associates, LLC; J. Darrow Kirkpatrick, Third Church of Christ, Scientist; Graham Wyatt, Robert A.M. Stern Architects LLP, project architects; and Michael Vergason, Michael Vergason Landscape Architects. Based upon their professional experience and qualifications, Mr. Wyatt was recognized as an expert in architecture and Mr. Vergason as an expert in landscape architecture. The Commission also qualified Daniel van Pelt, Gorove/Slade Associates, as an expert in transportation engineering and accepted his Transportation Impact Statement ("TIS") into the record. (Exhibit ["Ex.,"] 21C.) The Commission also received into the record a report prepared by Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP, and recognized the report as the work of an expert in the field of zoning and land use. (Ex. 39.)
8. Brandice Elliott, Development Review Specialist with OP, and Jamie Henson of the District's Department of Transportation ("DDOT") testified in support of the application with certain comments and conditions.
9. On June 10, 2013, ANC 2B submitted its resolution to the record in support of the application. The ANC supplemented its report by letter dated June 17, 2013. Leo Dwyer and Michael Silverstein of ANC 2B testified in support of the application at the hearing.
10. Bob Meehan testified in support of the application. The Commission also received letters of support from Victor Hoskins, Deputy Mayor for Planning and Economic Development; Councilmember Jack Evans, representing Ward 2, the ward in which the property is located; and the Laborers' International Union of North America ("LiUNA") located across 16th Street from the Property.

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11. The following persons testified in opposition to the application: Cornish Hitchcock, Anne Sellin, Charles Robertson, and Sally Berk.
12. The record was closed at the conclusion of the hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from the parties. The Commission also requested proposed findings of fact and conclusions of law from the parties.
13. At its public meeting held on July 29, 2013, the Commission took proposed action to approve with conditions the PUD and related map amendment.
14. The application was referred to the National Capital Planning Commission ("NCPC") for review of any impacts on the federal interest under the Comprehensive Plan as required by § 492(b)(2) of the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774, 810; D.C. Official Code § 641.05). NCPC did not submit a report within the required 30 day review period and, therefore, the Commission was authorized to act without comment from NCPC. *Id.*
15. The Commission took final action to approve the PUD on September 9, 2013.

### **The Property and Surrounding Area**

16. The Property is located on lower 16th Street in the K Street commercial sector of Downtown Washington. Irregular in shape, the site is comprised of Lot 41 in Square 185, and has a total land area of 17,483 square feet. The Property fronts on 16<sup>th</sup> Street to the east and I Street to the south, with interior lot lines at the west and north sides. A portion of the Property abuts an alley that extends north to the K Street service road. The Property is sloped slightly, with a grade differential of several feet as it rises from roughly midblock on 16<sup>th</sup> Street to the corner at I Street. The entirety of the Third Church of Christ, Scientist, complex is proposed for demolition to allow for the new development.
17. The property is situated within the SP-2 Zone District. The Future Land Use Map of the Comprehensive Plan designates the Property for mixed-use development consisting of high density residential and high density commercial land uses. The property is also part of "Central Washington" on the Generalized Policy Map, and is located within the Golden Triangle/K Street Policy Focus Area. The area is dominated by commercial offices uses with ground floor retail, trade associations and several hotels. All property to the east and west of the SP-2 strip on 16<sup>th</sup> Street is zoned C-4.
18. Immediately west of the site is 1625 I Street, N.W., a large-scale commercial office building with ground floor retail that rises to a height of 130 feet, with a tower embellishment that extends approximately another 30 feet. To the north is 1600 K Street,

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N.W., a 90-foot commercial office building with ground floor retail, and 1601 K Street, a PUD approved in 1999 which rises to a height of 90 feet in the SP-2 portion of the site and 125.5 feet in the C-4 portion of the site. Across 16<sup>th</sup> Street to the east are the St. Regis Hotel and the LiUNA building. To the south across I Street are the Motion Picture Association Building and the Hay-Adams Hotel, with Lafayette Park and the White House just beyond.

19. No residential uses are located within the immediate vicinity of the site. Residential uses only begin to appear on 16<sup>th</sup> Street beyond K Street to the north and become more prevalent toward Massachusetts Avenue. A single residential building is also located at the corner of 15<sup>th</sup> and I Streets, N.W.

### **Existing and Proposed Zoning**

20. The SP-2 Zone District in which the Property is located serves as a buffer between adjoining commercial and residential areas and is designed to preserve and protect areas adjacent to Commercial Districts that contain a mix of row houses, apartments, offices and institutions. (11 DCMR § 500.) The SP-2 Zone District is a medium-high density district which permits a maximum building height of 90 feet, with no limitation on the number of stories, and a density of 6.0 FAR. (11 DCMR §§ 500, 530 and 531.) Lot occupancy in the SP-2 Zone District is restricted to 80% for buildings which are devoted to residential use, excluding hotels.
21. The C-3-C Zone District requested by the Applicant is a major business and employment center supplementary to the Central Business (C-4) Zone District. (11 DCMR § 740.1.) The C-3-C Zone District permits medium-high density residential and mixed-use developments. (11 DCMR § 740.8.) Buildings in the C-3-C Zone District may be constructed to a maximum height of 90 feet, with no limitation on the number of stories, and a maximum FAR of 6.5. (11 DCMR §§ 770 and 771.) Buildings in the C-3-C Zone District may occupy 100% of the lot, but must provide a rear yard measuring 2.5 inches per foot of vertical height, but not less than 12 feet. (11 DCMR §§ 772, 774.)
22. Under the PUD guidelines, the maximum building height permitted in the C-3-C Zone District is 130 feet with a maximum density of 8.0 FAR. (11 DCMR §§ 2404.6, 2405.2.) The Commission may authorize an increase of five percent in the maximum density provided the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of the PUD regulations. (11 DCMR § 2405.3.)

### **Description of the PUD Project**

23. Designed by the architectural firm of Robert A.M. Stern Associates, the proposed new development will be an exceptional architectural statement design that fits comfortably

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within the stately surroundings of lower 16th Street. The structure follows the form and massing of other buildings, effectively reinstating and matching the 90-foot streetwall height along the avenue. The ninth floor will be setback from the property line approximately 20 feet and will be partially occupied by mechanical equipment. This top floor has been carefully treated to create the appearance of a highly designed penthouse with a colonnade, in deference to nearby buildings, in order to maintain the quiet monumental quality of lower 16th Street. The overall height of the building for zoning purposes, including this "occupied" penthouse/floor, will be 112 feet, 3.5 inches, consisting of nine stories. The overall density of the project is 8.07 FAR, with approximately 125,190 square feet of gross floor area devoted to commercial office uses, approximately 4,098 square feet of gross floor area devoted to retail/service uses, and approximately 11,738 square feet of gross floor area devoted to religious uses. The new structure will occupy 100% of the site. A court will be provided in lieu of a rear yard. The site has been divided roughly into thirds, with the office building occupying the southern two-thirds of the lot and the church located at the northern third.

24. The main entrance to the office building is centered in the office portion of the façade to remain consistent with much of historic 16<sup>th</sup> Street and reinforce the notion of two distinct structures. Retail space is located at the corner of 16<sup>th</sup> and I Streets. The office building is expressed in a classical vein that reflects the character of lower 16<sup>th</sup> Street leading to Lafayette Park and the White House. The ground floor expresses its full two-story height, with multiple, vertically oriented windows at each floor; windows above that level are then organized in three horizontal bands. The ground floor is faced in white Cherokee marble, while the upper floors are a combination of Indiana limestone and white Cherokee marble. Windows are trimmed in bronze and bronze-finished aluminum frames. The corner of the building is glazed to its full height at the intersection of 16<sup>th</sup> and I Streets; the north corner of the office façade is also treated with glass as it turns into the recessed portion of the façade which features the church.
25. The "skin" of the office building façade rises to the cornice height, which roughly matches the cornice lines of the Hay-Adams Hotel, the Motion Picture Association building and 1600 K Street. It also correspondingly matches cornice heights of other buildings on the east side of 16<sup>th</sup> Street. The building is eight stories in height at these street facades, or approximately 93.7 feet. The ninth floor is then set back 20 feet and rises another 18.5 feet for an overall total building height of approximately 112.3 feet. The colonnade surrounding the ninth floor extends 10 feet in front of that top floor.
26. The church located at the north end of the 16<sup>th</sup> Street facade is articulated as a glassy, crystalline structure set within a recess approximately 10 feet deep. It has two entrances: one to the publicly accessible reading room, which abuts a small plaza located in public space, and a second entrance for the church itself that leads to an interior lobby that rises to the auditorium, Sunday school facilities, and administrative offices above. The auditorium is a double-height space and is the principal gathering place for the

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congregation. It is deliberately transparent from the street to convey an open, welcome feeling in keeping with the church's tenets of faith and religious mission. The faceted edges of the church "jewel" extend slightly beyond the property line by approximately four feet, which adds visibility to the church and helps differentiate it from the larger office building façade.

27. The PUD will include extensive landscaping along the building street frontages, which will also extend the full block along 16<sup>th</sup> Street between I and K Streets. The plan will re-establish the double-row of trees that historically characterized 16<sup>th</sup> Street. Special street pavers will also enhance the special quality of the site. The church entrance will feature a monolithic stone water feature, where the water skims the surface and falls over the edge of the stone block. A plaza area with seating will adjoin the reading room. A simple strand of bells, acting as a stylized carillon, will demarcate the church entrance. The Public Space Committee, DDOT, approved in concept the overall landscaping plan with minor adjustments to reduce the amount of specialty paving, increase the green area, and add another bike rack on I Street and a tree box on K Street.
28. Parking will be provided for approximately 93 vehicles in a below-grade garage accessed off of I Street. A portion of the spaces will be located in vault space along 16<sup>th</sup> Street, while others will be stacked. (Ex. 25A.) Loading facilities will be located in the public alley and accessed from the K Street service roadway. In consideration of the already extreme congestion in the existing alley, the vehicular entrance has been located along I Street in close consultation with the DDOT. The I Street curb-line will also be extended at that area to eliminate a truncated curb lane and associated traffic congestion. It will also result in a widened sidewalk, thereby enhancing pedestrian circulation. A new curb cut to the garage, approved by DDOT, is located off I Street. As discussed in greater detail below, the parking and loading facilities are adequate to meet the anticipated demand for the building and the church.

### **Zoning Flexibility Requested**

29. The Applicant requested flexibility pursuant to § 2405.3 to increase the total density to be developed on the PUD site to approximately 8.07 FAR, which is slightly higher than the permitted density of 8.0 FAR. Section 2405.3 provides that the Commission may authorize an increase up to five percent the total maximum floor area for the C-3-C PUD guidelines, or up to 8.4 FAR, provided that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards for PUDs. (11 DCMR 2405.3(b).) Here, the modest increase of 0.07 FAR will allow the Applicant to compensate for some of the inefficiencies resulting from the incorporation of two separate, distinct uses on a relatively modest site. The additional density also allows the Applicant to accommodate the innovative, angular church façade and respond to comments from HPRB related to visual separation of the two (religious and commercial) uses. Thus, the Commission finds the slight increase in FAR to be essential

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to the successful functioning of the project and is consistent with the purposes of the PUD regulations and evaluation standards to encourage high quality developments that provide public benefits. The less than one percent increase is modest in nature and more than compensated for by the superior public benefits and amenities of the project.

30. The Applicant also requested flexibility to allow a roof structure not meeting the one-to-one setback requirements. The penthouse is flush with the building wall at the rear alley. At the direction of HPRB, the penthouse was pushed back as far as possible from the street elevations to protect the viewsheds within the 16<sup>th</sup> Street Historic District. The setbacks also allow for the successful organization and integration of the mechanical penthouse within the ninth floor.
31. Additionally, the Applicant requested flexibility to provide parking consistent with the plan shown on Exhibit 25A, and to vary the number, location and arrangement of parking spaces for the project, as shown on the plan, provided that parking shall be provided for no fewer than 93 vehicles.
32. The Applicant also requests flexibility in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building; and
  - 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 without materially reducing the quality of the materials; and to make refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code, to comport with final design comments from the Historic Preservation Review Board, or that are otherwise necessary to obtain a final building permit.

### **Project Benefits and Amenities**

33. *Urban Design, Architecture and Landscaping.* The single largest benefit to the area and the city as a whole is the creation of a new signature office building just blocks from the White House and an exceptional ecclesiastical design for the Third Church of Christ, Scientist. The design skillfully blends a classical vocabulary with a modern idiom to reflect the quiet elegance of lower 16th Street's institutional and commercial buildings. The building will be clad in high-quality materials consisting of white Cherokee marble, Indiana limestone and bronze trim, which are generally reserved for governmental



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buildings and associations along the National Mall and seldom used on matter-of-right projects. The first eight floors of the building rise to a height of approximately 90 feet, in deference to the height line that characterizes 16<sup>th</sup> Street. The ninth floor is set back from the street wall approximately 20 feet to mimic the setbacks normally associated with a penthouse. Unlike the typical mechanical penthouse, this ninth level has been fully designed as part of the overall building composition and is further articulated with a pergola. The pergola echoes the colonnaded top floor of the AFL-CIO building located diagonally across the street to the southeast. The mechanical equipment has been deftly incorporated into this top floor at the north end of the site.

34. Another exceptional urban design feature of the PUD is the extensive landscaping. Specialty pavers, plantings and restoration of the double-row of trees that once characterized 16th Street will significantly enhance this block of 16th Street. The plaza in front of the church will feature particularly inviting designed elements, including a water feature and a stylized carillon. Together, these exceptional features of the PUD project represent outstanding benefits of urban design, architecture, and landscaping. The office building's Cherokee marble, Indiana limestone and bronze trim, as well as the intricate glass façade of the church and landscape features, are significant enhancements that are not normally achieved under a matter-of-right project, and come at a significant increased cost to the Applicant.
35. Site Planning and Efficient and Economical Land Utilization: The proposed PUD will enhance a prominent corner on lower 16<sup>th</sup> Street, blocks from the White House. The project will activate the surrounding street network with a combination of active retail uses and streetscape improvements. Further, the PUD will improve significantly the functionality of the alley located adjacent to the northwest corner of the property by consolidating trash and recycling for three separate buildings, which will minimize the number of truck visits, thereby alleviating pressure on the alley system. At the request of DDOT, the Applicant will also extend the curblin and sidewalk area along the I Street frontage of the building to enhance pedestrian and transportation safety.
36. Historic Preservation of Private or Public Structures, Places, or Parks. The HPRB found the proposed design and materials palette to be consistent with the historic character of the 16<sup>th</sup> Street Historic District, and approved the project in concept.
37. Housing and Affordable Housing. The Applicant has committed to make a direct contribution to the Housing Production Trust Fund in the amount of \$579,587.24, based on the formula set forth in § 2404.7 of the PUD regulations. Although required, the housing linkage contribution would not otherwise be made under a matter-of-right project, and thus qualifies as a public benefit of the PUD project. (See 11 DCMR § 2403.6.)

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38. *Environmental Benefits:* The proposed development provides a number of environmental benefits that include street tree planting and maintenance, landscaping, energy efficiency, and the inclusion of bike storage and changing facilities. The project will be designed to exceed the LEED-Gold standard, achieving some of the requisite points through preferred parking for low-emitting and fuel efficient vehicles, green roof, stormwater capture and re-use, careful exterior lighting, low-flow fixtures, higher performance envelope, recycling and salvaging of construction waste and the use of recycled building materials.
39. *Uses of Special Value to the Neighborhood or the District of Columbia as a Whole.* The project will redevelop a highly prominent corner in Central Washington and will result in the provision of a sizable contribution to the Housing Production Trust Fund. The project includes the provision of the Christian Science Reading Room, which will be open to the public. The current reading room attracts approximately 70% of its visitors from the general public, with the remainder comprised of church members. In coordination with the ANC, the Applicant will also contribute funds to the following community organizations that would advance their missions:
- *Sasha Bruce Youthwork, Inc.* – The Applicant will contribute \$20,000 to this organization, which helps at-risk and homeless youth in the District of Columbia. Services include finding safe homes, counseling, educational and career opportunities. The contribution will enable the training of youth to sell food and flowers grown in their gardens;
  - *Charlie's Place at St. Margaret's Church* – The Applicant will contribute \$20,000 to this organization, which assists homeless men and women through education, encouragement, and self-reliance. The contribution will support weekend services to provide meals, case management series, distribution of clothing, toiletries and mail, and phone access. The contribution will also support on-site nursing services to provide health screenings, blood pressure testing, HIV testing and long-term healthcare planning; and
  - *Dupont Circle Citizen's Association* – The Applicant will contribute \$10,000 to this organization, which will be used to support the Dupont Circle Resource Center to include renovations, maintenance and repairs of the space, improvements to the center's security, signage, technology, furniture, and landscaping. The space is used as a substation for National Park Service Police and the Metropolitan Police Department, and as a meeting space for several organizations.
40. The Commission finds that the benefits and amenities package is commensurate with the level of flexibility requested. Each proffered category is at a minimum acceptable, but the benefits and amenities are particularly superior in the categories of urban design, architecture, landscaping, and sustainable environmental features.

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41. The Commission further finds that the impacts of the project are favorable, capable of being mitigated or acceptable, in compliance with §2403 of the PUD regulations. The construction of the new office building with ground floor retail, including a replacement church, provides efficient use of land compatible with uses of the surrounding property. The project does not cause any adverse traffic impacts and provides sufficient parking to meet demand, as confirmed by the reports of Gorove/Slade Associates and DDOT. (Ex. 25A.) The proposed height is consistent with other existing buildings in the vicinity. The cornice line, with a setback at approximately 90 feet in height, picks up other existing heights along 16<sup>th</sup> Street. The additional three feet in height helps provide higher height for ground floor retail uses and the church. The conceptual approval from the Historic Preservation Review Board assures that design will be of high quality and not incompatible with the character of the 16<sup>th</sup> Street Historic District.

### **Comprehensive Plan**

42. The Future Land Use Map of the Comprehensive Plan designates the Property for High-Density Residential and High-Density Commercial land uses. The proposed development is consistent with that designation. The property is also part of "Central Washington" on the Generalized Policy Map, and is located within the Golden Triangle/K Street Policy Focus Area. The proposed development furthers numerous policies and objectives of the Comprehensive Plan, as discussed below.
43. ***Policy LU-1.1.4: Appropriate Uses in the CEA.*** The proposed PUD and related map amendment will allow development of the site consistent with this land use policy. The proposed C-3-C Zone District will promote the use of this property with a high-value commercial office building designed using the highest quality materials. The white Cherokee marble, Indiana limestone and bronze trim proposed for the office building are commensurate with the monumental institution structures of the National Mall and lower 16<sup>th</sup> Street. The architectural treatment of the building is classically inspired but evokes a modern idiom. The crystalline faceted-glass façade of the church structure further reflects the cultural significance of the area and enhances the area's image as the seat of the national government and the center of the District of Columbia.
44. ***Policy LU-1.1.6: Central Employment Area Historic Resources.*** In fulfillment of this policy, the design of the proposed PUD has undergone review by the Historic Preservation Office and the Historic Preservation Review Board ("HPRB") to ensure that it preserves the scale and character of the Central Employment Area's historic resources within the 16<sup>th</sup> Street Historic District. The proposed PUD and related map amendment respect the streets, vistas and public spaces of the L'Enfant and McMillan Plan. The building has been sensitively designed to respect the area's historic character and enhances the historic role of lower 16<sup>th</sup> Street as the front entrance to the White House.

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45. ***Policy LU-2.3.6: Places of Worship and other Religious Facilities.*** The incorporation of a new house of worship for the Third Church of Christ, Scientist, into the PUD project supports this policy of working proactively with the faith-based community by recognizing that places of worship and other religious facilities are anchors in neighborhoods, sources of spiritual guidance and are accorded important federal constitutional and statutory protection. The church's ongoing presence on lower 16<sup>th</sup> Street will allow the church to continue its mission of 95 years to minister to its downtown congregation. The new house of worship will allow the Third Church of Christ, Scientist to worship in accordance with the tenets of its faith, as envisioned under the First Amendment, the Religious Freedom Restoration Act and the Religious Land Use and Institutionalized Persons Act.
46. ***Policy LU-2.4.6: Scale and Design of New Commercial Uses.*** Consistent with this policy, the proposed PUD will be developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas. It will maintain the established height of lower 16<sup>th</sup> Street, with the cornice height of 93 feet being compatible with that of adjacent buildings. The mass, density, and building design are also similar to neighboring buildings and the character of 16<sup>th</sup> Street.
47. ***Policy E-1.1.1: Street Tree Planting and Maintenance.*** In furtherance of this policy, the proposed development recognizes the importance of trees in providing shade, reducing energy costs, improving air and water quality, providing urban habitat, absorbing noise, and creating economic and aesthetic value in the District's neighborhoods. The project will include a double row of trees along 16<sup>th</sup> Street, where a single row currently exists. The sidewalk will be significantly improved along both frontages, providing an aesthetic benefit to pedestrians. Proposed landscaping and streetscape improvements have been reviewed and approved by the Public Space Committee in concept.
48. ***Policy E-2.2.5: Energy Efficient Building and Site Planning.*** The PUD has been designed to the LEED-Gold standard, thus contributing to the energy efficient goals of this policy. The qualifying features highlighted in the application include: high performance envelope; glazing and mechanical system designed to reduce energy use; bike storage and changing facilities; a green roof and native and adapted vegetation, with low water using irrigation; stormwater capture and reuse; recycled and/or salvaged construction waste; and recycled building materials.
49. ***Policy ED-2.1.1: Office Growth.*** The proposed commercial office uses of the PUD will advance this policy by fostering office growth in Central Washington, one of the primary target areas.
50. ***Policy ED-2.1.3: Signature Office Buildings.*** The PUD design concept approved by HPRB furthers the goals for signature office buildings to accommodate high-end tenants and users. The project includes high quality materials, such as Cherokee marble, Indiana

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limestone and bronze trim in addition to a crystalline design for the Third Church of Christ, Scientist. It is anticipated that the proposed project will attract high-end tenants and users given its prominent location and high quality design.

51. **Policy ED-2.1.5: Infill and Renovation.** The proposed PUD and related map amendment fulfill this policy by allowing the under-utilized site, which is characterized by a Brutalist-style church complex, with an infill development that serves both the needs of the commercial office sector and the Third Church of Christ, Scientist in a way that will allow it to worship in a manner consistent with the tenets of its faith.
52. **Policy UD-1.1.1: National Image.** In furtherance of this policy, the proposed PUD and map amendment will allow for the construction of a signature office building and church of exemplary design that will strengthen and enhance the physical image, character and qualities of the District and reflect its role as the national capital.
53. **Policy UD-1.1.2: Reinforcing the L'Enfant and McMillan Plans.** The proposed PUD and related map amendment support this policy. The streetscape improvements will restore and enhance the swath of green space along 16<sup>th</sup> Street, which is an important element of the L'Enfant Plan and the historic district. The new building will be located at the property line to ensure visual consistency along 16<sup>th</sup> Street and to maintain the historic viewsheds. In addition, the building concept has been reviewed and approved by HPRB, and has been found to be compatible with surrounding development through maintenance of the existing street wall and limitations on height variations. The 20 foot setback that has been proposed on the ninth floor preserves the 16<sup>th</sup> Street viewshed.
54. **Policy UD-2.1.2: Downtown Street and Block Pattern** In furtherance of this policy, the proposed PUD and related map amendment foster a fine-grained pattern along lower 16<sup>th</sup> Street while enhancing the large swath of green space to encourage pedestrian movement and create visual interest along the streetscape. The crystalline church structure, which is framed by a setback in the office building, is the antithesis of the fortress-like building this goal discourages. The proposed landscaping will create visual interest along the street frontages and will enhance the pedestrian path.
55. **Policy UD-2.1.4: Architectural Excellence.** The proposed PUD embodies the architectural excellence promoted by this policy. The building, as approved by HPRB, has been adroitly designed and exhibits an outstanding level of excellence in the quality of the composition and materials. The ground floor has been treated as a double-height space and with a degree of architectural detail not otherwise found on matter of right buildings, which improves the visual image of the project, the streetscape and a prominent corner. The project creates visual interest at the street levels by improving landscaping along both frontages in addition to the incorporation of a crystalline sculpture at the entrance of the place of worship.

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56. ***Street Walls (§§ 913.3-913.5) Street Walls.*** In response to the observations and goals of the Comprehensive Plan on street walls, the proposed PUD enhances the street wall and the streetscape experience by employing a high design standard for the storefront and ground level of the building. The public spaces will be improved with extensive plantings for the entire length of the 16<sup>th</sup> Street block between I and K Streets that interacts with the building and church designs, to create energy along the street. There is a high level of transparency in the use of glass for the building and the church. The entrance to the church reading room will include seating and a water feature that will activate the street. The landscape along each frontage will further enhance the pedestrian path while reducing stormwater runoff.
57. ***Policy UD-3.1.1: Improving Streetscape Design.*** The proposed PUD proposes extensive improvements to the streetscape through special pavers, trees, water features and plantings that will greatly enhance the character of this block of 16<sup>th</sup> Street and the historic area in general.
58. ***Policy UD-3.1.2: Management of Sidewalk Space.*** The characteristically wide sidewalks along this segment of 16<sup>th</sup> Street will be preserved and enhanced as part of the PUD project, with the double row of street trees restored. The improvements will augment the visual character of the street with a double row of trees, which will reduce the impact of vehicle traffic. Additionally, the sidewalk along the I Street frontage of the building will be widened through the elimination of a truncated curb lane that has resulted in traffic congestion.
59. ***Policy UD-3.1.6: Enhanced Streetwalls.*** The PUD project has been sensitively designed to enhance the streetwall through a double-height street level built to the property line. The continuous façades along 16<sup>th</sup> Street will provide a sense of enclosure and comfort for pedestrians, in furtherance of this policy. In addition, the streetscape, including double rows of trees, will improve pedestrian comfort and circulation.
60. ***Policy CW-1.1: Promoting Mixed Use Development.*** The proposed project will advance this policy by expanding the mix of land uses to include a place of worship, office and retail. The proposed mix of uses increases the density of the site and will ensure that it remains active throughout the day, sustaining the area as a hub of the metropolitan area.
61. ***Policy CW-1.1.2: Central Washington Office Growth.*** In fulfillment of this policy, the proposed development, in concert with the approved concept, will help retain Central Washington as the premier office location in the Greater Washington region.
62. ***Policy CW-1.1.12: Reinforcing Central Washington's Characteristic Design Features.*** The proposed PUD and map amendment will reinforce Central Washington's characteristic design features, including a visual height that is consistent with the lower 16<sup>th</sup> Street, the use of high quality building materials, and the installation of landscape

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along 16<sup>th</sup> Street. The approved concept is a blend of historic and contemporary design, further enhancing the institutional quality of lower 16<sup>th</sup> Street.

63. ***Policy CW-1.1.13: Creating Active Street Life and Public Spaces.*** The proposed PUD and map amendment will create an active street life by providing ground floor retail, the reading room plaza and a minimum of three entrances into the building. The proposed streetscape improvements will also enhance the street.

### **Office of Planning Report**

64. By report dated June 10, 2013, OP recommended approval of the proposed PUD and related Zoning Map amendment. In its report, OP stated that the proposal would not be inconsistent with the Land Use, Environmental Protection, Economic Development and Urban Design Citywide Elements, as well as the Central Washington area Elements of the Comprehensive Plan. OP concluded that the Applicant's proffered public benefits and project amenities were, given the size and nature of the project, appropriate in scope. OP suggested that additional information was needed to clarify how the monetary contributions would be spent. The Commission finds the letters submitted by the community organizations adequately clarify what efforts the contributions will support.
65. OP also opined that the roughly \$580,000 contribution to the Housing Production Trust Fund is not considered an amenity and does not relieve a project "*of the requirement to be found meritorious pursuant to the evaluation standards in § 2403*" (§ 2404.11). OP acknowledged, however, that the contribution is a beneficial consequence of the PUD in combination with the other proffered benefits and amenities. The Commission agrees that the contribution is a beneficial consequence of the PUD and that it also qualifies as a public benefit of the PUD because it would not likely be provided as a result of a matter of right project on this site.
66. The Commission finds that, consistent with OP's recommendation, the Applicant has provided sufficient detail on the nature of the financial contributions to Sasha Bruce Youthwork, Inc., Charlie's Place at St. Margaret's, and the Dupont Circle Citizen's Association.

### **DDOT Report**

67. By report dated June 6, 2013, DDOT stated it had no objection to the Applicant's request for a PUD and related map amendment from SP-2 to C-3-C. Based on the Applicant's proposed project, TIS, and existing site conditions, DDOT concluded that the nominal amount of vehicular traffic generated can be accommodated without changes to the existing infrastructure. DDOT concurred with the transportation demand management strategies proposed by the Applicant in its TIS, and further recommended that the Applicant provide a transit screen in the main lobby of the office building to provide real-

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time publically accessible transit information, as well as reserved spaces for low-emission vehicles ("LEV") and electric-vehicle charging stations. The Applicant agreed to these additional measures at the hearing.

### **ANC 2B Report**

68. By report dated May 18, 2013 and supplemented by letter dated June 17, 2013, ANC 2B recommended approval of the PUD and related map amendment. It noted that the proposed rezoning is consistent with the high-density commercial/high-density residential designation of the site on the Comprehensive Plan and the immediate vicinity of the site, much of which is zoned C-4. The ANC also found that the project amenities and public benefits of the PUD are extensive and commensurate with the flexibility in height, massing, and density requested for the project. They further noted that the project will not adversely affect neighboring properties.

### **Parties and Persons in Opposition**

69. BFP testified as a party in opposition to the application. BFP's chief complaint was that the PUD would block the views from its windows at 1625 I Street, N.W., and have a significant impact on the owner's ability to provide adequate light and views to tenants on the east side of the building. BFP suggested a compromise design that would chamfer the top floor of the PUD, which would result in a reduction of approximately 1,000 square feet of space on the top floor of the Applicant's project. BFP stated its belief that the PUD would have a negative impact on the value of its property as it relates to the tenants in the building. A tenant of the building testified on behalf of BFP regarding potential negative impacts caused by the PUD on the light and views on the seventh through 11<sup>th</sup> floors.
70. At the encouragement of the Commission, the Applicant and BFP met on June 28, 2013, to determine whether they could resolve their differences on the PUD's design. Based on additional studies prepared and shared by the Applicant on the PUD design and west elevation finishes, BFP informed that Applicant that it now accepted the design of the PUD massing as it relates to BFP's east façade. (Exh. 53C, 53D.)
71. The Commission commends the parties for resolving their differences and finds that the project design will not significantly affect the light and views of the neighboring property.
72. Several other witnesses testified in opposition to the PUD based on: (i) the inappropriateness of rezoning the property from SP-2 to C-3-C; (ii) its lack of outstanding merit and design; (iii) the elimination of housing requirements for the site and noncompliance with the inclusionary zoning ("IZ") requirements; (iv) an inadequate contribution to the Housing Production Trust Fund; and (v) insufficient penthouse



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setbacks. With respect to rezoning, it was asserted that the current SP-2 zoning serves as an important buffer zone between residential and commercial district, which is to be protected under the Land Use Policy of the Comprehensive Plan (Policy LU-2.3.4). Opponents also cited the Central Washington Element of the Comprehensive Plan as further recognizing lower 16<sup>th</sup> Street has a unique and historic character that sets it apart from the area around it (CW-2.6). ) (10A DCMR §§ 311.6, 1616.3.) Likewise, they cited general discussions in the Land Use Element as noting that high-density housing is a particular use along the 16<sup>th</sup> Street corridor between Scott Circle and the White House, and that with infill and renovations the entire focus area could become more residential and less dominated by office uses.

73. The Commission, however, must look to the totality of the Comprehensive Plan for guiding principles in the development of Central Washington and the Lower 16<sup>th</sup> Street area in particular. Policy CW-2.6.6 provided that the special character of Lower 16<sup>th</sup> Street between H Street and Scott Circle should be protected and enhanced. Since the adoption of the current version of the Comprehensive Plan in 2006, the boundaries of the 16<sup>th</sup> Street Historic District were extended southward to include the area between Scott Circle and H Street. As a result, the PUD site is subject to review by HPRB to ensure it is appropriately protected and enhanced. HPRB approved the concept of the PUD design as consistent with the character of the historic district. The Commission is thus satisfied that the project fulfills the Comprehensive Plan policies for Lower 16<sup>th</sup> Street.
74. Similarly, the project meets the objectives of Policy CW-2.6.1 to sustain the Golden Triangle/Franklin Square area as a prestige employment center by strongly supporting reinvestment in its office buildings to meet market demand. Here, the Applicant is reinvesting in office development on a site that is already used in part as office space. While it is also true that the Comprehensive Plan encourages the diversification of land use by capitalizing on opportunities for housing (see Policy CW-2.6.2) that does not mean that every site is appropriate for residential uses. Here, the Future Land Use Map designates this site for high-density residential *and* high-density commercial, thereby making the proposed commercial uses for the site compatible with Comprehensive Plan. In fact, by amending the Future Land Use Map to include the high-density commercial designation for this site, in addition to the existing residential designation, the Council signaled its desire for this site to be developed for commercial uses. Otherwise, the amendment would be rendered meaningless.
75. As for the land use policy directed at maintaining mixed-use zone districts that serve as a buffer or transitional area between residential and commercial districts (LU-2.3.4), the Commission notes that the PUD site is surrounded exclusively by commercial uses – the closest residential uses are blocks away to the north and east. Consequently, there is no need to maintain a buffer where residential uses do not exist. Moreover, the SP-2 Zone District is *incompatible* with the Future Land Use Map's designation for high-density commercial uses since the SP-2 Zone District will not support them.

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76. With respect to the design of the building, the Commission recognizes that not everyone appreciates architecture with the same eye. However, based on the HPRB recommendation, OP and the PUD evaluation standards, the Commission finds that the project is one of superior urban design, architecture, and landscaping as discussed elsewhere in this order. While opponents argued that recognizing an HPRB-approved design as part of the PUD's public benefits and amenities package would be "double-counting," the Commission finds otherwise. There is nothing that prevents the Commission from commending a design that was also found to be of high-quality by another review body. In fact, the Commission has done exactly that in numerous cases. (See Exh. 53B).
77. With respect to housing requirements, the Commission finds that the mixed-use designation of high-density residential and high-density commercial uses on the Future Land Use Map, and the proposed rezoning from SP-2 to C-3-C, do not require or eliminate any housing on the site. Presently, the site is occupied by a church and office building. The current SP-2 and proposed C-3-C Zone Districts both permit residential uses, but they do not require housing. A property owner may choose to provide only non-residential uses on the site, provided those uses do not exceed the non-residential FAR limits. Second, the IZ requirements are only triggered if 10 or more residential units will be constructed on a site. (11 DCMR § 2602.1(b).) The assertions regarding the sufficiency of the Housing Production Trust Fund contribution are unfounded. The calculation suggested by the witness does not comport with the standards set forth in § 2404.7, which is the only formula the Commission may apply. The Commission finds the calculations supplied by the Applicant, and independently verified by OP, to be accurate.
78. With respect to penthouse setbacks, the Commission finds that the Applicant has skillfully ensconced the mechanical equipment into the top floor of the building and has provided ample setbacks from the street, well beyond what would be required if the entirety of that floor were a mechanical penthouse. The modest relief requests along the alley elevation is reasonable and appropriate in order to protect street views and the 16<sup>th</sup> Street Historic District, consistent with the HPRB recommendation. The Commission notes that the overall height of the building, including the mechanical penthouse, is only 112.3 feet and is well below the permitted 130-foot height limit, *excluding* a mechanical penthouse, in the C-3-C Zone District.

### 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

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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 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 this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD seeks an increase of less than one percent in the density of the building, as permitted under § 2405.3(b) of the Zoning Regulations. The modest increase has minimal impacts on the perceived bulk of the building, is necessary to the successful functioning of the building in order to accommodate separate mechanical equipment for the church, and is appropriate when balanced against the superior public benefits and amenities of the project.
5. In all other respects, the PUD complies with the development standards of the Zoning Regulations. The office, retail and religious uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area and the operation of city services are acceptable, given the quality of the public benefits in the project. 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 not inconsistent with the Comprehensive Plan. The Commission also concludes that the project benefits and amenities are reasonable trade-offs for the requested development flexibility in accordance with § 2400.3 and 2400.4.
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.

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9. The proposal to rezone the Property from the SP-2 to the C-3-C Zone District is not inconsistent with the Property's designation on the Future Land Use Map and the Generalized Policy Map.
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 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive. The Commission concludes, however, in contrast to OP's view, that the Applicant's contribution to the Housing Production Trust Fund does, in fact, constitute a public benefit of the PUD. The PUD evaluation standards under § 2403.9 clearly identify housing and affordable housing as one type of benefit that an applicant may choose to offer. Only when an applicant seeks an increase in office density over and above the amount permitted as a matter of right is it required to provide housing as one of its public benefits. In all other respects, an Applicant is free to choose which benefits it will offer as part of the PUD. The mandatory nature of the housing contribution does not diminish its beneficial qualities or change the standard by which we must measure benefits, that is, whether the contribution would likely result from development of the site under the matter-of-right provisions of the Zoning Regulations. The Commission concludes that a voluntary cash contribution of approximately \$580,000 to the Housing Production Trust Fund would not result from a matter-of-right project on this site. The Commission further notes that the Applicant had the option of partnering with an affordable housing provider to help finance or otherwise assist in the rehabilitation or production of new housing consistent with § 2404. This option has historically proved less expensive and was available to encourage the actual production of housing rather than an accumulation of funds that might languish before being used for actual construction. (See Z.C. Order No. 795 (February 6, 1998), at p. 2.) Moreover, in its recent technical amendments to the Zoning Regulations, the Commission explicitly stated that affordable housing provided in compliance with the Inclusionary Zoning requirements shall not be considered a public benefit. Had the Commission determined to similarly restrict credit for affordable housing contributions under the PUD regulations, it could have done so, but it chose not to do so. Therefore, the Commission concludes that a contribution to the Housing Production Trust Fund may be deemed a public benefit under the PUD evaluation standards.
11. 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 raised in the written report of the affected ANC. The Commission has carefully considered the ANC 2B's recommendation for approval and concurs in its recommendation.
12. The application for a PUD is 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 applications for consolidated review and approval of a planned unit development and related map amendment from the SP-2 to the C-3-C Zone District for the property located at Lot 41 in Square 185. For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, 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. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

#### **A. Project Development**

1. The PUD shall be developed in accordance with the plans and materials submitted by the Applicant, dated May 28, 2013, and marked as Exhibit 21A in the record, as supplemented by Exhibits 25A, 40, 41A4, and 53A ("Plans"), and as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the plans, the PUD shall be a mixed-used project consisting of approximately 141,026 square feet of gross floor area. Approximately 125,190 square feet of gross floor area will be devoted to commercial office uses, approximately 4,098 square feet of gross floor area will be devoted to retail and service uses, and approximately 11,738 square feet of gross floor area will be devoted to religious/institutional uses. The PUD shall have a maximum density of 8.07 FAR.
3. The PUD shall be constructed to a maximum height of 112 feet, 3.5 inches, inclusive of the mechanical penthouse, which is located on the same level as the ninth floor.
4. The PUD shall provide parking for no less than 93 vehicles, as shown on Exhibit 25A.
5. The Applicant shall have zoning flexibility with 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, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;

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- b. To vary the number, location and arrangement of parking spaces shown on Exhibit 25A, provided that parking shall be provided for no fewer than 93 vehicles;
- c. To vary the final selection of the exterior building materials and public space materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code, to comport with final design comments from the Historic Preservation Review Board, the DDOT Public Space Committee, or that are otherwise necessary to obtain a final building permit;
- d. To locate the mechanical penthouse portion of the top floor flush with the exterior wall of the building at the alley elevation, as shown in the Plans; and
- e. To increase the overall density permitted under the PUD guidelines for the C-3-C Zone District to no more than 8.07 FAR.

**B. Public Benefits**

- 1. Public Space Improvements. Subject to approval by DDOT, the PUD shall provide public space improvements as shown on the Plans, extending the full length of the block on 16<sup>th</sup> Street between K and I Streets, as well as the I Street frontage of the PUD site and the K Street as shown on the plans.
- 2. Transportation Demand Management ("TDM") Measures. The Applicant shall implement the following TDM measures at the PUD:
  - a. Providing a minimum of 45 spaces for bicycle parking/storage, which exceeds the minimum requirement;
  - b. Unbundling the cost of a lease or purchase of parking spaces from the leased office space; parking costs will be set at no less than the charges of the lowest fee garage located within one-quarter of a mile;

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- c. Prior to the issuance of the certificate of occupancy, identifying a project's TDM Leader (for planning, construction, and operations), and providing DDOT/Zoning Enforcement with annual TDM Leader contact updates;
  - d. Posting all TDM commitments on-line through the property management website, publicize availability, and allow the public to see what commitments have been promised;
  - e. Providing reserved spaces for carpools that are within the first five spaces closest to the elevators serving the building on either P2 or P3; and providing website links to Commuter/Connections.com and goDCgo.com on developer and property management websites; and
  - f. Installing a Transportation Information Center Display (kiosk) or similar electronic information device within the office building containing information and materials related to local transportation alternatives; ensuring that bike commuters will have access to shower/changing facilities available in the building; providing a transit screen or similar electronic information device in the main lobby of the building to provide real-time publicly accessible transit information; and providing a reserve space for low-emission vehicles (LEV) and electric vehicle charging stations.
3. LEED Qualification: The PUD shall be designed to meet a LEED-Gold rating, consistent with the score sheets submitted with the Plans but the Applicant shall not be required to obtain the certification from the United States Green Building Council.
  4. Housing Linkage: The Applicant shall pay \$579,587.24 to the Housing Production Trust Fund managed by the D.C. Department of Housing and Community Development. Consistent with § 2404.9 of the regulations, not less than one-half of the required total financial contribution shall be made prior to the issuance of a building permit for any part of the office component of the PUD, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any part of the office component of the PUD. The total amount of the contribution shall be adjusted, as necessary, to reflect the final square footage calculations submitted with the building permit application.
  5. The Christian Science Reading Room shall be open to the public, and signage indicating that the general public is welcome shall be displayed.
  6. Contributions to Community Organizations: Prior to issuance of the building permit, the Applicant shall contribute funds to the following community

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organizations to support their efforts as described below. Prior to the issuance of the Certificate of Occupancy, the Applicant shall provide letters from these organizations verifying that the services funded have been or are being provided:

- a. *Sasha Bruce Youthwork, Inc.* – The Applicant shall contribute \$20,000 to this organization, which helps at-risk and homeless youth in the District of Columbia. Services include finding safe homes, counseling, educational, and career opportunities. The contribution will enable the training of youth to sell food and flowers grown in their gardens;
- b. *Charlie's Place at St. Margaret's Church* – The Applicant shall contribute \$20,000 to this organization, which assists homeless men and women through education, encouragement, and self-reliance. The contribution will support weekend services to provide meals, case management series, distribution of clothing, toiletries and mail, and phone access. The contribution will also support on-site nursing services to provide health screenings, blood pressure testing, HIV testing and long-term healthcare planning; and
- c. *Dupont Circle Citizens Association* – The Applicant shall contribute \$10,000 to this organization, which will be used to support the Dupont Circle Resource Center to include renovations, maintenance and repairs of the space, improvements to the center's security, signage, technology, furniture and landscaping. The space is used as a substation for National Park Service Police and the Metropolitan Police Department, and as a meeting space for several organizations.

C. Miscellaneous

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two (2) years from the effective date of Z.C. Order No. 13-04. Within such time, an application must be filed for a building permit for the construction of the project as specified in 11 DCMR



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§ 2409.1; the filing of the building permit application will vest the Order. Construction of the project must commence within three (3) years of the effective date of Z.C. Order No. 13-04.

3. 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 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 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 July 29, 2013, upon the motion of Chairman Hood, as seconded by Commissioner May, the Commission **APPROVED** the applications at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Michael G. Turnbull and Peter G. May to approve).

On September 9, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner May, Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Michael G. Turnbull, and Peter G. May 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 October 4, 2013.



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Union and the Department did not reach an agreement. Another hearing was set for December 16, 2011. On the day before the December 16 hearing, the Department filed a “Notice of Settlement,” which stated: “The formal agreement is in process. The elements are agreed to. Pending final settlement agreement, the parties urge that PERB cancel the hearing presently scheduled for December 16, 2011.”

On July 17, 2012, the Union filed the present case—case number 12-U-30—alleging that the Department had failed and refused to comply with the tentative agreement reached in December 2011, and thereby committed an unfair labor practice. The Board rendered a decision on the pleadings, granting the unfair labor practice complaint. *AFGE, Local 2725 (on behalf of McNair and Roper) v. D.C. Dep’t of Consumer & Regulatory Affairs*, 60 D.C. Reg. 2593, Slip Op. No. 1362, PERB Case No. 12-U-30 (2013). The Board found that the Department had demonstrated a pattern and practice of failure to implement awards and agreements, and thus the Board ordered the Respondent to complete the 09-U-24 settlement agreement and awarded costs in the interests of justice. *Id.* at 6.

Pursuant to that award, on March 4, 2013, the Union filed a motion for costs supported by affidavits and records from Union president Eric Bunn and Union attorney Leisha Self. Mr. Bunn claimed costs for parking at Ms. Self’s office in preparation for the 09-U-24 hearings and at the Board’s offices for the September 26, 2011, 09-U-24 hearing at which he was to be a witness. These expenses totaled \$48. Ms. Self claimed travel expenses involved in filing pleadings in case number 09-U-24 and in preparing for and attending the September 26, 2011, 09-U-24 hearing. These expenses totaled \$64.99. The Department filed a response to the motion for costs (“Response”), and the Movant filed a reply to the Department’s response. The motion for costs and the subsequent pleadings are before the Board for disposition.

**II. Discussion**

The Board has “the authority to require the payment of reasonable costs incurred by a party to a *dispute* from the other party or parties as the Board may determine.” D.C. Code § 1-617.13(d) (emphasis added). The claimed items of costs were incurred in one of the prior cases in this matter, case number 09-U-24. Although that case has a different case number from the case in which the motion for costs was filed, it is part of the same “dispute” before the Board: a continuous effort by the Union to get the Department to comply with a five-year-old arbitration award, juxtaposed with a continuous effort by the Department to avoid compliance with that award. The particular circumstances of this case, in which an unfair labor practice case has arisen out of a failure to implement a settlement of an earlier unfair labor practice case, warrant consolidation of the two cases. *Doctors’ Council of D.C. v. D.C. Gov’t Office of the Chief Med. Examiner*, 59 D.C. Reg. 9730, Slip Op. No. 993 at pp. 1-5, PERB Case Nos. 05-U-47

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and 7-U-22 (2009). Accordingly, case numbers 09-U-24 and 12-U-30 are hereby consolidated for all future consideration.

The Department notes that neither the Board's rules nor its cases itemize what are allowable costs. In the absence of such authorities, the Department turns to 28 U.S.C. §§ 1920 and 1821, which state what expenses are allowable in federal courts. The Department treats these statutes as controlling because "in *Harris v. Sears Roebuck and Co.*, 695 A.2d 109 (D.C. 1997) the Court of Appeals cited to [these] federal statutes and found the federal statutes persuasive." (Response at pp. 2-3). Notwithstanding, no statute or case prescribes that these federal statutes define "costs" as used in D.C. Code section 1-617.13(d) and govern proceedings before the Board. Under section 1-617.13(d), the question before the Board is whether the costs submitted by a party or parties are "reasonable."

On that question the Department's arguments are without merit. The Department objects that the transportation expenses were not supported by receipts (Response at pp. 3-4), but even the inapplicable statute it relies upon does not support its position. The federal statute requires that a witness who travels by common carrier furnish "a receipt or other evidence of actual cost." 28 U.S.C. § 1821(c)(2). The Union provided "other evidence" for the claimed transportation (which was not by common carrier) in the form of vouchers, affidavits, and internal business documents attached to its Motion for Costs. The Department also objects that the Mr. Bunn and Ms. Self did not use public transportation, which would have been less expensive. (Response at pp. 4-5). The Department offers to pay the fares Metro would have charged them. (*Id.*) This is an equally invalid objection. It is unreasonable to insist that public transportation be used by a witness or an attorney attending a hearing and possibly bringing files with work product or confidential materials. Under those circumstances, a witness or attorney can quite reasonably and prudently opt to travel in a vehicle that he or she controls. Section 1-617.13(d) authorizes the Board "to require the payment of reasonable costs." The Board finds the transportation expenses and mileage that the Union submitted to be reasonable.

The \$112.99 in costs submitted is not only reasonable but also can fairly be described as nominal. Therefore, the motion for costs is granted.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. Case numbers 09-U-24 and 12-U-30 are consolidated.
2. The motion for costs filed by the Complainant is granted.

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3. The Respondent shall pay to the Complainant costs in the amount of \$112.99 within ten (10) days of the date of this Order.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

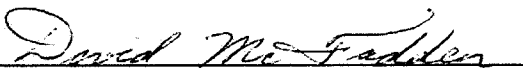
Washington, D.C.

September 3, 2013

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**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 12-U-30 is being transmitted to the following parties on this the 3d day of September, 2013.

  
David McFadden  
Attorney-Advisor

Leisha A. Self  
American Federation of Government Employees  
Office of the General Counsel  
80 F Street NW  
Washington, D.C. 20001

**VIA FILE & SERVEXPRESS**

James T. Langford  
441 4<sup>th</sup> St. NW, suite 820 North  
Washington, D.C. 20001

**VIA FILE & SERVEXPRESS**

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**Government of the District of Columbia  
Public Employee Relations Board**

In the Matter of:	)	
David Brooks,	)	
Complainant,	)	PERB Case No. 13-U-36
v.	)	Opinion No. 1412
Jesus Aguirre, Director of Department of Parks and Recreation,	)	
Respondent.	)	
	)	

**DECISION AND ORDER**

On August 6, 2013, David Brooks (“Brooks” or “Complainant”) filed an unfair labor practice complaint against Jesus Aguirre, director of the Department of Parks and Recreation (“Aguirre” or “Respondent”). The Executive Director informed the Complainant by letter dated August 8, 2013, that his certificate of service did not reflect when service was made on the Respondent. The Complainant filed an amended certificate of service correcting the deficiency.

The complaint alleges that the Respondent violated various rights of the Complainant afforded by the District Personnel Manual, the Federal Civil Service Reform Act (5 U.S.C. § 7116), and the Collective Bargaining Agreement. The Respondent filed an answer raising as affirmative defenses that the Respondent had been named in his official capacity, that the complaint was untimely, and that the complaint failed to allege a violation of D.C. Code § 1-617.04, the Civil Service Reform Act, or the Collective Bargaining Agreement.

It is unclear whether the complaint has stated a claim over which the Board has jurisdiction with regard to any of the alleged violations, but it is clear when the complaint alleges that the violations occurred. Brooks alleges that the violations occurred at a meeting with Aguirre on January 11, 2013.

Board Rule 520.4 provides that “[u]nfair labor practice complaints shall be filed not later than 120 days after the date on which the alleged violations occurred.” Rule 520.4 is mandatory and jurisdictional. *Hoggard v. D.C. Pub. Schs. and AFSCME Council 20, Local 1959*, 43 D.C. Reg. 1297, Slip Op. No. 352, PERB Case No. 93-U-10 (1993), *aff’d sub nom. Hoggard v. Pub. Employee Relations Bd.*, MPA-93-33 (D.C. Super. Ct. 1994), *aff’d*, 655 A.2d. 320 (D.C. 1995);

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*see also Pub. Employee Relations Bd. v. D.C. Metro. Police Dep't*, 593 A.2d 641 (D.C. 1991). The instant complaint, filed over six (6) months after January 11, 2013, is untimely and thus beyond the Board's jurisdiction. Therefore, the complaint must be dismissed.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. David Brooks's unfair labor practice complaint is dismissed.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**  
Washington, D.C.

September 3, 2013



Decision and Order  
PERB Case No. 13-U-36  
Page 3

**CERTIFICATE OF SERVICE**


This is to certify that the attached Decision and Order in PERB Case No. 13-U-36 was transmitted to the following parties on this the 3d day of September, 2013.

David Brooks  
1741 28<sup>th</sup> St. SE, Apt. 203  
Washington, D.C. 20020

**VIA FILE & SERVEXPRESS**

Andrew Gerst  
Office of Labor Relations and Collective Bargaining  
441 4<sup>th</sup> St. NW, suite 820 North  
Washington, D.C. 20001

**VIA FILE & SERVEXPRESS**

  
David McFadden  
Attorney-Advisor

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**Government of the District of Columbia  
Public Employee Relations Board**

_____	)	
In the Matter of:	)	
	)	
District of Columbia Housing Authority,	)	
	)	
Petitioner,	)	
	)	PERB Case No. 13-A-07
v.	)	
	)	Opinion No. 1415
	)	
American Federation of Government Employees	)	
Local 2725 (on behalf of Senta Hendrix-Smith)	)	
	)	
	)	
Respondent.	)	
	)	
_____	)	

**DECISION AND ORDER**

**I. Statement of the Case**

The District of Columbia Housing Authority (“Authority” or “Petitioner”) filed an arbitration review request (“Request”) in the above-captioned matter on May 14, 2013. The Petitioner seeks review of an arbitration award (“Award”) that sustained in part and denied in part a grievance filed by the American Federation of Government Employees Local 2725 (“Respondent”) on behalf of Senta Hendrix-Smith (“Grievant” or “Hendrix-Smith”).<sup>1</sup>

The Arbitrator found the following facts:

The Grievant . . . had worked for the District of Columbia Housing Authority (“DCHA” or “Agency”) for four and one-half (4 ½) years having served as a Housing Management Assistant at several different DCHA properties with her last assignment at the

<sup>1</sup> The Petitioner’s certificate of service states that the Request was served by mail on May 14, 2013. The Respondent asserts that the envelope was postmarked May 15, 2013, and consequently the Request was not concurrently served as required by Board Rule 501.12. The Respondent argues that the Request should be dismissed for that deficiency but does not cite any authority of the Board for that sanction. Our finding that the Request does not present a statutory basis for setting aside the Award renders this issue moot.

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PERB Case No. 13-A-07  
Page 2

Benning Terrance property commencing in 2009. The Grievant has been a resident of the DCHA for over eight (8) years, currently residing at its Stoddard property.

At the Benning Terrance property, Hendrix-Smith served as the Assistant Housing Manager under the supervision of Ms. KaShamba Williams, the Housing Manager. . . .

[B]ased upon what management considered her poor customer service with clients, the Grievant was counseled and received a Letter of Instruction (not disciplinary, but corrective in nature), dated March 5, 2010.

About six months later, on September 10, 2010, the Grievant and her co-worker, Housing Management Assistant Denise Butler, got into an argument after the Grievant had engaged in a telephone conversation which Butler characterized as "misinforming the residents." The argument allegedly escalated with the Grievant using profanity toward her co-worker and allegedly threatening her. This resulted in Regional Administrator Nathan E. Bovelle issuing the Grievant a seven-day suspension, via DCHA suspension letter, dated October 8, 2010. (See Attachment #6 to Agency Exhibit No. A-6). While the incident occurred on September 10, 2010, DCHA policy requires that a supervisor, higher than the first-line supervisor, issue the suspension action. Thus, the investigation, associated briefings of higher level officials, etc. took over a month and the suspension letter was not issued prior to the October 4th & 5th incidents resulting in the termination of the Grievant. Thus, technically, the Grievant was not disciplined before the incident resulting in her termination although she was suspended for seven days prior to receiving her Notice of Termination letter on November 30, 2010.

On October 4, 2010, the Grievant called a meeting with the Benning Terrace employees which some employees objected to as meetings were typically called by the Housing Manager, KaShamba Williams ("Williams"), not the Housing Management Assistant. When Williams returned to duty on October 5, 2010, she called a routine staff meeting and at the end of the meeting, she permitted the staff to address issues of concern. At this time, one employee, Angela Eggleston ("Eggleston"), a probationary employee of the Clean & Green staff complained about some of the actions of the Grievant. The Grievant and Eggleston then got into a heated argument with profane comments being directed to each other. Eggleston was escorted out of the meeting to cool off,

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PERB Case No. 13-A-07  
Page 3

but several other members made comments which the Grievant felt were offensive, and she countered them with aggressive, insulting language. Believing she was being ganged up on, and that her supervisor was not going to intervene to end the arguments, Hendrix-Smith got up to leave and started toward the door. Supervisor Williams then asked the Grievant to come back and sit down (the Grievant characterized her comments as "sit down and shut up"). When Hendrix-Smith did not return but kept heading toward the door, Williams told her to return or face discipline for being insubordinate (the Grievant characterized her remarks as "if you walk out that door, just keep going because you won't be coming back").

The Grievant did not return to her seat, but did stop and listened to the rest of the conversation before Williams ended the meeting. Williams then decided to recommend termination of the Grievant for her actions and recommended termination to her superiors. Regional Director Nathan E. Bovellet then issued a DCHA termination letter to the Grievant, dated November 30, 2010. (See Agency Exhibit No. A-6). While the incidents occurred on October 4-5, 2010, a number of higher level officials had to be briefed and sign off on the action which occurred up through November 12, 2010. The termination was scheduled to take effect thirty (30) days after the Grievant received the termination notice, i.e. thirty (30) days after November 30, 2010.

(Award pp. 3-5).

The Arbitrator issued the following award:

The grievance is sustained in part and denied in part.

It is sustained in that the termination is not supported by the evidence of record. However, discipline is supported by the Agency's charges. The appropriate penalty is a twenty-eight (28) calendar day suspension that will be substituted for the termination. Back pay and benefits are awarded to the Grievant although appropriate deductions will be made for any compensation earned or unemployment compensation received during the period from the end of the twenty-eight (28) day suspension period until the Grievant is placed back on the DCHA employment rolls. The Agency will provide evidence of compliance with this Award within sixty days of receipt of the Award. I will retain jurisdiction for purposes of insuring compliance with the Award.

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PERB Case No. 13-A-07  
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Following the Union's production of the enabling authority and appropriate statutes, I will make a determination on the Union's request for me to entertain their request for attorney's fees.

(Award p. 31).

## II. Discussion

The Authority seeks review of the Award on the ground that the Arbitrator exceeded his jurisdiction as the Award does not draw its essence from the collective bargaining agreement. Citing *Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Labor Committee (on behalf of Ray)*, 59 D.C. Reg. 12663, Slip Op. No. 1317, PERB Case Nos. 10-A-23 and 10-A-24 (2012), the Authority takes the position that an arbitrator does not have the power to add to, subtract from, or modify the provisions of a collective bargaining agreement. (Request pp. 4, 5).

The *Ray* case, however, involved a collective bargaining agreement that had as one of its provisions "The Arbitrator shall not have the power to add to, or subtract from or modify the provisions of the Agreement in arriving at a decision of the issue presented. . . ." *Id.* at p. 5 (quoting collective bargaining agreement). The case was not stating a general proposition regarding the power of arbitrators to add to, subtract from, or modify a collective bargaining agreement. The principle that the Board has applied in determining whether an award draws its essence from the contract is that "an arbitrator's decision must be affirmed by a reviewing body 'as long as the arbitration is even arguably construing or applying the contract.'" *D.C. Water & Sewer Auth. v. Am. Fed'n of Gov't Employees, Local 872*, 52 D.C. Reg. 5163, Slip Op. No. 779 at p. 5, PERB Case No. 04-A-05 (2005) (quoting *United Paperworkers Int'l v. Misco, Inc.*, 484 U.S. 29, 38 (1987)). See also *Mich. Family Resources, Inc. v. SEIU Local 517M*, 475 F.3d746, 753-54 (6th Cir. 2007).

Applying that test to the Authority's objections to the Award leads to the conclusion that the Award draws its essence from the parties' collective bargaining agreement ("CBA"). The Authority objects that "the Arbitrator overturned DCHA's legitimate termination of the Grievant under the theory that DCHA's past practices of corrective action must be viewed as leniency that can overrule the clear authority granted to DCHA in the CBA to terminate the Grievant when she engaged in serious infractions." (Request at pp. 3-4). Further, the Authority objects that Arbitrator failed to consider the Grievant's prior disciplinary record—specifically an offense on September 10, 2010—because he found that the Authority was not entitled to consider a pending disciplinary action that had not been served on the Grievant.

Article 10, section (C)(1) of the CBA provides in part:

- (a) In the administration of this Article, a basic principle shall be that discipline shall be corrective in nature, rather than punitive.

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PERB Case No. 13-A-07  
Page 5

- (b) Except in cases of serious infractions that warrant immediate discipline, disciplinary actions must be progressive in nature.

(Award p. 7). The Arbitrator construed and applied these provisions when he considered the leniency of the Authority's past practices of corrective action and the pending disciplinary action:

Was the discipline corrective or punitive? Perhaps it was both, but I contend the Agency showed unusual leniency in not disciplining the Grievant in some way for prior offenses. It was a merciful twist of fate that the Grievant did not receive her first suspension (for the September 10, 2010 incident) until after the second incident occurred. However, it was for this very reason that I adjudge the October 5, 2010 incident to be considered as a first offense. Had it been a second offense, termination might have been justified. It was not in this instance. . . . Had the Grievant been notified that her September 10, 2010 confrontation with co-worker Butler was going to result in discipline and had that initial discipline been issued prior to the October 4th and 5th incident, I would have ruled these latest incidents as 2nd offenses and may well have supported the discharge just based on the two second offense incidents. However, that is not the case.

(Award at pp. 24, 28).

The Authority objects that "[b]y granting the Grievance in part and substituting the termination with a suspension, the Arbitrator interfered with DCHA's right to '...suspend, demote, discharge or take other disciplinary action against employees for cause.['] See CBA, Article 4 § A.2, in part." (Request at p. 5). The CBA provides, "No employee may be reprimanded, suspended, reduced in rank, grade or pay, or removed (except by reduction-in-force) except for just cause." (Award at p. 7). The Arbitrator applied this provision when he held, "the Grievant's discharge is not supportable in light of the provisions of the Collective Bargaining Agreement and the record before me." (Award at p. 30).

An arbitrator's award must be upheld if the arbitrator was even arguably construing or applying the CBA. The Board will not substitute its interpretation for that of the arbitrator. *D.C. Metro. Police Dep't v. F.O.P./Metro. Police Dep't Lab. Comm.*, 60 D.C. Reg. 3052, Slip Op. No. 1365 at p. 5, PERB Case No. 11-A-02 (2013). Here, the Arbitrator was construing or applying the CBA with respect to every finding to which the Petitioner objects. Therefore, no statutory basis exists for setting aside the Award.

Decision and Order  
PERB Case No. 13-A-07  
Page 6

**ORDER**

IT IS HEREBY ORDERED THAT:

1. The Award is sustained. Therefore, the Arbitration Review Request of the Fraternal Order of Police/Department of Corrections Labor Committee is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**  
**Washington, D.C.**

September 3, 2013

Decision and Order  
PERB Case No. 13-A-07  
Page 7

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 13-A-07 was transmitted to the following parties on this the 3d day of September, 2013.

Nicola N. Grey  
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District of Columbia Housing Authority  
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Washington, D.C. 20002

**VIA FILE & SERVEXPRESS**

Leisha A. Self  
District 14 Attorney  
AFGE, Office of General Counsel  
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**VIA FILE & SERVEXPRESS**



David McFadden  
Attorney-Advisor



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**Government of the District of Columbia  
Public Employee Relations Board**

_____	)	
In the Matter of:	)	
	)	
Wendell Allen,	)	
	)	PERB Case No. 11-U-45
Complainant,	)	
	)	Slip Op. No. 1416
v.	)	
	)	
Board of Trustees of the	)	
University of the District of Columbia,	)	
	)	
Respondent.	)	
_____	)	

**Decision and Order**

**I. Statement of the Case**

On July 14, 2011, Wendell Allen (“Complainant”), *pro se*, filed an Unfair Labor Practice Complaint (“Complaint”) against the Board of Trustees of the University of the District of Columbia (“UDC” or “Respondent”). On August 3, 2011, UDC filed an Answer (“Answer”).

**II. Background**

It is undisputed by the Parties that, on April 1, 2011, Respondent issued a “Leave Restriction” memorandum (“Leave Restriction”) to the Complainant. (Complaint at 2, Answer at 1). Complainant filed a grievance (“Grievance”), asserting that the Leave Restriction’s protocol violated the collective bargaining agreement (“CBA”) between UDC and the American Federation of State, County and Municipal Employees, Local 2087 (“Union”) and federal law. (Complaint at 2). Complainant asserts that UDC did not respond to the 1<sup>st</sup> Step Grievance. *Id.* UDC denies that it did not respond to the 1<sup>st</sup> Step Grievance, and asserts that “Respondent timely respondent (sic) to the grievance at all appropriate levels.” (Answer at 1). On June 20, 2011, Complainant alleges he submitted a letter to the Union concerning arbitration, and that the Union agreed to proceed to arbitration on the Grievance. (Complaint at 3)

Complainant alleges that as a result of engaging in the grievance process, UDC retaliated against Complainant by serving him with two (2) letters proposing suspensions of five (5) and twenty (20) days without pay and eighty-one (81) hours of Absence without Leave (“AWOL”). (Complaint at 3). Complainant asserts that UDC “is attempting to use the D.C. Personnel

Decision and Order  
PERB Case No. 11-U-45  
Page 2 of 4

Regulations on 'Leave Restriction,'" which the Complainant asserts is inapplicable to his employment. *Id.* Complainant asserts that the CBA controlled the protocol for his leave use. *Id.*

Respondent denies the allegations that it retaliated against the Complainant for engaging in the grievance process. (Answer at 1). In addition, Respondent asserts the following affirmative defenses: "Complainant fails to state a claim upon which relief can be granted"; Respondent categorically denies a failure to bargain in good faith pursuant to D.C. Code 1-617.04"; "Complainant failed to exhaust the administrative remedies"; "Complainant does not have jurisdiction to bring an Unfair Labor Practice Complaint"; and "UDC Respondents' action at all relevant time was in accordance with all applicable requirements of the Constitution of the United States, of federal law and the law of the District of Columbia".

### III. Discussion

In order to determine the Board's jurisdiction, it is necessary to determine whether the allegations, if proven, would violate D.C. Code § 1-617.04(a). While a Complainant need not prove his case on the pleadings, allegations must be pled or asserted that, if proven, would establish the alleged statutory violations. See *Virginia Dade v. National Association of Government Employees, Local R3-06*, 46 D.C. Reg. 6876, Slip Op. No. 491 at p. 4, PERB Case No. 96-U-22 (1996); *Gregory Miller v. American Federation of Government Employees Local 631 v. D.C. Dep't of Public Works*, 48 D.C. Reg. 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994); *Goodine v. FOP/DOC Labor Committee*, 43 D.C. Reg. 5163, Slip Op. No. 476 at p.3, PERB Case No. 96-U-16 (1996). The Board views contested facts in the light most favorable to the Complainant in determining whether the Complaint gives rise to an unfair labor practice. See *JoAnne G. Hicks v. District of Columbia Office of the Deputy Mayor of Finance, Office of the Controller and American Federation of State, County and Municipal Employees, District Council 24*, 40 D.C. Reg. 1751, Slip Op. No. 303, PERB Case No. 91-U-17 (1992). "Without the existence of such evidence, Respondent's actions cannot be found to constitute the asserted unfair labor practice. Therefore, a Complaint that fails to allege the existence of such evidence does not present allegations sufficient to support the cause of action." *Goodine v. FOP/DOC Labor Committee*, 42 D.C. Reg. 5163; Slip Op. No. 476 at p. 3, PERB Case No. 96-U-16 (1996).

When considering the pleading of a *pro se* complainant, the Board construes the claims liberally to determine whether a proper cause of action has been alleged and whether the complainant has requested proper relief. See *Osekre v. American Federation of State, County, and Municipal Employees Council 20, Local 2401*, 47 D.C. Reg. 7191, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04 (1998).

In the present case, the Complainant has asserted that the Respondent's actions violate the CBA and constituted retaliation in violation of the Comprehensive Merit Personnel Act ("CMPA"). (Complaint at 2-3). The Board "distinguishes between those obligations that are statutorily imposed under the CMPA and those that are contractually agreed upon between the parties." *American Federation of Government Employees, Local 872, NAGE R3-06 v. D.C. Water and Sewer Authority*, Slip Op. No. 1102 at p. 4, PERB Case No. 08-U-49 (2011); *American Federation of Government Employees, Local 2741 v. District of Columbia Department*

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PERB Case No. 11-U-45  
Page 3 of 4

*of Recreation and Parks*, 50 D.C. Reg. 5049, Slip Op. No. 697 at p. 4, PERB Case No. 00-U-22 (2002). It is well established that the Board's "authority only extends to resolving statutorily based obligations under the CMPA." *Id.* Therefore, the Board examines the particular record of a matter to determine if the facts concern a violation of the CMPA, notwithstanding the characterization of the dispute in the complaint or the parties' disagreement over the application of the collective bargaining agreement. *Id.*

Whether or not Respondent's actions violated the CBA presents an issue for contract interpretation. "The Board lacks the authority to interpret the terms of contractual agreements to determine the merits of a cause of action that may properly be within our jurisdiction." See *American Federation of Government Employees, Local 2725 v. D.C. Housing Authority*, 46 D.C. Reg. 672, Slip Op. No. 488 at p. 2, PERB Case No. 96-U-19 (1996). Disputes concerning contract interpretation and alleged contract violations should be properly resolved through negotiated grievance procedures. See *American Federation of Government Employees v. D.C. Dep't of Corrections*, 48 D.C. Reg. 6549, Slip Op. No. 59 at p. 4, PERB Case No. 83-U-03 (1983).

Notwithstanding the Complaint's asserted contractual violations, an issue remains as to whether UDC's proposed five (5) and twenty (20) day suspensions and eighty-one (81) hours of Absence without Leave ("AWOL") were retaliation for Complainant filing the Grievance. The Board has found that the filing of a grievance is protected activity under the CMPA. *Rodriguez v. D.C. Metropolitan Police Department*, Slip Op. No. 906, PERB Case No. 06-U-38 (2008); *Teamsters Local Union No. 730 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO/CLC v. District of Columbia Public Schools*, 43 D.C. Reg. 5585, Slip Op. No. 375 at pgs. 3-4, PERB Case No. 93-U-11 (1996). The Board finds that the Complainant's claim of retaliation involves an alleged statutory violation and not a contractual violation. Therefore, the Board has jurisdiction over the Complaint's allegations concerning UDC's retaliation against Complainant for filing the Grievance.

As issues of fact exist concerning whether UDC violated the CMPA for the proposed suspensions and eighty-one (81) hours of AWOL as retaliation against the Complainant for filing the Grievance, the matter is best determined after the establishment of a factual record through an unfair labor practice hearing.

#### IV. Conclusion

In accordance with the Board's finding that the Parties' pleadings regarding retaliation present material disputes of fact, and pursuant to PERB Rule 520.9, the Board refers this matter to an unfair labor practice hearing to develop a factual record and make appropriate recommendations. Prior to hearing, the Complainant and the Agency are ordered to attend mandatory mediation, pursuant to Board Rule 558.4.

Decision and Order  
PERB Case No. 11-U-45  
Page 4 of 4

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Complaint will be referred to a hearing examiner for an unfair labor practice hearing. The dispute will be first submitted to the Board's mediation program to allow the Parties the opportunity to reach a settlement by negotiating with one another with the assistance of a Board appointed mediator.
2. The Parties will be contacted to schedule the mandatory mediation within seven (7) days of the issuance of this Decision and Order.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

Washington, D.C.

September 3, 2013

**CERTIFICATE OF SERVICE**


This is to certify that the attached Decision and Order in PERB Case No. 11-U-45 was transmitted to the following Parties on this the 4th day of September, 2013:

Wendell Allen  
23136 Basswood Hill Drive  
Clarksburg, MD 20871

**U.S. Mail**

Andrea M. Bagwell  
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Office of the General Counsel  
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Erica J. Balkum  
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1100 4<sup>th</sup> Street, S.W.  
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**Government of the District of Columbia  
Public Employee Relations Board**

In the Matter of:	)	
	)	
The Washington Teachers Union, Local #6,	)	PERB Case No. 05-U-14
American Federation of Teachers, AFL-CIO,	)	
	)	Opinion No. 1417
Complainant,	)	
	)	
v.	)	Motion for Decision on the
	)	Pleadings
District of Columbia Public Schools,	)	
	)	Decision and Order
Respondents.	)	
	)	
	)	

**DECISION AND ORDER**

**I. Statement of the Case**

Complainant Washington Teachers Union, Local #6, American Federation of Teachers, AFL-CIO (“Complainant” or “WTU” or “Union”) filed an Unfair Labor Practice Complaint (“Complaint”) against District of Columbia Public Schools (“Respondent” or “DCPS”), alleging DCPS violated D.C. Code §§ 1-617.04(a)(1) and (5) of the Comprehensive Merit Personnel Act (“CMPA”) by failing to comply with the terms of an arbitration settlement agreement (“Settlement Agreement”) within the time frame set by the Settlement Agreement. (Complaint, at 2).

In its Answer, DCPS denied that it violated the CMPA and submitted the affirmative defenses that: 1) the Complaint failed to state a claim for which relief can be granted; 2) the Public Employee Relations Board (“PERB”) lacks jurisdiction to grant the relief WTU requested; and 3) WTU’s request for attorneys’ fees should be dismissed based on PERB precedent. (Answer, at 1-5).

WTU thereafter filed a Motion for Decision on the Pleadings, arguing that DCPS’ answer was untimely. (Motion for Decision, at 1-6).

Decision and Order  
PERB Case No. 05-U-14  
Page 2

## II. Background

On October 25, 1999, DCPS notified bargaining unit member, Patricia Tuck-Scott<sup>1</sup> (“Ms. Tuck-Scott”), by letter, that she was being terminated, effective November 12, 1999, for disobedience and insubordination. (Complaint, at 1). WTU grieved the termination, and the matter was scheduled for an arbitration hearing to be held on September 9, 2004. *Id.*, at 1-2. Prior to the scheduled hearing, DCPS proposed a settlement, which WTU accepted. *Id.*, at 2. The parties executed the binding Settlement Agreement, in full resolution of the arbitration proceeding, on September 16, 2004. *Id.*

The terms of the Settlement Agreement provided, in part, that within 30 days of the execution of the Settlement Agreement: 1) DCPS would rescind the termination and remove any record of the termination from Ms. Tuck-Scott’s personnel file; and 2) DCPS would make Ms. Tuck-Scott “whole” for all pay that she lost as a result of her termination, minus any mitigating income she earned between November 12, 1999, and September 16, 2004 (the execution date of the Settlement Agreement). *Id.*

WTU alleged that, as of December 14, 2004, the date of its Complaint, DCPS had failed to pay any of the back-pay it had agreed to pay Ms. Tuck-Scott by October 16, 2004, despite numerous demands by WTU that it do so. *Id.* WTU alleged that DCPS’ conduct interfered, restrained, and coerced bargaining unit employees in the exercise of their rights under D.C. Code § 1-617.04(a)(1), and constituted a refusal to bargain in good faith under D.C. Code §§ 1-617.04(a)(1) and (5). *Id.*, at 2-3.

As a result of these alleged violations, WTU requested that PERB order DCPS to: 1) cease violating the CMPA in the manner alleged or in any like or related manner; 2) immediately pay Ms. Tuck-Scott the back-pay agreed to in the Settlement Agreement; 3) immediately comply with the Settlement Agreement in all other respects; 4) pay WTU’s attorneys’ fees and costs; 5) post a notice to employees; and 6) comply with all aspects of the CMPA. *Id.*, at 3.

In its Answer, filed on January 3, 2005, DCPS admitted that it proposed and entered into the Settlement Agreement, in which it agreed to reinstate Ms. Tuck-Scott, “withdraw/retract the ‘Notice of Termination’” from Ms. Tuck-Scott’s personnel file, and pay her all back-pay owed minus any mitigating income within 30 days of the execution of the agreement. (Answer, at 1-3). DCPS denied, however, that it violated the CMPA by failing to pay Ms. Tuck-Scott her back-pay by October 16, 2004, as required by the Settlement Agreement. *Id.*, at 3-4. DCPS stated that on December 14, 2004, the DCPS Office of Human Resources sent Ms. Tuck-Scott a letter informing her that “she would need to submit a copy of her payroll statement, stubs, 1040s and W2s for each year while she was separated from service, and to complete and have notarized

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<sup>1</sup> At the time of the letter, Ms. Tuck-Scott went by Patricia Tuck. (Complaint, n. 1)

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an 'Affidavit Covering Outside Earnings and Erroneous Payments' in order for DCPS to process her back pay." *Id.* at, 3-4, Exhibit 1.

DCPS further offered three affirmative defenses. *Id.*, at 4-5. First, DCPS argued that the Complaint should be dismissed because it "fails to state an unfair labor practice for which relief could be granted." *Id.*, at 4-5. DCPS averred it had already complied with the requirement to remove all documents related to the termination from Ms. Tuck-Scott's personnel file, and that it would comply with the back-pay requirement as soon as Ms. Tuck-Scott provided the documentation described in DCPS' December 14, 2004, letter, thus leaving "no unresolved issue, or basis for the [C]omplaint." *Id.* Second, DCPS contended that because it had complied with and/or taken to steps to comply with the Settlement Agreement, the Complaint should be dismissed because PERB lacks jurisdiction to grant the relief requested. *Id.*, at 5. Third, DCPS argued that WTU's request for attorneys' fees should be dismissed because PERB precedent holds that PERB "lacks jurisdiction to award such fees." *Id.* (citing *International Brotherhood of Police Officers v. District of Columbia General Hospital*, 39 D.C. Reg. 9633, Slip Op. No. 322, PERB Case No. 91-U-14 (1994); and *American Federation of Government Employees, Local 2725 v. District of Columbia Housing Authority*, 46 D.C. Reg. 10388, Slip Op. No. 603, PERB Case No. 99-U-18 (1999)).

On January 5, 2005, WTU filed a Motion for Decision on the Pleadings, arguing that DCPS' Answer was untimely. (Motion for Decision, at 1-5). WTU argued that DCPS failed to file its Answer by January 3, 2005, as required by a December 16, 2004, letter from former PERB Executive Director, Julio Castillo, to DCPS. *Id.*, at 1. WTU contended that, as a result, PERB should consider all of the material facts alleged in the Complaint to be admitted pursuant to PERB Rule 520.7, and should render a decision on the pleadings in accordance with PERB Rule 520.10. *Id.*, at 1-2.

PERB has no record of any other pleadings having been filed in this matter. WTU's Complaint and Motion for Decision are therefore now before the Board for disposition.

### III. Discussion

#### A. Motion for Decision on the Pleadings

WTU's Motion for Decision is based solely on the contention that DCPS failed to file its Answer by the January 3, 2005, deadline set by former Executive Director Castillo in his December 16, 2004, letter. *Id.*, at 1-5. However, the date-stamp on DCPS' Answer and its corresponding cover letter show that the Answer was timely filed by hand-delivery at approximately 4:29PM on January 3, 2005. WTU's Motion for a Decision on the Pleadings based upon its allegation that DCPS' Answer was untimely is therefore denied.



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Notwithstanding, PERB Rule 520.8 states that “[t]he Board or its designated representative shall investigate each complaint”, and PERB Rule 520.10 states that “[i]f the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.” Here, DCPS generally denied WTU’s legal conclusions, but admitted the Complaint’s alleged underlying facts, which are that: 1) DCPS agreed in the Settlement Agreement to make Ms. Tuck-Scott “whole” for all pay that she lost as a result of her termination, minus any mitigating income she earned between November 12, 1999, and September 16, 2004, within 30 days starting on September 16, 2004; and 2) DCPS failed to take any action to comply with said agreement within those 30 days. (Complaint, at 2-3); and (Answer, at 1-5). Therefore, because these facts are undisputed by the parties, leaving only legal questions to be resolved, the PERB can properly decide this matter based upon the pleadings in accordance with PERB Rule 520.10. See *American Federation of Government Employees, AFL-CIO Local 2978 v. District of Columbia Department of Health*, 60 D.C. Reg. 2551, Slip Op. No. 1356 at p. 7-8, PERB Case No. 09-U-23 (2013); see also *American Federation of Government Employees, Local 2725, AFL-CIO v. District of Columbia Housing Authority*, 46 D.C. Reg. 6278, Slip Op. No. 585 at p. 3, PERB Case Nos. 98-U-20, 99-U-05, and 99-U-12 (1999).

#### B. Decision

Generally, a complainant must assert in the pleadings allegations that, if proven, would demonstrate a statutory violation of the CMPA. *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department and Cathy Lanier*, 59 D.C. Reg. 5427, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09 (2009) (citing *Virginia Dade v. National Association of Government Employees, Service Employees International Union, Local R3-06*, 46 D.C. Reg. 6876, Slip Op. No. 491 at p. 4, PERB Case No. 96-U-22 (1996); and *Gregory Miller v. American Federation of Government Employees Local 631 and District of Columbia Department of Public Works*, 48 D.C. Reg. 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994)).

When a party refuses or fails to implement an award or negotiated agreement where there is no dispute over its terms, such conduct constitutes a failure to bargain in good faith and thereby, an unfair labor practice. *American Federation of Government Employees, Local 872, AFL-CIO v. District of Columbia Water and Sewer Authority*, 46 D.C. Reg. 4398, Slip Op. No. 497 at p. 2-3, PERB Case No. 96-U-23 (1996). In addition, an agency waives its right to appeal an arbitration award when it fails to file a timely arbitration review request with the Board or otherwise appeal for judicial review of the award in accordance with D.C. Code § 1-617.13(c). See *AFGE, Local 2725 v. DCHA, supra*, Slip Op No. 585 at p. 3, PERB Case Nos. 98-U-20, 99-U-05, and 99-U-12. If an agency waives its right to appeal an arbitration award, then no

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legitimate reason exists for the agency's refusal to implement the award, and said refusal constitutes a failure to bargain in good faith in violation of D.C. Code § 1-617.04(a)(5). See *American Federation of Government Employees, Local 2725, AFL-CIO v. District of Columbia Housing Authority*, 46 D.C. Reg. 8356, Slip Op No. 597, PERB Case No. 99-U-23 (1999). Such a refusal further constitutes, derivatively, an interference with the bargaining unit employees' rights in violation of D.C. Code § 1-617.04(a)(1). See *AFGE, Local 2725 v. DCHA, supra*, Slip Op No. 585 at p. 5, PERB Case Nos. 98-U-20, 99-U-05, and 99-U-12; and *American Federation of State, County and Municipal Employees, District Council 20, Local 2921, AFL-CIO v. District of Columbia Public Schools*, 50 D.C. Reg. 5077, Slip Op. No. 712 at p. 3-4, PERB Case No. 03-U-17 (2003).

In the present case, DCPS admitted that it does not dispute the terms of the Settlement Agreement as they were alleged in the Complaint. (Answer, at 2-3). DCPS further admitted that the terms of the Settlement Agreement required it to make Ms. Tuck-Scott "whole" by approximately October 16, 2004 (or 30 days from the date the Settlement Agreement was executed, which was September 16, 2004). *Id.* Indeed, DCPS admitted that it took no steps to obtain the documentation it said it needed from Ms. Tuck-Scott in order to make her "whole" until December 14, 2004, when its Office of Human Resources first sent her a letter detailing the information DCPS needed in order to determine the amount of back-pay she was owed. *Id.* December 14, 2004, is also the same day that WTU filed its Complaint. (Complaint, at 1).

Based on the foregoing, and in consideration of the facts that DCPS proposed, negotiated, and agreed to the terms of the Settlement Agreement, and did not file any appeal to the Settlement Agreement in accordance with D.C. Code § 1-617.13(c), the Board finds that DCPS had no legitimate reason for failing to take any action to make Ms. Tuck-Scott "whole" by October 16, 2004. *AFGE, Local 2725 v. DCHA, supra*, Slip Op No. 585 at p. 3, PERB Case Nos. 98-U-20, 99-U-05, and 99-U-12. The Board further finds that said failure constitutes a failure to bargain in good faith in violation of D.C. Code § 1-617.04(a)(5), and, derivatively, an interference with the bargaining unit employees' rights in violation of D.C. Code § 1-617.04(a)(1). *AFGE, Local 2725 v. DCHA, supra*, Slip Op No. 597, PERB Case No. 99-U-23; and *AFSCME, District Council 20, Local 2921, v. DCPS, supra*, Slip Op. No. 712 at p. 3-4, PERB Case No. 03-U-17.

DCPS' affirmative defenses that the Complaint should be dismissed because it "fails to state an unfair labor practice for which relief could be granted" and that PERB "lacks jurisdiction to grant the relief requested" do not avail because the facts demonstrate that DCPS' failure to take any action to make Ms. Tuck-Scott "whole" by October 16, 2004, violated D.C. Code §§ 1-617.04(a)(1) and (5), for which PERB is empowered to grant relief. (Answer, at 3-5); see also *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of*

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*Columbia Metropolitan Police Department*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53 (2013) (citing *American Federation of Government Employees, Local 2741 v. District of Columbia Department of Recreation and Parks*, 50 D.C. Reg. 5049, Slip Op. No. 697 at p. 6, PERB Case No. 00-U-22 (2002)).

#### IV. Remedy

In accordance with the Board's finding that DCPS' conduct constituted an unfair labor practice under D.C. Code §§ 1-617.04(a)(1) and (5), the Board now turns to the question of an appropriate remedy. WTU requested that PERB order DCPS to: 1) cease violating the CMPA in the manner alleged or in any like or related manner; 2) immediately pay Ms. Tuck-Scott the back-pay agreed to in the Settlement Agreement; 3) immediately comply with the Settlement Agreement in all other respects; 4) pay WTU's attorneys' fees and costs; 5) post a notice to employees; and 6) comply with all aspects of the CMPA. (Complaint, at 3).

The Board finds it reasonable to order DCPS to post a notice acknowledging its violation of the CMPA, as detailed herein. When a violation of the CMPA has been found, the Board's order is intended to have a "therapeutic as well as a remedial effect" and is further to provide for the "protection of rights and obligations." *American Federation of Government Employees, Local 2725 v. District of Columbia Department of Health*, 59 D.C. Reg. 6003, Slip Op. No. 1003 at p. 5, PERB Case No. 09-U-65 (2009) (quoting *National Association of Government Employees, Local R3-06 v. District of Columbia Water and Sewer Authority*, 47 D.C. Reg. 7551, Slip Op. No. 635 at p. 15-16, PERB Case No. 99-U-04 (2000)). It is this end, the protection of employees' rights, that "underlies [the Board's] remedy requiring the posting of a notice to all employees" that details the violations that were committed and the remedies afforded as a result of those violations. *Id.* (quoting *Charles Bagenstose v. District of Columbia Public Schools*, 41 D.C. Reg. 1493, Slip Op. No. 283 at p. 3, PERB Case No. 88-U-33 (1991)). Posting a notice will enable bargaining unit employees to know that their rights under the CMPA are fully protected. *Id.* It will likewise discourage the Agency from committing any future violations. *Id.*

Furthermore, the Board finds it reasonable to order DCPS to: 1) cease violating the CMPA in the manner detailed herein or in any like or related manner; 2) immediately pay Ms. Tuck-Scott the back-pay agreed to in the Settlement Agreement if it has not already done so; 3) immediately comply with the terms of the Settlement Agreement in all other aspects if it has not already done so; and 4) comply with all aspects of the CMPA.

WTU further requested that DCPS be ordered to pay WTU's attorneys' fees and costs. (Complaint at 3). D.C. Code § 1-617.13 authorizes the Board "to require the payment of reasonable costs incurred by a party to a dispute from the other party or parties as the Board may

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determine.” This does not, however, include an award of attorneys’ fees. *AFGE, Local 2725 v. D.C. DOH, supra*, Slip Op. No. 1003 at p. 6, PERB Case No. 09-U-65 (citing *International Brotherhood of Police Officers, Local 1445, AFL-CIO/CLC v. District of Columbia General Hospital* 39 D.C. Reg. 9633, Slip Op. No. 322, PERB Case No. 91-U-14 (1992); and *University of the District of Columbia Faculty Association NEA v. University of the District of Columbia*, 38 D.C. Reg. 2463, Slip Op. No. 272, PERB Case No. 90-U-10 (1991)). Any portion of DCPS’ request involving attorneys’ fees is therefore denied.

The circumstances under which an award of costs is warranted were articulated in *AFSCME, D.C. Council 20, Local 2776 v. D.C. Department of Finance and Revenue*, 37 D.C. Reg. 5658, Slip Op. No. 245 at p. 4-5, PERB Case No. 89-U-02 (1990), in which the Board stated:

[A]ny such award of costs necessarily assumes that the party to whom the payment is to be made was successful in at least a significant part of the case, and that the costs in question are attributable to that part. Second, it is clear on the face of the statute that it is only those costs that are “reasonable” that may be ordered reimbursed . . . Last, and this is the [crux] of the matter, we believe such an award must be shown to be in the interest of justice.

Just what characteristics of a case will warrant the finding that an award of costs will be in the interest of justice cannot be exhaustively catalogued . . . What we can say here is that among the situations in which such an award is appropriate are those in which the losing party's claim or position was wholly without merit, those in which the successfully challenged action was undertaken in bad faith, and those in which a reasonably foreseeable result of the successfully challenged conduct is the undermining of the union among the employees for whom it is the exclusive bargaining representative.

In the instant matter, the Board found that DCPS violated the CMPA by failing, without a legitimate reason, to take any action to make Ms. Tuck-Scott “whole” by October 16, 2004, as it had proposed and agreed to do. (Answer, at 2-3). Indeed, DCPS took no action to notify Ms. Tuck-Scott that it needed anything from her in order to comply with the Settlement Agreement until December 14, 2004, the same day that WTU filed the Complaint. *Id.* As a result of DCPS’ failure to comply with the Settlement Agreement in violation of the CMPA, the Board finds that awarding costs in accordance with WTU’s request would serve and meet the “interest-of-justice” test articulated in *AFSCME, D.C. Council 20, Local 2776 v. DCDFR, supra*.

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**ORDER**

**IT IS HEREBY ORDERED THAT:**

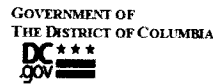
1. Respondent must cease and desist from violating D.C. Code §§ 1-617.04(a)(1) and (5) ("CMPA") in the manner detailed herein or in any like or related manner;
2. Respondent must immediately pay Ms. Tuck-Scott the back-pay agreed to in the Settlement Agreement if it has not already done so;
3. Respondent must immediately comply with the Settlement Agreement in all other respects if it has not already done so;
4. Within fourteen (14) days of the service of this order, Complainant must submit to Respondent a written statement of the actual costs it incurred in processing this unfair labor practice complaint. Said statement must be accompanied by any and all supporting documentation. Respondent must pay Complainant's costs in this matter within thirty (30) days of receiving Complainant's written statement and supporting documentation;
5. Respondent must conspicuously post, within ten (10) days of the service of this Decision and Order, the attached Notice where notices to bargaining-unit employees are customarily posted. Said Notice shall remain posted for thirty (30) consecutive days.
6. Within fourteen (14) days of the service of this Decision and Order, Respondent must notify the Board, in writing, that the Notice has been posted as ordered.
7. Within fourteen (14) days from the service of this Decision and Order, Respondent must notify the Board of the steps it has taken to comply with paragraphs 2 and 3 of this Order.
8. Respondent must comply with all aspects of the CMPA;
9. Complainant's request for attorneys' fees is denied; and
10. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

September 3, 2013



Public Employee Relations Board



1100 4<sup>th</sup> Street S.W.  
Suite E630  
Washington, D.C. 20024  
Business: (202) 727-1822  
Fax: (202) 727-9116  
Email: perb@dc.gov

# NOTICE

**TO ALL EMPLOYEES OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS ("DCPS"), THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 1417, PERB CASE NO. 05-U-14 (September 3, 2013).**

**WE HEREBY NOTIFY** our employees that the District of Columbia Public Employee Relations Board has found that we violated the law and has ordered DCPS to post this notice.

DCPS violated D.C. Code § 1-617.04(a)(1) and (5) by failing, without a legitimate reason, to comply with the terms of a binding settlement agreement between DCPS and the Washington Teachers Union, Local #6, American Federation of Teachers, AFL-CIO.

District of Columbia Public Schools

Date: \_\_\_\_\_ By: \_\_\_\_\_

**This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.**

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, located at: 1100 4<sup>th</sup> Street, SW, Suite E630; Washington, D.C. 20024, Telephone: (202) 727-1822.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

Washington, D.C.

September 3, 2013

**CERTIFICATE OF SERVICE**

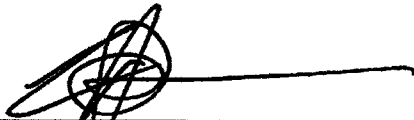
This is to certify that the attached Decision and Order in PERB Case No. 05-U-14, Slip Op. No. 1417, was transmitted via U.S. Mail and e-mail to the following parties on this the 23<sup>rd</sup> day of September, 2013.

Bob Utiger, Director, DCPS General Counsel  
District of Columbia Public Schools  
1200 First Street, N.E.  
10<sup>th</sup> Floor  
Washington, DC 20002  
Robert.Utiger@dc.gov

**U.S. MAIL and E-MAIL**

Brenda C. Zwack  
O'Donnell, Schwartz & Anderson, P.C.  
1300 L Street, N.W.  
Suite 1200  
Washington, DC 20005  
BZwack@odsalaw.com

**U.S. MAIL and E-MAIL**



Colby J. Harmon, Esq.  
Attorney-Advisor

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia  
Public Employee Relations Board**

In the Matter of:	)	
	)	
The Washington Teachers Union, Local #6,	)	PERB Case No. 05-U-15
American Federation of Teachers, AFL-CIO,	)	
Complainant,	)	Opinion No. 1418
v.	)	
District of Columbia Public Schools,	)	Motion for Decision on the Pleadings
Respondents.	)	Decision and Order
	)	

**DECISION AND ORDER**

**I. Statement of the Case**

Complainant Washington Teachers Union, Local #6, American Federation of Teachers, AFL-CIO ("Complainant" or "WTU" or "Union") filed an Unfair Labor Practice Complaint ("Complaint") against District of Columbia Public Schools ("Respondent" or "DCPS"), alleging DCPS violated D.C. Code §§ 1-617.04(a)(1) and (5) of the Comprehensive Merit Personnel Act ("CMPA") by failing to comply with the terms of an arbitration settlement agreement ("Settlement Agreement") within the time frame set by the Settlement Agreement. (Complaint, at 2).

In its Answer, DCPS denied that it violated the CMPA and submitted the affirmative defenses that: 1) the Complaint failed to state a claim for which relief can be granted; 2) the Public Employee Relations Board ("PERB") lacks jurisdiction to grant the relief WTU requested; and 3) WTU's request for attorneys' fees should be dismissed based on PERB precedent. (Answer, at 1-5).

WTU thereafter filed a Motion for Decision on the Pleadings, arguing that DCPS' answer was untimely. (Motion for Decision, at 1-6).



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## II. Background

On August 25, 2003, DCPS notified bargaining unit member, Ledra Welch Walker (“Ms. Welch Walker”), by letter, that she was being terminated, effective immediately, because she had failed to comply with DCPS licensing requirements. (Complaint, at, 1). WTU grieved the termination, and the matter was scheduled for an arbitration hearing to be held on September 22, 2004. *Id.*, at 1-2. Prior to the scheduled hearing, DCPS proposed a settlement, which WTU accepted. *Id.*, at 2. The parties executed the binding Settlement Agreement, in full resolution of the arbitration proceeding, on September 22, 2004. *Id.*

The terms of the Settlement Agreement provided, in part, that within 30 days of the execution of the Settlement Agreement: 1) DCPS would rescind the termination and remove any record of the termination from Ms. Welch Walker’s personnel file; and 2) DCPS would make Ms. Welch Walker “whole” for all pay that she lost as a result of her termination, minus any mitigating income she earned between August 25, 2003, and September 22, 2004 (the execution date of the Settlement Agreement). *Id.*

WTU alleged that, as of December 14, 2004, the date of its Complaint, DCPS had failed to pay any of the back-pay it had agreed to pay Ms. Welch Walker by October 22, 2004, despite numerous demands by WTU that it do so. *Id.* WTU alleged that DCPS’ conduct interfered, restrained, and coerced bargaining unit employees in the exercise of their rights under D.C. Code § 1-617.04(a)(1), and constituted a refusal to bargain in good faith under D.C. Code §§ 1-617.04(a)(1) and (5). *Id.*

As a result of these alleged violations, WTU requested that PERB order DCPS to: 1) cease violating the CMPA in the manner alleged or in any like or related manner; 2) immediately pay Ms. Welch Walker the back-pay agreed to in the Settlement Agreement; 3) immediately comply with the Settlement Agreement in all other respects; 4) pay WTU’s attorneys’ fees and costs; 5) post a notice to employees; and 6) comply with all aspects of the CMPA. *Id.*, at 3.

In its Answer, filed on January 3, 2005, DCPS admitted that it proposed and entered into the Settlement Agreement, in which it agreed to reinstate Ms. Welch Walker, clear her record of the termination, and pay her all back-pay owed minus any mitigating income within 30 days of the execution of the agreement. (Answer, at 1-3). DCPS denied, however, that it violated the CMPA by failing to pay Ms. Welch Walker her back-pay by October 22, 2004, as required by the Settlement Agreement. *Id.*, at 3-4. DCPS stated that on December 14, 2004, the DCPS Office of Human Resources sent Ms. Welch Walker a letter informing her that “she must submit a copy of her payroll statement, stubs, 1040s and W2s for each year while she was separated from service, and to complete and have notarized an ‘Affidavit Covering Outside Earnings and Erroneous Payments’ in order for DCPS to process her back pay.” *Id.* at, 3, Exhibit 1.

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DCPS further offered three affirmative defenses. *Id.*, at 4-5. First, DCPS argued that the Complaint should be dismissed because it “fails to state an unfair labor practice for which relief could be granted.” *Id.*, at 4. DCPS averred it had already complied with the requirement to remove all documents related to the termination from Ms. Welch Walker’s personnel file, and that it would comply with the back-pay requirement as soon as Ms. Welch Walker provided the documentation described in DCPS’ December 14, 2004, letter, thus leaving “no unresolved issue, or basis for the [C]omplaint.” *Id.*, at 4-5. Second, DCPS contended that because it had complied with and/or taken to steps to comply with the Settlement Agreement, the Complaint should be dismissed because PERB lacks jurisdiction to grant the relief requested. *Id.*, at 5. Third, DCPS argued that WTU’s request for attorneys’ fees should be dismissed because PERB precedent holds that PERB “lacks jurisdiction to award such fees.” *Id.* (citing *International Brotherhood of Police Officers v. District of Columbia General Hospital*, 39 D.C. Reg. 9633, Slip Op. No. 322, PERB Case No. 91-U-14 (1994); and *American Federation of Government Employees, Local 2725 v. District of Columbia Housing Authority*, 46 D.C. Reg. 10388, Slip Op. No. 603, PERB Case No. 99-U-18 (1999)).

On January 5, 2005, WTU filed a Motion for Decision on the Pleadings, arguing that DCPS’ Answer was untimely. (Motion for Decision, at 1-5). WTU argued that DCPS failed to file its Answer by January 3, 2005, as required by a December 16, 2004, letter from former PERB Executive Director, Julio Castillo, to DCPS. *Id.*, at 1. WTU contended that, as a result, PERB should consider all of the material facts alleged in the Complaint to be admitted pursuant to PERB Rule 520.7, and should render a decision on the pleadings in accordance with PERB Rule 520.10. *Id.*, at 1-2.

PERB has no record of any other pleadings having been filed in this matter. WTU’s Complaint and Motion for Decision are therefore now before the Board for disposition.

### III. Discussion

#### A. Motion for Decision on the Pleadings

WTU’s Motion for Decision is based solely on the contention that DCPS failed to file its Answer by the January 3, 2005, deadline set by former Executive Director Castillo in his December 16, 2004, letter. *Id.*, at 1-5. However, the date-stamp on DCPS’ Answer and its corresponding cover letter show that the Answer was timely filed by hand-delivery at approximately 4:30PM on January 3, 2005. WTU’s Motion for a Decision on the Pleadings based upon its allegation that DCPS’ Answer was untimely is therefore denied.

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Notwithstanding, PERB Rule 520.8 states that “[t]he Board or its designated representative shall investigate each complaint”, and PERB Rule 520.10 states that “[i]f the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.” Here, DCPS generally denied WTU’s legal conclusions, but admitted the Complaint’s alleged underlying facts, which are that: 1) DCPS agreed in the Settlement Agreement to make Ms. Welch Walker “whole” for all pay that she lost as a result of her termination, minus any mitigating income she earned between August 25, 2003, and September 22, 2004, within 30 days starting on September 22, 2004; and 2) DCPS failed to take any action to comply with said agreement within those 30 days. (Complaint, at 2-3); and (Answer, at 1-5). Therefore, because these facts are undisputed by the parties, leaving only legal questions to be resolved, the PERB can properly decide this matter based upon the pleadings in accordance with PERB Rule 520.10. See *American Federation of Government Employees, AFL-CIO Local 2978 v. District of Columbia Department of Health*, 60 D.C. Reg. 2551, Slip Op. No. 1356 at p. 7-8, PERB Case No. 09-U-23 (2013); see also *American Federation of Government Employees, Local 2725, AFL-CIO v. District of Columbia Housing Authority*, 46 D.C. Reg. 6278, Slip Op. No. 585 at p. 3, PERB Case Nos. 98-U-20, 99-U-05, and 99-U-12 (1999).

#### B. Decision

Generally, a complainant must assert in the pleadings allegations that, if proven, would demonstrate a statutory violation of the CMPA. *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department and Cathy Lanier*, 59 D.C. Reg. 5427, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09 (2009) (citing *Virginia Dade v. National Association of Government Employees, Service Employees International Union, Local R3-06*, 46 D.C. Reg. 6876, Slip Op. No. 491 at p. 4, PERB Case No. 96-U-22 (1996); and *Gregory Miller v. American Federation of Government Employees Local 631 and District of Columbia Department of Public Works*, 48 D.C. Reg. 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994)).

When a party refuses or fails to implement an award or negotiated agreement where there is no dispute over its terms, such conduct constitutes a failure to bargain in good faith and thereby, an unfair labor practice. *American Federation of Government Employees, Local 872, AFL-CIO v. District of Columbia Water and Sewer Authority*, 46 D.C. Reg. 4398, Slip Op. No. 497 at p. 2-3, PERB Case No. 96-U-23 (1996). In addition, an agency waives its right to appeal an arbitration award when it fails to file a timely arbitration review request with the Board or otherwise appeal for judicial review of the award in accordance with D.C. Code § 1-617.13(c). See *AFGE, Local 2725 v. DCHA, supra*, Slip Op No. 585 at p. 3, PERB Case Nos. 98-U-20, 99-U-05, and 99-U-12. If an agency waives its right to appeal an arbitration award, then no legitimate reason exists for the agency’s refusal to implement the award, and said refusal

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constitutes a failure to bargain in good faith in violation of D.C. Code § 1-617.04(a)(5). See *American Federation of Government Employees, Local 2725, AFL-CIO v. District of Columbia Housing Authority*, 46 D.C. Reg. 8356, Slip Op No. 597, PERB Case No. 99-U-23 (1999). Such a refusal further constitutes, derivatively, an interference with the bargaining unit employees' rights in violation of D.C. Code § 1-617.04(a)(1). See *AFGE, Local 2725 v. DCHA, supra*, Slip Op No. 585 at p. 5, PERB Case Nos. 98-U-20, 99-U-05, and 99-U-12; and *American Federation of State, County and Municipal Employees, District Council 20, Local 2921, AFL-CIO v. District of Columbia Public Schools*, 50 D.C. Reg. 5077, Slip Op. No. 712 at p. 3-4, PERB Case No. 03-U-17 (2003).

In the present case, DCPS admitted that it does not dispute the terms of the Settlement Agreement as they were alleged in the Complaint. (Answer, at 2-3). DCPS further admitted that the terms of the Settlement Agreement required it to make Ms. Welch Walker "whole" by approximately October 22, 2004 (or 30 days from the date the Settlement Agreement was executed, which was September 22, 2004). *Id.* Indeed, DCPS admitted that it took no steps to obtain the documentation it said it needed from Ms. Welch Walker in order to make her "whole" until December 14, 2004, when its Office of Human Resources first sent her a letter detailing the information DCPS needed in order to determine the amount of back-pay she was owed. *Id.* December 14, 2004, is also the same day that WTU filed its Complaint. (Complaint, at 1).

Based on the foregoing, and in consideration of the facts that DCPS proposed, negotiated, and agreed to the terms of the Settlement Agreement, and did not file any appeal to the Settlement Agreement in accordance with D.C. Code § 1-617.13(c), the Board finds that DCPS had no legitimate reason for failing to take any action to make Ms. Welch Walker "whole" by October 22, 2004. *AFGE, Local 2725 v. DCHA, supra*, Slip Op No. 585 at p. 3, PERB Case Nos. 98-U-20, 99-U-05, and 99-U-12. The Board further finds that said failure constitutes a failure to bargain in good faith in violation of D.C. Code § 1-617.04(a)(5), and, derivatively, an interference with the bargaining unit employees' rights in violation of D.C. Code § 1-617.04(a)(1). *AFGE, Local 2725 v. DCHA, supra*, Slip Op No. 597, PERB Case No. 99-U-23; and *AFSCME, District Council 20, Local 2921, v. DCPS, supra*, Slip Op. No. 712 at p. 3-4, PERB Case No. 03-U-17.

DCPS' affirmative defenses that the Complaint should be dismissed because it "fails to state an unfair labor practice for which relief could be granted" and that PERB "lacks jurisdiction to grant the relief requested" do not avail because the facts demonstrate that DCPS' failure to take any action to make Ms. Welch Walker "whole" by October 22, 2004, violated D.C. Code §§ 1-617.04(a)(1) and (5), for which PERB is empowered to grant relief. (Answer, at 3-5); see also *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at p. 22,

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PERB Case Nos. 09-U-52 and 09-U-53 (2013) (citing *American Federation of Government Employees, Local 2741 v. District of Columbia Department of Recreation and Parks*, 50 D.C. Reg. 5049, Slip Op. No. 697 at p. 6, PERB Case No. 00-U-22 (2002)).

#### IV. Remedy

In accordance with the Board's finding that DCPS' conduct constituted an unfair labor practice under D.C. Code §§ 1-617.04(a)(1) and (5), the Board now turns to the question of an appropriate remedy. WTU requested that PERB order DCPS to: 1) cease violating the CMPA in the manner alleged or in any like or related manner; 2) immediately pay Ms. Welch Walker the back-pay agreed to in the Settlement Agreement; 3) immediately comply with the Settlement Agreement in all other respects; 4) pay WTU's attorneys' fees and costs; 5) post a notice to employees; and 6) comply with all aspects of the CMPA. (Complaint, at 3).

The Board finds it reasonable to order DCPS to post a notice acknowledging its violation of the CMPA, as detailed herein. When a violation of the CMPA has been found, the Board's order is intended to have a "therapeutic as well as a remedial effect" and is further to provide for the "protection of rights and obligations." *American Federation of Government Employees, Local 2725 v. District of Columbia Department of Health*, 59 D.C. Reg. 6003, Slip Op. No. 1003 at p. 5, PERB Case No. 09-U-65 (2009) (quoting *National Association of Government Employees, Local R3-06 v. District of Columbia Water and Sewer Authority*, 47 D.C. Reg. 7551, Slip Op. No. 635 at p. 15-16, PERB Case No. 99-U-04 (2000)). It is this end, the protection of employees' rights, that "underlies [the Board's] remedy requiring the posting of a notice to all employees" that details the violations that were committed and the remedies afforded as a result of those violations. *Id.* (quoting *Charles Bagenstose v. District of Columbia Public Schools*, 41 D.C. Reg. 1493, Slip Op. No. 283 at p. 3, PERB Case No. 88-U-33 (1991)). Posting a notice will enable bargaining unit employees to know that their rights under the CMPA are fully protected. *Id.* It will likewise discourage the Agency from committing any future violations. *Id.*

Furthermore, the Board finds it reasonable to order DCPS to: 1) cease violating the CMPA in the manner detailed herein or in any like or related manner; 2) immediately pay Ms. Welch Walker the back-pay agreed to in the Settlement Agreement if it has not already done so; 3) immediately comply with the terms of the Settlement Agreement in all other aspects if it has not already done so; and 4) comply with all aspects of the CMPA.

WTU further requested that DCPS be ordered to pay WTU's attorneys' fees and costs. (Complaint at 3). D.C. Code § 1-617.13 authorizes the Board "to require the payment of reasonable costs incurred by a party to a dispute from the other party or parties as the Board may determine." This does not, however, include an award of attorneys' fees. *AFGE, Local 2725 v.*

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*D.C. DOH, supra*, Slip Op. No. 1003 at p. 6, PERB Case No. 09-U-65 (citing *International Brotherhood of Police Officers, Local 1445, AFL-CIO/CLC v. District of Columbia General Hospital* 39 D.C. Reg. 9633, Slip Op. No. 322, PERB Case No. 91-U-14 (1992); and *University of the District of Columbia Faculty Association NEA v. University of the District of Columbia*, 38 D.C. Reg. 2463, Slip Op. No. 272, PERB Case No. 90-U-10 (1991)). Any portion of DCPS' request involving attorneys' fees is therefore denied.

The circumstances under which an award of costs is warranted were articulated in *AFSCME, D.C. Council 20, Local 2776 v. D.C. Department of Finance and Revenue*, 37 D.C. Reg. 5658, Slip Op. No. 245 at p. 4-5, PERB Case No. 89-U-02 (1990), in which the Board stated:

[A]ny such award of costs necessarily assumes that the party to whom the payment is to be made was successful in at least a significant part of the case, and that the costs in question are attributable to that part. Second, it is clear on the face of the statute that it is only those costs that are "reasonable" that may be ordered reimbursed . . . Last, and this is the [crux] of the matter, we believe such an award must be shown to be in the interest of justice.

Just what characteristics of a case will warrant the finding that an award of costs will be in the interest of justice cannot be exhaustively catalogued . . . What we can say here is that among the situations in which such an award is appropriate are those in which the losing party's claim or position was wholly without merit, those in which the successfully challenged action was undertaken in bad faith, and those in which a reasonably foreseeable result of the successfully challenged conduct is the undermining of the union among the employees for whom it is the exclusive bargaining representative.

In the instant matter, the Board found that DCPS violated the CMPA by failing, without a legitimate reason, to take any action to make Ms. Welch Walker "whole" by October 22, 2004, as it had proposed and agreed to do. (Answer, at 2-3). Indeed, DCPS took no action to notify Ms. Welch Walker that it needed anything from her in order to comply with the Settlement Agreement until December 14, 2004, the same day that WTU filed the Complaint. *Id.* As a result of DCPS' failure to comply with the Settlement Agreement in violation of the CMPA, the Board finds that awarding costs in accordance with WTU's request would serve and meet the "interest-of-justice" test articulated in *AFSCME, D.C. Council 20, Local 2776 v. DCDFR, supra*.

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**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. Respondent must cease and desist from violating D.C. Code §§ 1-617.04(a)(1) and (5) ("CMPA") in the manner detailed herein or in any like or related manner;
2. Respondent must immediately pay Ms. Welch Walker the back-pay agreed to in the Settlement Agreement if it has not already done so;
3. Respondent must immediately comply with the Settlement Agreement in all other respects if it has not already done so;
4. Within fourteen (14) days of the service of this order, Complainant must submit to Respondent a written statement of the actual costs it incurred in processing this unfair labor practice complaint. Said statement must be accompanied by any and all supporting documentation. Respondent must pay Complainant's costs in this matter within thirty (30) days of receiving Complainant's written statement and supporting documentation;
5. Respondent must conspicuously post, within ten (10) days of the service of this Decision and Order, the attached Notice where notices to bargaining-unit employees are customarily posted. Said Notice shall remain posted for thirty (30) consecutive days.
6. Within fourteen (14) days of the service of this Decision and Order, Respondent must notify the Board, in writing, that the Notice has been posted as ordered.
7. Within fourteen (14) days from the service of this Decision and Order, Respondent must notify the Board of the steps it has taken to comply with paragraphs 2 and 3 of this Order.
8. Respondent must comply with all aspects of the CMPA;
9. Complainant's request for attorneys' fees is denied; and
10. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

September 3, 2013

**CERTIFICATE OF SERVICE**

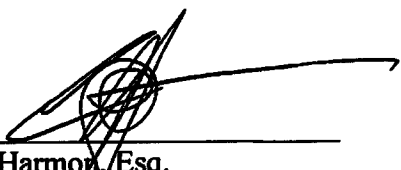
This is to certify that the attached Decision and Order in PERB Case No. 05-U-15, Slip Op. No. 1418, was transmitted via U.S. Mail and e-mail to the following parties on this the 23<sup>rd</sup> day of September, 2013.

Bob Utiger, Director, DCPS General Counsel  
District of Columbia Public Schools  
1200 First Street, N.E.  
10<sup>th</sup> Floor  
Washington, DC 20002  
Robert.Utiger@dc.gov

**U.S. MAIL and E-MAIL**

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Public Employee Relations Board



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# NOTICE

**TO ALL EMPLOYEES OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS ("DCPS"), THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 1418, PERB CASE NO. 05-U-15 (September 3, 2013).**

**WE HEREBY NOTIFY** our employees that the District of Columbia Public Employee Relations Board has found that we violated the law and has ordered DCPS to post this notice.

DCPS violated D.C. Code § 1-617.04(a)(1) and (5) by failing, without a legitimate reason, to comply with the terms of a binding settlement agreement between DCPS and the Washington Teachers Union, Local #6, American Federation of Teachers, AFL-CIO.

District of Columbia Public Schools

Date: \_\_\_\_\_ By: \_\_\_\_\_

**This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.**

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, located at: 1100 4<sup>th</sup> Street, SW, Suite E630; Washington, D.C. 20024, Telephone: (202) 727-1822.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

Washington, D.C.

September 3, 2013

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia  
Public Employee Relations Board**

In the Matter of:	)	
Wanda J. Ferguson,	)	PERB Case No. 09-U-19
Complainant,	)	Opinion No. 1419
v.	)	
District of Columbia Child and Family Services Agency,	)	Decision and Order
Respondent.	)	

**DECISION AND ORDER**

**I. Statement of the Case**

Complainant Wanda J. Ferguson (“Complainant” or “Ms. Ferguson”) filed a *pro se* Amended Unfair Labor Practice Complaint<sup>1</sup> (“Complaint”) against District of Columbia Child and Family Services Agency (“Respondent” or “CFSA” or “Agency”), alleging CFSA violated D.C. Code §§ 1-617.04(a)(1), (3), and (4) and §§ 1-617.06(a)(2)-(3) and (b) of the Comprehensive Merit Personnel Act (“CMPA”) by: 1) interfering with Ms. Ferguson’s right to fair representation through failing to give advance notice to the exclusive representative, AFSCME, Local 20 (“Union”), that it intended to suspend Ms. Ferguson without pay for ten (10) days; 2) retaliating against Ms. Ferguson for engaging in protected “concerted activity for mutual aid and protection”; 3) “interrogating” Ms. Ferguson about her union “sympathies and activities”; 4) “coercively” implying that Ms. Ferguson had “renounced [her] union”; 5) meeting

<sup>1</sup> Ms. Ferguson’s original Complaint (filed on February 3, 2009, was deficient in that it was filed without Ms. Ferguson having signed it, and because Ms. Ferguson failed to provide the then requisite six (6) copies. On February 17, 2009, PERB’s then-Executive Director, Julio A. Castillo, notified Ms. Ferguson by letter of these deficiencies, and gave Ms. Ferguson until March 7, 2009, to cure them. Ms. Ferguson filed an Amended Complaint curing the deficiencies on February 17, 2009.

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with Ms. Ferguson several times without first notifying the Union; 6) issuing a grievance decision without first meeting with Ms. Ferguson and the Union as had been requested; 7) engaging in and admitting to a “clear cut and flagrant pattern and practice of CMPA violations”; and 8) finding that allegations raised by Ms. Ferguson in an Equal Employment Opportunity (“EEO”) complaint were “unfounded”. (Complaint, at 2-5).

In its Answer, CFSA admitted that some of the meetings and other events alleged in the Complaint took place, but denied Ms. Ferguson’s allegations and legal conclusions that its conduct in relation to those events constituted unfair labor practices or a violation of any provision of the CMPA. (Answer, at 1-5). In addition, CFSA presented three (3) affirmative defenses in which it argued that the Complaint should be dismissed “because: 1) it is frivolous, factually unsupported, and erroneous, and fails to state a cause of action; 2) it fails to state an unfair labor practice for which relief may be granted; and 3) the Board lacks jurisdiction over the matter as the Complaint does not give rise to a cause of action, under the [CMPA].” *Id.*, at 5-11.

## II. Background

On September 19, 2008, Ms. Ferguson’s immediate supervisor, Derrick Russell (“Mr. Russell”), gave Ms. Ferguson a 30-day Advanced Written Notice of Proposed Suspension of 10 Days (“Proposed Discipline”), based upon an allegation that Ms. Ferguson had been insubordinate when she submitted affidavits to the court without first obtaining the approving initials of either Mr. Russell, or another employee who was authorized to approve Ms. Ferguson’s work. (Complaint, at 2); and (Answer, at 2). Ms. Ferguson alleged that CFSA interfered with her right to fair representation, “in a showing of apparent anti-union animus,” by not giving the Union prior notification of its intent to discipline Ms. Ferguson. (Complaint, at 2). CFSA denied that it interfered with Ms. Ferguson’s right to representation and contended that, prior to giving the notice to Ms. Ferguson, Mr. Russell sent her an email to tell her that they would meet later in the day and that she was entitled to have a Union representative present. (Answer, at 2). CFSA contended that “within minutes of sending the email, [Ms. Ferguson] went to Mr. Russell’s office to speak with him about the matter, but he stopped the conversation and told her that he could not speak with her at that time and that she should bring a union representative to the meeting scheduled later that day.” *Id.* CFSA asserted that, despite these notices, Ms. Ferguson “later arrived at the meeting without Union representation.” *Id.*

Ms. Ferguson claimed that, in her written response to the Proposed Discipline, she provided phone records demonstrating that she had called Mr. Russell several times “according to his unwritten (not in the procedures manual) phone approval policy for affidavits” before she submitted them to the court; refuted Mr. Russell’s assertion that she did not seek his approval on

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the cases mentioned in the Proposed Discipline; argued that just because the affidavits did not have Mr. Russell's "approval initials" did not mean they were not approved; contended that she had approached Mr. Russell and the other employee who was authorized to approve her work twice on September 4, 2008, seeking approval of the affidavits in question; stated that Mr. Russell had been absent that day until approximately 2:00PM, at which point she spoke with him and the other approving employee about her cases; argued that she did not leave that meeting "thinking [she] didn't have approval;" and showed how the functioning of the unit suffered because of Mr. Russell's "lack of supervision due to frequent unannounced absences." (Complaint, at 2). CFSA "[did] not admit" to Ms. Ferguson's claims regarding this written response.

On October 15, 2008, Ms. Ferguson met with CFSA Placement Services Administrator, Jill Forbes ("Ms. Forbes"), who was the deciding official regarding Ms. Ferguson's proposed discipline. (Complaint, at 2); and (Answer, at 2-3). Mr. Russell and another CFSA Placement Services Administrator, Nicole Cobbs-Sterns, were present. *Id.* At this meeting, Ms. Forbes provided Ms. Ferguson with her written decision which upheld the Proposed Discipline and notified Ms. Ferguson that she would serve the suspension from October 16-29, 2008. *Id.*

Ms. Ferguson claimed that Ms. Forbes further verbally told her that she "shouldn't have mentioned [Mr. Russell's transgressions] in [her written response to the Proposed Discipline]". (Complaint, at 2). Based on this alleged statement, Ms. Ferguson contended that the discipline was retaliation for her having engaged in the "protected concerted activity" of complaining, even prior to this discipline, about not being able to find a supervisor to approve her work, and about "workplace non-functioning," which she claimed was caused by Mr. Russell's "unannounced absences and disinterest, ...[his] not reviewing open case files, [his] not giving input or writing in case notes, [and his approval of] work over the phone," and which she claimed was evidenced by "complaints of internal staff and external customers." *Id.* She further asserted that the charge of insubordination was a "pretext for [CFSA's] reprisal" against her for having engaged in said "protected concerted activity." *Id.* CFSA denied or "[did] not admit" to these statements and allegations. (Answer, at 3).

On October 29, 2008, the Union filed a written step 3 grievance on behalf of Ms. Ferguson to challenge the discipline. (Complaint, at 2); and (Answer, at 3). The grievance stated that the Union was not given prior notice of CFSA's intention to discipline Ms. Ferguson. *Id.*

Ms. Ferguson alleged that on October 31, 2008, CFSA "engaged in interference, restraint, and coercion by [interrogating Ms. Ferguson]" in the office of Human Resource Manager for Labor and Employee Relations, Dexter Starkes ("Mr. Starkes"), when Mr. Starkes questioned her "about [her] union sympathies and activities", and when he "demanded repeatedly in an

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intimidating tone that [she] answer his question [about] whether or not [Mr. Russell's] email on 9/19/08 mentioned the union." (Complaint, at 3). Ms. Ferguson asserted that when she confirmed that Mr. Russell's email did mention the Union, Mr. Starkes then blamed her, "in a condescending tone", for not having a Union representative present at the meeting later that day. *Id.* Ms. Ferguson contended in the Complaint that it was not her responsibility to notify the Union, but the Agency's. *Id.* Ms. Ferguson further alleged that the content and timing of this October 31, 2008, meeting with Mr. Starkes was suspect because she originally requested to meet with an EEO Counselor, and thought that this was that meeting and that only non-union EEO topics would be discussed. *Id.* She also expressed concern that Mr. Starkes scheduled the meeting on her Union representative's normal day off. *Id.* She alleged that when the "tone of the meeting turned to interrogation," CFSA committed a "*per se* unfair labor practice," especially after Mr. Starkes told her that he knew about the Union's October 29 grievance, but that "he had no role in the outcome of the decisions concerning the discipline." *Id.*

In its Answer, CFSA denied that Mr. Starkes' October 31 meeting with Ms. Ferguson constituted an unfair labor practice, or that it interfered, restrained, or coerced Ms. Ferguson "by interrogation." (Answer, at 3). CFSA admitted that Mr. Starkes met with Ms. Ferguson at her request "to discuss her claim of discrimination", but denied that a Union representative had to be present because the meeting only "pertained to non-disciplinary matters." *Id.* CFSA further asserted that Ms. Ferguson never requested that a Union representative be present. *Id.* CFSA denied Ms. Ferguson's "statements referencing Mr. Starkes and [did] not admit to [Ms. Ferguson's] remaining statements and allegations [regarding the October 31 meeting]." *Id.*

On November 6, 2008, Ms. Forbes issued her response to the Union's Step 3 grievance, in which she upheld Ms. Ferguson's suspension. (Complaint, at 3); and (Answer, at 3-4). Ms. Ferguson alleged that Ms. Forbes' response "coercively [mentioned Ms. Ferguson's] union sympathies and activities by referencing [her] 'conscience'" and implied that Ms. Ferguson had "renounced" her Union. (Answer, at 3). Ms. Ferguson further alleged that Ms. Forbes cited additional cases that were not listed in her original decision and denied that CFSA had violated the CMPA "when [it] had already admitted to the violation." *Id.* In its Answer, CFSA asserted that the November 6 response to the grievance noted that while Ms. Ferguson had the right to Union representation when she met with Mr. Russell on September 19, she had "elected not to be represented, and that given her failure to follow directives, the suspension for insubordination [stood]." (Answer, at 3-4). CFSA further denied that it violated the CMPA and denied Ms. Ferguson's remaining allegations concerning Ms. Forbes' November 6 response to the Union's Step 3 grievance. *Id.* On November 20, 2008, Ms. Ferguson filed a Step 4 grievance. (Complaint, at 4); and (Answer, at 4).

On November 24, 2008, CFSA Program Manager, Regi Daniel ("Mr. Daniel"), asked to meet with Ms. Ferguson, in which he and Mr. Russell explained "chain of command and office

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procedures.” (Complaint, at 3); and (Answer, at 4). Ms. Ferguson alleged that this meeting “occurred without management notice to the union and in the midst of [Ms. Ferguson’s Step 4 grievance].” (Complaint, at 3). CFSA denied that the Union had to be present at the meeting which it claimed only “pertained to non-disciplinary matters,” and denied Ms. Ferguson’s remaining statements and allegations concerning the meeting. (Answer, at 4).

On December 11, 2008, CFSA’s Interim Director issued a final written decision regarding Ms. Ferguson’s Step 4 grievance, in which he upheld Ms. Ferguson’s suspension. (Complaint, at 4); and (Answer, at 4). Ms. Ferguson alleged that this written decision was almost identical to Ms. Forbes’ November 6 response to the Step 3 grievance and that the Interim Director was “influenced by the retaliatory biased subordinate managers” on the basis that Ms. Ferguson “spotted [Ms. Forbes] near the Director’s Office on 12/11/08.” *Id.* Ms. Ferguson further alleged that the Interim Director “discriminatorily persisted in retaliation by sustaining harm of discipline without meeting with [Ms. Ferguson] and [the] union delegate as requested [in the Step 4 grievance letter].” *Id.* Additionally, Ms. Ferguson alleged that the Interim Director’s letter evidenced anti-union animus when it stated that Ms. Ferguson was “jeopardizing the integrity of the [unit]” and admitted a “clear cut and flagrant pattern and practice of CMPA violations.” *Id.* CFSA denied that the December 11 Step 4 grievance decision violated the CMPA, discriminated against Ms. Ferguson, or constituted an unfair labor practice, and denied Ms. Ferguson’s remaining statements and allegations concerning the decision. (Answer, at 4).

On December 16, 2008, Ms. Forbes, Mr. Daniel, and Mr. Russell met with Ms. Ferguson to discuss Mr. Russell’s absences, office procedures, and points of contact. (Complaint, at 4); and (Answer, at 4). Ms. Ferguson stated that Ms. Forbes told her that Mr. Russell was a trainer and that he often conducts trainings outside of the office. *Id.* Ms. Ferguson alleged that Ms. Forbes further told her, “in a showing of discriminatory disparate treatment”, that Ms. Ferguson “[didn’t] need to know what [Mr. Russell’s] schedule is” or “where he is.” (Complaint, at 4). Ms. Ferguson further alleged that the meeting took “a retaliatory, intimidating, coercive, interrogatory tone” when Ms. Forbes asked her if she “felt comfortable in the unit” and if she could go to Mr. Russell with her concerns. *Id.* Ms. Ferguson alleged that CFSA did not give the Union prior notice of this meeting and that she felt it implied that “union animus and reprisal [was] imminent.” *Id.* CFSA denied that it “violated the CMPA or that the meeting was retaliatory, intimidating, coercive or interrogative, or that the Union had to be present at the meeting which pertained to non-disciplinary matters”, and denied Ms. Ferguson’s remaining statements and allegations concerning the December 16 meeting. (Answer, at 4-5).

Ms. Ferguson alleged that on January 7, 2009, she overheard Mr. Russell tell a co-worker that he wanted to “advertise” Ms. Ferguson’s position after she filed her grievance. (Complaint, at 4). Ms. Ferguson contended that Mr. Russell’s alleged statement evidenced ongoing “[d]iscriminatory, retaliatory, anti-union animus.” *Id.* CFSA denied that Mr. Russell’s actions

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toward Ms. Ferguson were “retaliatory, discriminatory, or anti-union”, and denied Ms. Ferguson’s remaining statements and allegations concerning Mr. Russell’s alleged January 7 statement. (Answer, at 5).

On January 22, 2009, CFSA Human Resources Generalist, Brandi Pope (“Ms. Pope”), met with Ms. Ferguson to let her know that the internal investigation of Ms. Ferguson’s EEO complaint had concluded and been deemed, “unfounded” or “unsubstantiated.” (Complaint, at 4); and (Answer, at 5). Ms. Ferguson alleged that Ms. Pope interfered, restrained, and coerced Ms. Ferguson’s exercise of her statutory rights when she told Ms. Ferguson that she should “let sleeping dogs lie” and that it was “a New Year.” (Complaint, at 4). CFSA denied Ms. Ferguson’s allegation. (Answer, at 5). CFSA further asserted that Ms. Pope informed Ms. Ferguson that CFSA did not have an EEO Counselor at that time, so she would need to speak with an EEO Counselor at another agency, but that Ms. Ferguson said she did not want a list of those other counselors when Ms. Pope offered to provide one. *Id.*

As a result of these alleged violations, Ms. Ferguson requested that the Public Employee Relations Board (“PERB”) order CFSA to: 1) cease and desist violating Complainant’s rights; 2) cease and desist its refusal to bargain; 3) not engage in any future violations of the CMPA; 4) post appropriate notices of its alleged violations of the CMPA; 5) restore Complainant’s lost wages, with interest, for the period of suspension (October 16-19, 2008); and 6) make Complainant “whole” “to the status quo ante”; and order “any other remedy the PERB sees fit.” (Complaint, at 5).

In its Answer, CFSA presented three (3) affirmative defenses that the Complaint should be dismissed “because: 1) it is frivolous, factually unsupported, and erroneous, and fails to state a cause of action; 2) it fails to state an unfair labor practice for which relief may be granted; and 3) the Board lacks jurisdiction over the matter as the Complaint does not give rise to a cause of action, under the [CMPA].” Answer, at 5-11.

PERB has no record of any other pleadings having been filed in this matter. Ms. Ferguson’s Complaint is therefore now before the Board for disposition.

### III. Discussion

Generally, a complainant does not need to prove its case on the pleadings, but it must plead or assert allegations that, if proven, would establish a statutory violation of the CMPA. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, et al.*, 59 D.C. Reg. 5427, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09 (2009) (citing *Virginia Dade v. National Association of Government*

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*Employees, Service Employees International Union, Local R3-06*, 46 D.C. Reg. 6876, Slip Op. No. 491 at p. 4, PERB Case No. 96-U-22 (1996); and *Gregory Miller v. American Federation of Government Employees Local 631 and District of Columbia Department of Public Works*, 48 D.C. Reg. 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994)); see also *Goodine v. Fraternal Order of Police/Department of Corrections Labor Committee*, 43 D.C. Reg. 5163, Slip Op. No. 476 at p. 3, PERB Case No. 96-U-16 (1996). If the record demonstrates that the allegations do concern violations of the CMPA, then the Board has jurisdiction over those allegations and can grant relief accordingly if they are proven. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53 (2013) (citing *American Federation of Government Employees, Local 2741 v. District of Columbia Department of Recreation and Parks*, 50 D.C. Reg. 5049, Slip Op. No. 697 at p. 6, PERB Case No. 00-U-22 (2002)).

In addition, a *pro se* litigant is entitled to a liberal construction of his/her pleadings and must be given a reasonable opportunity to present his/her case without undue focus on technical flaws or imperfections. *Charles Bagenstose v. Washington Teachers' Union, Local No. 6*, 59 D.C. Reg. 3808, Slip Op. No. 894 at p. 3, PERB Case No. 06-U-37 (2007) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); and *Mack v. Fraternal Order of Police/Metropolitan Police Department Labor Committee*, 49 D.C. Reg. 1149, Slip Op No. 443 at p. 2, PERB Case No. 95-U-16 (1995)).

Furthermore, PERB has jurisdiction over claims of reprisal and retaliation involving District of Columbia government agencies. See *Hina L. Rodriguez v. District of Columbia Metropolitan Police Department*, Slip Op. No. 906 at p. 3, PERB Case No. 06-U-38 (January 30, 2008); see also *Office of the District of Columbia Controller v. Frost*, 638 A.2d 657 at 665-66 (D.C. 1994).

Finally, PERB Rule 520.8 states: “[t]he Board or its designated representative shall investigate each complaint.” Rule 520.10 states that “[i]f the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.” However, Rule 520.9 states that in the event “the investigation reveals that the pleadings present an issue of fact warranting a hearing, the Board shall issue a Notice of Hearing and serve it upon the parties.” (Emphasis added).

In the present case, Ms. Ferguson alleges that CFSA violated the CMPA by engaging in interference, restraint, coercion, direct dealing, bad faith, retaliation, and reprisal. (Complaint, 1-5). While her allegations may at times be technically flawed or imperfect, the Board finds that, by applying a liberal construction to the Complaint, Ms. Ferguson presents allegations against



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CFSA that, if proven, could constitute statutory violations of the CMPA. See *FOP v. MPD, et al., supra*, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09; and *Bagenstose v. WTU, Local 6, supra*, Slip Op. No. 894 at p. 3, PERB Case No. 06-U-37. As a result, the Board finds that its jurisdiction over this matter is proper. See *FOP v. MPD, supra*, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53; *Rodriguez v. MPD, supra*, Slip Op. No. 906 at p. 3, PERB Case No. 06-U-38; and *Office of the D.C. Controller v. Frost*, 638 A.2d 657 at 665-66, *supra*.

Furthermore, based on CFSA's denial of Ms. Ferguson's characterization of the facts, material allegations, and legal conclusions, and in consideration of CFSA's affirmative defenses, the Board finds that this matter presents a material dispute of facts which cannot be reconciled by a review of the pleadings alone. Therefore, pursuant to PERB Rule 520.9, the Board refers this matter to an unfair labor practice hearing to develop a factual record and make appropriate recommendations. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 5957, Slip Op. No. 999 at p. 9-10, PERB Case 09-U-52 (2009); and *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 5969, Slip Op. No. 1000 at p. 9-10, PERB Case 09-U-53 (2009); see also PERB Rule 520.8.

### ORDER

#### IT IS HEREBY ORDERED THAT:

1. The Board's Executive Director shall refer the Unfair Labor Practice Complaint to a Hearing Examiner to develop a factual record and present recommendations in accordance with said record.
2. The Notice of Hearing shall be issued seven (7) days prior to the date of the hearing.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

September 3, 2013

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 09-U-19, Slip Op. No. 1419, was transmitted via U.S. Mail and e-mail to the following parties on this the 23<sup>rd</sup> day of September, 2013.

Wanda J. Ferguson  
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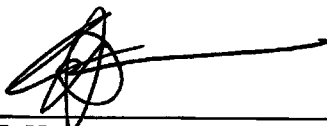
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Attorney-Advisor



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## DECISION AND ORDER

### I. Statement of the Case

Complainant Alfreda Johnson (“Complainant” or “Ms. Johnson”) filed a *pro se* Amended Unfair Labor Practice Complaint<sup>1</sup> (“Complaint”) against the Washington Teacher’s Union, Local 6 (“WTU” or “Union”), WTU President Nathan Saunders (“Mr. Saunders”), WTU Deputy Chief of Staff Nadine Evans (“Ms. Evans”), and WTU Field Services Specialist Donielle Powe (“Ms. Powe”) (collectively, “Respondents”), alleging they violated D.C. Code §§ 1-617.04(b) *et seq.*<sup>2</sup> and 1-617.18 of the Comprehensive Merit Personnel Act (“CMPA”), in addition to multiple sections of the Federal Labor Relations Authority as codified in the Civil Service Reform Act of 1978, 5 U.S.C. §§ 7101 *et seq.* (“FLRA”), and multiple sections of the Collective Bargaining Agreement (“CBA”) between WTU and District of Columbia Public Schools (“DCPS”), when they “consistently” discriminated against her “through arbitrary, perfunctory and in one instance bad faith behavior” by: 1) ignoring and failing to investigate a “potentially meritorious” grievance; 2) failing to provide “any reasons for any of their actions”; 3) not filing or participating in “a meritorious grievance against DCPS”; and 4) negotiating as part of the current CBA the “IMPACT evaluation instrument and process”. (Complaint, at 1-19). Ms. Johnson filed two (2) subsequent motions to amend her complaint to: 1) add the allegation that Respondents’ Answer and Motion to Dismiss, filed on July 10, 2013, attempted to cause the Board to discriminate against her in violation of D.C. Code § 1-617.04(b)(2)<sup>3</sup>; and 2) withdraw all of her claims in the Complaint under the FLRA and to instead assert them under the Educational Employment Relations Act (“EERA”), CAL. GOV’T CODE § 3544.9 (West 2013), a California state statute.<sup>4</sup>

In their Answer, Respondents denied Ms. Johnson’s allegations and legal conclusions. (Answer, at 1- 6). In addition, Respondents filed a Motion to Dismiss Ms. Johnson’s Complaint arguing that: 1) Ms. Johnson lacked standing to bring the Complaint; 2) the Complaint was

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<sup>1</sup> Ms. Johnson’s original Complaint, filed on June 21, 2013, was deficient in that it was filed without Ms. Johnson having signed it, and because Ms. Johnson failed to provide a copy of the applicable collective bargaining agreement. On June 24, 2013, Ms. Johnson filed an Amended Complaint curing these deficiencies.

<sup>2</sup> Throughout the Complaint, Ms. Johnson consistently cited this section as “D.C. Code § 1-618.4 (2012.2a).” Consistent with *Charles Bagenstose v. Washington Teachers’ Union, Local No. 6*, 59 D.C. Reg. 3808, Slip Op. No. 894 at p. 3, PERB Case No. 06-U-37 (2007) and *Mack v. Fraternal Order of Police/Metropolitan Police Department Labor Committee*, 49 D.C. Reg. 1149, Slip Op No. 443 at p. 2, PERB Case No. 95-U-16 (1995), in which the Board held that a *pro se* litigant is entitled to a liberal construction of his/her pleadings and must be given a reasonable opportunity to present his/her case without undue focus on technical flaws or imperfections, the Board will assume that Ms. Johnson intended to cite D.C. Code § 1-617.04(b), which is the current citation for unfair labor practice complaints applicable to labor unions under the CMPA, and which was formerly D.C. Code § 1-618.4(b).

<sup>3</sup> Ms. Johnson sought this proposed amendment via numerous filings submitted between July 15-17, 2013.

<sup>4</sup> Ms. Johnson sought this proposed amendment via numerous filings submitted on July 27, 2013.

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untimely, and 3) Ms. Johnson failed to state a claim upon which relief may be granted.<sup>5</sup> (Motion to Dismiss, at 7-9).

Ms. Johnson later filed a Motion to Strike Respondents' Motions to Dismiss and further moved for a partial decision on the pleadings.<sup>6</sup>

## II. Background

In August 2009, Ms. Johnson was hired by DCPS as a reading teacher for Kramer Middle School. (Complaint, at 3). In June 2010, she was excessed in accordance with the CBA. *Id.* In August 2010, she was terminated from DCPS as a result of being excessed and was not able to fill any other positions under the CBA because she had been a "probationary" employee and also because she scored a "minimally effective" rating on her IMPACT evaluation. *Id.* Ms. Johnson alleged that WTU's negotiation of the "IMPACT evaluation instrument and process" preceding the execution of the CBA in 2007 was prohibited under D.C. Code § 1-617.18, which states: "during the fiscal year 2006 and each succeeding fiscal year the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes." *Id.*, at 3-4. On August 30, 2010, WTU filed a Step 2 grievance on behalf of Ms. Johnson challenging her IMPACT rating. *Id.*, at 4.

On October 12, 2011, Mr. Saunders sent a letter on behalf of WTU to Ms. Johnson asking her sign and return a "Permission to Release Employment Information" form in preparation for "Arbitration Case No 16 390 00819 10" ("Arbitration Case"), which she did. *Id.*; Exhibit 6. Ms. Johnson claimed that Respondents never responded to her inquiries about whether she was part of that case, or if it is still ongoing. *Id.*, at 4-5, 7.

In March and April 2013, Ms. Johnson requested a verification form from DCPS in preparation for applying for a job with Prince Georges County Schools, and discovered that her position with DCPS in 2009-10 had been classified as "mathematics."<sup>7</sup> *Id.*, at 5. Ms. Johnson notified WTU of the error and exchanged correspondence with Mr. Saunders and Ms. Powe discussing the issue. *Id.*, at 5-7. On April 18, 2013, Ms. Powe sent Ms. Johnson a letter ("April 18, 2013, Letter") via email stating:

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<sup>5</sup> Respondents filed another Answer and Motion to Dismiss on July 26, 2013, in response to Ms. Johnson's July 15-17 motion to amend her Complaint. Respondents did not file a response to Ms. Johnson's July 27 motion to amend the Complaint, although there is evidence to suggest that Ms. Johnson may not have served said motion on Respondents electronically via File & ServeXpress™ as required by PERB Rules 501 *et seq.* and 561 *et seq.*

<sup>6</sup> Ms. Johnson sought these actions via numerous filings submitted between July 31 and August 16, 2013.

<sup>7</sup> Ms. Johnson admitted that this misclassification also appeared on her paystubs, but she alleged that she never noticed it because she "was not trained on what information was kept on your paystub and had no knowledge that [her] teacher position was listed on [her] paystub." (Complaint, at 5).

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The [WTU] has investigated your matter concerning your termination from DCPS that you believe is in error. ...

When a teacher is terminated from DC Public Schools, s/he may challenge that decision through one of the following processes: i. Upon termination, a teacher may file a grievance within fourteen (14) school days of the effective date of the termination; or ii. Upon termination, a teacher may file an appeal with the Office of Employee Appeals (OEA) within thirty (30) calendar days of the effective date of termination.

If a teacher fails to invoke either of these processes, the WTU cannot assist them beyond the timeframe outlined above. Since you did not invoke the grievance procedure within 14 school days of the incident occurring and you did not file an appeal with OEA within 30 calendar days, the WTU cannot assist you with a claim at this time. Unfortunately, you did not contact the WTU regarding this matter until April 2013, almost three years after this incident occurred. Therefore, even if this were a grievable issue, it is untimely.

Upon further investigation by the WTU, DC Public Schools did not commit any procedural error when you were terminated. Based on the evidence you presented, it appears that DC Public Schools only had your title in the system incorrectly, which you indicated is being corrected by DC Public Schools. Therefore, the WTU will not proceed on this matter. WTU considers this matter closed.

*Id.*, at 7; and Exhibits 13a and 13b. Ms. Johnson alleged that this April 18, 2013, Letter evidenced that “Ms. Powe was arbitrary and perfunctory by not investigating the excess procedures and rules for excessing under the [CBA].” *Id.*, at 7. She further alleged that the Letter indicated that Ms. Powe “[was focused] on proving that [she] deserved to be terminated” and demonstrated that Ms. Powe “never investigated the misclassification or the excessing of [Ms. Johnson’s] position.” *Id.*, at 8. Ms. Johnson contended that the Letter failed to provide an answer from WTU as to whether her misclassification was within the scope of the Arbitration Case, and failed to provide a reason for WTU’s unwillingness to file a grievance on her behalf. *Id.* Ms. Johnson contended that “[b]y not referring to the CBA, ignoring and not investigating the misclassification and excess under the CBA, and lying about investigating my termination [to justify not pursuing a potential grievance and to coerce me into believing that I didn’t have grounds for a grievance or that, even if I had, it would be untimely], Ms. Powe was [discriminatory, perfunctory, and arbitrary].” *Id.*, at 8-10.

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On April 29, 2013, Ms. Johnson, acting upon the advice of her attorney, Kerry Davidson ("Mr. Davidson"), filed a new grievance ("April 29, 2013, Grievance") challenging her misclassification, excess, and termination with DCPS. *Id.*, at 9; and Exhibits 14a1-3 and 14b1-7. Ms. Johnson contended that said Grievance was "meritorious". *Id.*, at 10-15.

On May 13, 2013, Ms. Johnson again contacted Mr. Saunders to ask for assistance with her April 29, 2013, Grievance, which she claimed was "quickly approaching the end of Step 1 Stage 3", because they "needed the WTU to designate [her attorney as an agent of WTU] or represent [her] themselves if [it ended up being necessary] to continue to Step 2." *Id.* at 15; and Exhibit 16. Ms. Johnson asserted that Article 6.4.2.2<sup>8</sup> of the CBA dictates that grievances can only proceed to Step 2 (before the DCPS Chancellor) at the discretion of WTU, which means that WTU either had to represent Ms. Johnson or it had to designate Mr. Davidson as its agent in order for Ms. Johnson to advance her Grievance to Step 2. *Id.*, at 15-16.

On May 15, 2013, WTU Deputy Chief of Staff, Nadine Evans ("Ms. Evans") sent Ms. Johnson an email ("May 15, 2013, Email") in response to Ms. Johnson's May 13, 2013, request, stating:

At this time, the WTU will not be appointing Mr. Kerry Davidson as an agent of WTU in order to pursue your grievance. Pursuant to Article 6.3.1 of the [CBA], 'either an employee or the WTU may raise a grievance, and, if raised by the employee, the WTU *may* associate itself with the grievance....'

In this instance, you have invoked the grievance procedure on your own and, after careful review and consideration, the WTU has declined to associate with your grievance. The WTU is not a party to the grievance you recently filed with DCPS.

Since the WTU has made the decision not to pursue a grievance in your case, the WTU will not be submitting your issue to voluntary mediation under Article 6.4.1.3.2 of the CBA.

If DCPS agrees to mediate this matter with you and Mr. Kerry that is a decision that DCPS has to make outside of the WTU-DCPS CBA. Any decision or agreement reached from that mediation will

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<sup>8</sup> Article 6.4.2.2 of the CBA reads: "The Chancellor, or his/her designee, and those he/she may further name, shall meet with the representatives of the WTU, and with the persons referred to in Step I, within ten school days of such submission, and the Chancellor or designee shall render a decision, in writing, within ten days of such meeting. This meeting shall take the form of a hearing, before a neutral hearing officer during the course of which all parties are afforded the opportunity to present evidence, witnesses, and arguments in support of their respective position(s). The hearing officers shall submit his/her decision to the parties and the decision is binding absent a request for arbitration by either party."

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not bind WTU, since the union is not a party to the grievance at issue.

*Id.*, at 16-17; and Exhibit 17a (emphasis in original).

On May 22, 2013, Erin Pitts (“Ms. Pitts”), Director of Labor Management & Employee Relations (“LMER”) in DCPS’ office of Human Resources, issued DCPS’ response to Ms. Johnson’s Grievance via email (“May 22, 2013, Grievance Response”) stating:

Under the Contract, ‘[n]o matter shall be entertained as a grievance, unless it has been raised with the other party within ten (10) school days after the Teacher or the WTU first learned of its cause.’ Section 6.5.1. Additionally, the contract provided that a teacher has 14 school days to file a written grievance after first learning of its cause, Section 6.4.1.1.1, and that no grievance may be raised more than thirty days after the teacher or the WTU learned of the event giving rise to the grievance, Section 6.5.3. Thus, from the outset, DCPS must determine whether Ms. Johnson’s grievance filed on April 29, 2013, more than two and a half years after the alleged infraction occurred, is timely.

DCPS uses a Human Resources Information Systems platform called PeopleSoft to store certain employee information and to generate documents such as personnel actions (SF-50s) and pay stubs. These documents are automatically populated with information stored on the platform, including the employee’s job title.

DCPS concedes that Ms. Johnson’s title has been improperly coded in PeopleSoft as that of a math teacher, since August 17, 2009. As a result of the improper coding, DCPS generated a number of documents that contained the math teacher designation, including personnel actions and pay stubs. To be sure, the PeopleSoft error caused the employment verification DCPS prepared on March 27, 2013, to list her position as that of a math teacher. However, March 27<sup>th</sup> was not the first time that Ms. Johnson knew or should have known of her improper designation. Ms. Johnson’s final personnel action and pay stubs from 2010 also erroneously stated that Ms. Johnson worked as a math teacher. Therefore, Ms. Johnson was on notice that there was a coding error prior to, and immediately following, her separation in 2010. Mr. Johnson’s grievance is denied as untimely.



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Without waiving the timeliness argument, DCPS looked into the substance of Ms. Johnson's complaint—that she was excessed as a math teacher and not as a reading teacher and that her title was changed to effectuate her excessing. As explained above, Ms. Johnson has been improperly designated as a math teacher in PeopleSoft since August 17, 2009. Additionally, internal documents list Ms. Johnson as a reading teacher for purposes of the 2009-10 excessing. Thus, DCPS cannot credit the claim that Ms. Johnson's position was artificially changed so that she would be subject to excessing. Here, the evidence shows that Ms. Johnson was treated as a reading teacher at the school level and for purposes of her 2010 excessing. Therefore, DCPS concludes that Ms. Johnson's excessing was proper.

With this correspondence, LMER is closing its review of Ms. Johnson's grievance.

*Id.*, Exhibits 18a and 18b1-2 (emphasis in original). In the body of the email in which this May 22, 2013, Grievance Response was attached, Ms. Pitts stated further: "If you wish to proceed with the grievance, please notify us within ten school days and we'll notify the general counsel's office that a hearing is requested." *Id.*, Exhibit 18a.

On June 7, 2013, Ms. Johnson emailed Ms. Pitts contending that DCPS waived the right to invoke its timeliness argument when it advanced her April 29, 2013, Grievance from Step 1 to Step 1 Stage 3. *Id.*, Exhibit 18c2-4. Ms. Johnson did not, however, request a hearing or state that she was requesting to advance her Grievance to Step 2. *Id.* On June 10, 2013, Ms. Pitts responded by email stating: "[i]t appears we have a disagreement on the timeliness matter, but we did look into the substance of your grievance as well" and that "[t]hose findings were an independent basis for our denial of your grievance." *Id.*, Exhibit 18c2. Later on June 10, 2013, Ms. Johnson again emailed Ms. Pitts stating that she still disagreed with Ms. Pitts' interpretation of the timeliness issue and her analysis of the substance of her grievance. Ms. Johnson then stated: "[a]lthough I denied your offer of a hearing, I do appreciate the offer and I am very appreciative of your admission of misclassification." She further stated: "[i]t is unfortunate that we could not resolve this issue through mediation but it is what it is and I'm at peace with that." *Id.*, Exhibit 18c-18c2. On June 11, 2013, Ms. Pitts responded by email stating: "I'll be sure that this communication is added to our file on this this matter" and that "I hope you understand that I won't be providing any additional substantive responses, given your decision not to pursue further administrative remedies with DCPS." *Id.*, Exhibit 18c. Later on June 11, 2013, Ms. Johnson responded to Ms. Pitts' email, stating: "I understand and thank you!" *Id.*

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In the Complaint, Ms. Johnson alleged that Respondents' refusal to designate Mr. Kerry as WTU's agent for the purpose of advancing her grievance was arbitrary, discriminatory, restraining, and a repudiation of her rights because it caused the procedure of her April 29 Grievance to be halted after Step 1 Stage 3 due to "not having the required representation of [WTU] for Step 2 which would have been a meeting with the Chancellor in the form of a hearing." *Id.*, at 17-19. Ms. Johnson further contended that her grievance was "meritorious" and "had it not been for the discriminating, arbitrary, and perfunctory behavior of the [WTU], I had the potential to win at the hearing that [Ms. Pitts] offered me." *Id.*, at 19.

In their Answer, filed on July 10, 2013, Respondents denied Ms. Johnson's allegations and legal conclusions. (Answer, at 1- 6). In addition, Respondents simultaneously filed a Motion to Dismiss Ms. Johnson's Complaint arguing that: 1) Ms. Johnson lacked standing to bring the Complaint because she "is not a member of WTU and has not been a member since 2010" and because she "is not employed by DCPS and has not been an employee since 2010"; 2) the Complaint was untimely because it was filed more than 120 days after the date on which the alleged violations occurred per PERB Rule 520.4, and 3) the Complaint failed to state a claim upon which relief may be granted because the FLRA authority Ms. Johnson cited is only applicable to federal government employees. (Motion to Dismiss, at 7-9).

On July 15-17, 2013, Ms. Johnson filed multiple documents seeking leave to amend her Complaint to add the allegation that Respondents' July 10, 2013, Answer and Motion to Dismiss attempted to cause the Board to discriminate against her in violation of D.C. Code § 1-617.04(b)(2). (First Motion to Amend Complaint).

On July 26, 2013, Respondents filed another Answer and Motion to Dismiss in response to Ms. Johnson's July 15-17 motion to amend her Complaint, in which they denied Ms. Johnson's new assertion that their Answer and Motion to Dismiss constituted a violation of D.C. Code § 1-617.04(b)(2). (Answer to Proposed Amended Complaint, at 6).

On July 27, 2013, Ms. Johnson filed multiple documents seeking leave to amend her Complaint again, this time to withdraw all of her claims under the FLRA and to instead assert them under California's EERA, *supra*. (Second Motion to Amend Complaint).

On July 31-August 16, 2013, Ms. Johnson filed multiple documents in which she moved to strike Respondents' Motions to Dismiss and further moved for a partial decision on the pleadings. (Motion to Strike and for Partial Decision On the Pleadings).

No other pleadings having been filed in this matter, Ms. Johnson's Complaint and the parties' motions are now before the Board for disposition.

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### III. Discussion

PERB Rule 520.4 states that: "Unfair labor practice complaints shall be filed not later than 120 days after the date on which the alleged violations occurred." PERB does not have jurisdiction to consider unfair labor practice complaints filed outside of the 120 days prescribed by the Rule. *Hoggard v. District of Columbia Public Employee Relations Board*, 655 A.2d 320, 323 (D.C. 1995) ("[T]ime limits for filing appeals with administrative adjudicative agencies...are mandatory and jurisdictional"). The 120-day period for filing a complaint begins when the complainant first knew or should have known about the acts giving rise to the alleged violation. *Charles E. Pitt v. District of Columbia Department of Corrections*, 59 D.C. Reg. 5554, Slip Op. No. 998 at p. 5, PERB Case No. 09-U-06 (2009).

While a complainant does not need to prove his/her case on the pleadings, he/she must plead or assert allegations that, if proven, would establish a statutory violation of the CMPA. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, et al.*, 59 D.C. Reg. 5427, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09 (2009) (citing *Virginia Dade v. National Association of Government Employees, Service Employees International Union, Local R3-06*, 46 D.C. Reg. 6876, Slip Op. No. 491 at p. 4, PERB Case No. 96-U-22 (1996); and *Gregory Miller v. American Federation of Government Employees Local 631 and District of Columbia Department of Public Works*, 48 D.C. Reg. 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994)); see also *Ulysses S. Goodine v. Fraternal Order of Police/Department of Corrections Labor Committee*, 43 D.C. Reg. 5163, Slip Op. No. 476 at p. 3, PERB Case No. 96-U-16 (1996). If the record demonstrates that the allegations do concern a violation of the CMPA, then the Board has jurisdiction over the matter and can grant relief accordingly. See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53 (2013) (citing *American Federation of Government Employees, Local 2741 v. District of Columbia Department of Recreation and Parks*, 50 D.C. Reg. 5049, Slip Op. No. 697 at p. 6, PERB Case No. 00-U-22 (2002)).

Notwithstanding, the Board lacks the authority to interpret the terms of the parties' contract in order to determine if there has been a violation of the CMPA. *Council of School Officers, Local 4, American Federation of School Administrators, AFL-CIO v. District of Columbia Public Schools*, 59 D.C. Reg. 6138, Slip Op. No. 1016 at p. 9, PERB Case No. 92-U-08 (2010); see also *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia*, 60 D.C. Reg. 2585, Slip Op. No. 1360 at 5-7, PERB Case No. 12-U-31 (2013). In such cases, the Board defers the resolution of the issues and the interpretation of contractual questions to the grievance and arbitration processes established in the parties' contract. *Fraternal Order of Police/Metropolitan Police Department Labor Committee v.*

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*District of Columbia, et al*, 59 D.C. Reg. 6039, Slip Op. No. 1007 at p. 8, PERB Case No. 08-U-41 (2009) (citing *AFSCME, D.C. Council 20, Local 2921 v. D.C. Public Schools*, 42 D.C. Reg. 5685, Slip Op. No. 339 at n. 6, PERB Case No. 92-U-08 (1995)).

Under the CMPA, unions have a duty to fairly represent their members. *Bagenstose v. WTU, supra*, Slip Op. No. 894 at p. 7-8, PERB Case No. 06-U-37. A union breaches its duty of fair representation if it engages in conduct that is arbitrary, discriminatory, or in bad faith. *Id.* (citing *Rebecca Owens v. AFSCME, Local 2095 and National Union of Hospital and Healthcare Employees, District 1199*, 52 D.C. Reg. 1645, Slip Op 750, PERB Case No. 02-U-27 (2004); and D.C. Code § 1-617.03(a)(1)<sup>9</sup>). However, the union's duty does not require it to pursue every grievance to arbitration insofar as it provides the member with a rational basis for its refusal to do so. *Stanley O. Roberts and American Federation of Government Employees, Local 2725*, 36 D.C. Reg. 3631, Slip Op. No. 203 at p. 3, PERB Case No. 88-S-01 (1989). A complainant who alleges that the union has breached its duty by refusing to advance a grievance to arbitration must allege in the pleadings the existence of some evidence beyond mere conclusory statements or beliefs that, if proven, would tie the union's actions to the alleged violation of the CMPA. *Goodine v. FOP, supra*, Slip Op. No. 476 at p. 3-4, PERB Case No. 96-U-16.

Last, *pro se* litigants are entitled to a liberal construction of their pleadings and must be given a reasonable opportunity to present their case without undue focus on technical flaws or imperfections. *Bagenstose v. WTU, supra*, Slip Op. No. 894 at p. 3, PERB Case No. 06-U-37. When considering a dismissal, the Board views the contested facts in the light most favorable to the Complainant. *Osekre v. American Federation of State, County, and Municipal Employees, Council 20, Local 2401*, 47 D.C. Reg. 7191, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04 (1998) (citing *Doctor's Council of District of Columbia General Hospital v. District of Columbia General Hospital*, 49 D.C. Reg. 1237, Slip Op. No. 437, PERB Case No. 95-U-10 (1995); and *JoAnne G. Hicks v. District of Columbia Office of the Deputy Mayor for Finance, Office of the Controller and American Federation of State, County and Municipal Employees, District Council 24*, 40 D.C. Reg. 1751, Slip Op. No. 303, PERB Case No. 91-U-17 (1992)).

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<sup>9</sup> D.C. Code § 1-617.03(a)(1): "(a) Recognition shall be accorded only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. A labor organization must certify to the Board that its operations mandate the following: (1) The maintenance of democratic provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings...."

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A. Failure to Investigate Grievance; Failure to Provide Reasons for Actions; and Failure to File or Participate in Grievance

In the instant case, Ms. Johnson alleges that Respondents violated D.C. Code § 1-617.04(b)<sup>10</sup> by ignoring and failing to investigate her “potentially meritorious” grievance, failing to give her any reasons for any of their actions, and failing to file or participate in her April 29, 2013, Grievance. (Complaint, at 1-19). In order to determine whether Respondents violated the CMPA by these actions, the Board would first need to determine whether Ms. Johnson’s claims and Grievance were, indeed, “meritorious” under the CBA between WTU and DCPS. Likewise, the Board would have to interpret the CBA in order to determine whether Ms. Johnson is correct in her assessment that her Grievance could not have advanced to Step 2 without WTU’s involvement. The Board finds that, consistent with PERB precedent, it does not have the authority to interpret the terms of a party’s CBA in order to determine if there has been a violation of the CMPA. *Council of School Officers, Local 4, American Federation of School Administrators v. DCPS, supra*, Slip Op. No. 1016 at p. 9, PERB Case No. 92-U-08. Ms. Johnson’s allegations on these fronts are therefore dismissed with prejudice.<sup>11</sup>

The Board notes, however, that even if it relied on DCPS’ May 22, 2013, Grievance Response as WTU’s and DCPS’ official interpretation of the CBA on the question of whether Ms. Johnson’s April 29, 2013, Grievance was meritorious, the Board still would not have been able to find that Respondents violated the CMPA because PERB precedent would require the Board to defer to said interpretation which determined that Ms. Johnson’s claim was not “meritorious” in regard to both its timeliness and substance. (Complaint, Exhibits 18a and 18b1-2); and *FOP v. MPD, et al., supra*, Slip Op. No. 1007 at p. 8, PERB Case No. 08-U-41.

Furthermore, the Board notes that Ms. Johnson’s allegations would also likely fail because the record shows that Respondents did not ignore her claims, but rather that they did investigate them, and that they did provide her with a rational basis why they elected, in WTU’s discretion, not to participate in or file her Grievance. Ms. Powe’s April 18, 2013, Letter and Ms. Evans’ May 15, 2013, Email each demonstrated that Respondents appropriately investigated and

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<sup>10</sup> See Footnote 2 above.

<sup>11</sup> Even viewing these allegations in the light most favorable to the Complainant would not change the fact that PERB does not have jurisdiction to address them. *Osekre v. AFCSME, Council 20, Local 2401, supra*, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04. Nevertheless, by noting that Complainant would still likely not prevail even if her allegations were addressed on the merits, PERB has fulfilled its obligations to view the allegations in the light most favorable to the Complainant, and to give Complainant a reasonable opportunity to present her case without undue focus on the technical flaws or imperfections of her pleadings. *Bagenstose v. WTU, supra*, Slip Op. No. 894 at p. 3, PERB Case No. 06-U-37.

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considered Ms. Johnson's requests, and each adequately<sup>12</sup> articulated WTU's decisions and the rationales and legal authorities upon which said determinations were based. (Complaint, Exhibits 13a-b, 17a); and *Roberts and AFGE, supra*, Slip Op. No. 203 at p. 3, PERB Case No. 88-S-01 (holding that a union's duty of fair representation does not require it to pursue every grievance to arbitration insofar as it provides the member with a rational basis for its refusal to do so). An indication that Respondents' assessments of the merits of Ms. Johnson's Grievance were rational and justified is evidenced by the fact that DCPS' May 22, 2013, denial of Ms. Johnson's Grievance was based on the exact same two (2) rationales that Ms. Powe articulated in her April 18, 2013, Letter to Ms. Johnson; that the Grievance was untimely, and that, substantively, DCPS did not commit any procedural error when it terminated Ms. Johnson (Complaint, Exhibits 13a-b, 18a, 18b1-2).

Additionally, there is no evidence to support Ms. Johnson's conclusory statements that she could not have advanced her Grievance to Step 2 without WTU's involvement. *Goodine v. FOP, supra*, Slip Op. No. 476 at p. 3-4, PERB Case No. 96-U-16. On the contrary, Ms. Pitts stated in the body of the email in which her May 22, 2013, Grievance Response was attached that Ms. Johnson had ten (10) school days to "request a hearing"<sup>13</sup> if "[she wished] to proceed with the grievance", which seemed to indicate that DCPS would have allowed her to advance her Grievance to Step 2 if she wanted, even without WTU's involvement. (Complaint, Exhibit 18a). Despite this invitation, Ms. Johnson elected not to "request a hearing" in order to "proceed with the grievance," and instead stated that she "understood" when Ms. Pitts expressed that "[DCPS would not] be providing any additional substantive responses, given [her] decision not to pursue further administrative remedies with DCPS." (Complaint, Exhibits 18a, 18c, 18c2-4). Without some evidence beyond mere conclusory statements to show that Ms. Johnson was barred from advancing her Grievance because of Respondents' actions, the Board would not be able to find that Respondents violated the CMPA as Ms. Johnson alleged. *Goodine v. FOP, supra*, Slip Op. No. 476 at p. 3-4, PERB Case No. 96-U-16.

B. IMPACT Negotiations and 2010 Arbitration Case

Ms. Johnson's allegation that WTU's negotiation of the "IMPACT evaluation instrument and process" during the bargaining process leading up to the execution of the current CBA between DCPS and WTU in 2007 was prohibited under D.C. Code § 1-617.18, is untimely. (Complaint, at 3-4). As a DCPS employee who was excessed and terminated in 2010 in part

<sup>12</sup> This is especially true in consideration of the facts that Ms. Johnson was not a member of WTU or an employee of DCPS and had not been in nearly three (3) years.

<sup>13</sup> Article 6.4.2.2 of the CBA provides that a Step 2 Grievance would consist of a "hearing" before the DCPS Chancellor or his/her designee. See Footnote 8 above.

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because of the score she received under the “IMPACT evaluation instrument and process” described in the CBA, Ms. Johnson knew or should have known about the terms and requirements of that process at the very latest on the date she was terminated in 2010. *Id.*; and *Pitt v. DCDC*, *supra*, Slip Op. No. 998 at p. 5, PERB Case No. 09-U-06. As a result, the time period prescribed by PERB Rule 520.4 for Ms. Johnson to challenge WTU’s negotiation of the “IMPACT evaluation instrument and process” as an unfair labor practice began to run on that date and expired 120 days later. *Hoggard v. PERB*, *supra*. Ms. Johnson did not raise her allegation until she filed her Complaint nearly three (3) years later on June 21, 2013. (Complaint, at 1). Therefore, because Ms. Johnson’s allegation is untimely, it is dismissed with prejudice.<sup>14</sup> *Hoggard v. PERB*, *supra*.

Ms. Johnson’s claim that Respondents never responded to her inquiries about whether she was included in the 2010 Arbitration Case is similarly untimely. (Complaint, at 4-5, 7). Ms. Johnson signed the “Permission to Release Employment Information” form in October 2011, and was therefore placed on notice then regarding her potential involvement. *Id.*; and *Pitt v. DCDC*, *supra*, Slip Op. No. 998 at p. 5, PERB Case No. 09-U-06. Notwithstanding, she did not raise her allegation until approximately a year and a half later. (Complaint, at 1). As a result, in accordance with PERB Rule 520.4, the Board finds that Ms. Johnson’s assertion that Respondents failed to provide her with information regarding the 2010 Arbitration Case is untimely and is therefore dismissed with prejudice. *Hoggard v. PERB*, *supra*.

### C. Remaining Issues and Motions

As a result of the Board’s dismissal of Ms. Johnson’s Complaint, it is not necessary to address her subsequent motions to amend the Complaint to: 1) add the allegation that Respondents’ Answers and Motions to Dismiss attempted to cause the Board to discriminate

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<sup>14</sup> Even viewing this allegation in the light most favorable to Complainant would not overcome the jurisdictional requirement that complaints be filed within 120 days of the date the complainant knew or should have known of the event giving rise to the alleged violation. *Osekre v. AFCSME, Council 20, Local 2401*, *supra*, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04. In this instance, the Board viewed the facts in the light most favorable to the Complainant by applying the latest possible date—the day she was terminated—to its determination as to when Ms. Johnson should have known that WTU’s negotiations regarding the “IMPACT evaluation instrument and process” possibly\* violated D.C. Code § 1-617.18. An argument could be made that she actually should have known much sooner, i.e. the date she was hired or the date she received her first IMPACT evaluation. *Id.* \*(NOTE: the Board is not addressing the merits of Ms. Johnson’s allegation, nor is it opining on even the *possible* merits of her allegation. The Board is simply saying, as with any other untimely allegation brought under PERB Rule 520 *et seq.*, that Complainant had 120 days to raise her allegation and failed to do so.

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against her in violation of D.C. Code § 1-617.04(b)(2), and 2) withdraw all of her claims under the FLRA and to assert them instead under California’s EERA, *supra*.<sup>15</sup>

Similarly, it is not necessary to address Respondents’ affirmative defenses, Respondents’ Motions to Dismiss, Ms. Johnson’s Motions to Strike, or Ms. Johnson’s Motions for Partial Decision on the Pleadings.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Complaint is dismissed with prejudice.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

September 3, 2013

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<sup>15</sup> The Board notes that, even if Ms. Johnson’s motions to amend the Complaint were granted, it would not change the outcome. For example, there is no evidence beyond Ms. Johnson’s conclusory statements that Respondents’ mere denial of the allegations raised in the Complaint and their filing of a motion to dismiss the Complaint, either individually or collectively, should be construed as an attempt to cause the Board to discriminate against Ms. Johnson in violation of D.C. Code § 1-617.04(b)(2). *Goodine v. FOP, supra*, Slip Op. No. 476 at p. 3-4, PERB Case No. 96-U-16. Similarly, California’s EERA, *supra*, is only applicable and binding in the state of California and has no force or effect on PERB or any other agency in the District of Columbia. PERB’s authority stems from and is authorized by the CMPA. Therefore, PERB only has jurisdiction to address allegations that, if proven, would establish a statutory violation of the CMPA. *FOP v. MPD, et al., supra*, Slip Op. No. 984 at p. 6, PERB Case No. 08-U-09.



**CERTIFICATE OF SERVICE**

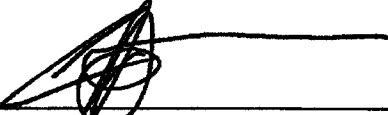
This is to certify that the attached Corrected Copy of the Decision and Order in PERB Case No. 13-U-34, Slip Op. No. 1420, was transmitted via File & ServeXpress™ and e-mail to the following parties on this the 24<sup>th</sup> day of September, 2013.

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\_\_\_\_\_  
Colby J. Harmon, Esq.  
Attorney-Advisor

**Council of the District of Columbia  
Committee on Finance and Revenue  
Notice of Public Roundtable**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

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**COUNCILMEMBER JACK EVANS, CHAIR  
COMMITTEE ON FINANCE AND REVENUE**

**ANNOUNCES A PUBLIC ROUNDTABLE ON:**

**PR 20-442, the “Commission on the Arts and Humanities Barbara J. Jones Confirmation Resolution of 2013”**

**PR 20-443, the “Commission on the Arts and Humanities Rhona Friedman Confirmation Resolution of 2013”**

**PR 20-411, the “Fiscal Year 2014 Income Tax Secured Revenue Bond and General Obligation Bond Issuance Approval Resolution of 2013”**

**October 9, 2013**

**9:30 a.m.**

**Room 120 - John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Wednesday, October 9, 2013 at 9:30 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 20-442, the “Commission on Arts and Humanities Barbara J. Jones Confirmation Resolution of 2013” would confirm the appointment of Barbara J. Jones as member of the Commission on Arts and Humanities, for a term to end June 30, 2016.

PR 20-443, the “Commission of the Arts and Humanities Rhona Friedman Confirmation Resolution of 2013” would confirm the reappointment of Rhona Friedman as member of the Commission on Arts and Humanities, for a term to end June 30, 2016.

PR 20-411, the “Fiscal Year 2014 Income Tax Secured Revenue Bond and General Obligation Bond Issuance Approval Resolution of 2013” would approve the borrowing of funds by the District through the issuance and sale of either income tax secured revenue bonds or general obligation bonds up to \$1,262,153,835 to fund capital projects.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or [sloy@dccouncil.us](mailto:sloy@dccouncil.us), and provide your name, organizational affiliation (if any), and title with the organization by 9:30 a.m. on Tuesday, October 8, 2013. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to [sloy@dccouncil.us](mailto:sloy@dccouncil.us) or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

**District of Columbia REGISTER – October 4, 2013 (Part 1) – Vol. 60 - No. 42 013529 – 013762**