

District of Columbia

REGISTER

HIGHLIGHTS

- DC Council passes Act 20-261, Microstamping Implementation Emergency Amendment Act of 2013
- DC Council schedules a public oversight hearing on the Fiscal Year 2013 Comprehensive Annual Financial Report (CAFR)
- Department of Insurance, Securities and Banking schedules a public hearing on the “Surplus and Community Health Reinvestment Review and Determination for Group Hospital and Medical Services, Inc.”
- Office of Contracting and Procurement updates publication requirements for small purchases
- DC Public Service Commission approves Potomac Electric Power Company’s application to update the retail transmission rates
- Board of Elections publishes proposed polling place relocations
- Office of the Deputy Mayor for Planning and Economic Development extends the due date for applications for the Great Streets Small Business Capital Improvement Grant

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

All documents published in the *D.C. Register* must be submitted in accordance with the applicable provisions of the Rules of the Office of Documents and Administrative Issuances. Documents which are published in the *D.C. Register* include (1) Acts and resolutions of the Council of the District of Columbia; (2) Notices of proposed Council legislation, Council hearings, and other Council actions; (3) Notices of public hearings; (4) Notices of final, proposed, and emergency rulemaking; (5) Mayor's Orders and information on changes in the structure of the District of Columbia government (6) Notices, Opinions, and Orders of District of Columbia Boards, Commissions and Agencies; (7) Documents having general applicability and notices and information of general public interest.

Deadlines for Submission of Documents for Publication

ODAI accepts electronic documents for publication using a Web-based portal at www.dcregs.dc.gov. To submit a document, obtain a username and password from your department's ODAI liaison. If you do not know your liaison, email ODAI at dcdocuments@dc.gov to request for your department's ODAI liaison. For guidelines on how to format and submit documents for publication, email ODAI at dcdocuments@dc.gov.

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.

Viewing the DC Register

ODAI publishes the *D.C. Register* ONLINE every Friday at www.dcregs.dc.gov. Copies of the *D.C. Register* are also available for public review at each branch of the District of Columbia Public Library and in each Advisory Neighborhood Commission office. There are no restrictions on the republication of any portion of the *D.C. Register*. News services are encouraged to publish all or part of the *D.C. Register*.

Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *D.C. Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act*. The Administrator of the Office of Documents hereby certifies that this issue of the *D.C. Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act*.

DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

441 4th STREET - SUITE 520 SOUTH - ONE JUDICIARY SQ. - WASHINGTON, D.C. 20001 - (202) 727-5090

VINCENT C. GRAY
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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

CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

DC ACTS

A20-256 Historic Music Cultural Institutions Expansion Tax
Abatement Act of 2013 [B20-70] 000305 - 000308

A20-257 Fair Student Funding and School-Based Budgeting
Amendment Act of 2013 [B20-309] 000309 - 000314

A20-258 Closing of a Portion of the Public Alley in Square 858,
S.O. 12-03336, Act of 2013 [B20-388] 000315 - 000316

A20-259 Earned Sick and Safe Leave Amendment
Act of 2013 [B20-480] 000317 - 000321

A20-260 Tax Exemption for Teacher Awards Temporary
Act of 2013 [B20-593] 000322 - 000323

A20-261 Microstamping Implementation Emergency
Amendment Act of 2013 [B20-612] 000324 - 000325

A20-262 Closing of a Portion of the Public Alley in Square 858,
S.O. 12-03336, Emergency Act of 2013 [B20-617] 000326 - 000327

A20-263 Medical Marijuana Cultivation Center Second
Congressional Review Emergency
Amendment Act of 2013 [B20-614] 000328 - 000330

RESOLUTIONS

Res 20-364 Historic Preservation Review Board
Donald Graham Davidson Confirmation
Resolution of 2013 000331

Res 20-365 Historic Preservation Review Board
Nancy L. Pryor Metzger Confirmation
Resolution of 2013 000332

Res 20-366 Historic Preservation Review Board
Maria Casarella Cunningham Confirmation
Resolution of 2013 000333

Res 20-383 Extension of Time to Dispose of the Strand Theater
Congressional Review Emergency Declaration
Resolution of 2014 000334

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

RESOLUTIONS CONT'D

Res 20-384	Transportation Infrastructure Mitigation Congressional Review Emergency Declaration Resolution of 2014.....	000335
Res 20-385	District of Columbia Occupational Safety and Health Board Kathleen McKirchy Confirmation Resolution of 2014.....	000336
Res 20-386	District of Columbia Occupational Safety and Health Board Michael Kirkpatrick Confirmation Resolution of 2014.....	000337
Res 20-387	District of Columbia Occupational Safety and Health Board Aryan Rodriguez Bocquet Confirmation Resolution of 2014.....	000338
Res 20-388	District of Columbia Occupational Safety and Health Board Earl Woodland Confirmation Resolution of 2014	000339
Res 20-389	Commission on Fashion Arts and Events Jennifer M. Fisher Confirmation Resolution of 2014.....	000340
Res 20-390	Commission on Fashion Arts and Events Marcus A. Williams Confirmation Resolution of 2014.....	000341
Res 20-391	Alcoholic Beverage Control Board Victor H. Rodriguez Confirmation Resolution of 2014	000342
Res 20-392	Alcoholic Beverage Control Board James N. Short Confirmation Resolution of 2014	000343
Res 20-393	Rental Housing Commission Claudia McKoin Confirmation Resolution of 2014	000344
Res 20-394	Contract No. NFPHC-151 Modifications Nos. 4-7 Approval and Payment Authorization Emergency Declaration Resolution of 2014.....	000345 - 000346
Res 20-395	Contract No. DCPL-2009-C-0004B Modification Approval and Payment Authorization Emergency Declaration Resolution of 2014.....	000347
Res 20-396	Sense of the Council in Support of the Living Wage Emergency Declaration Resolution of 2014.....	000348
Res 20-397	Sense of the Council in Support of the Living Wage Emergency Resolution of 2014	000349

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

BILLS INTRODUCED AND PROPOSED RESOLUTIONS

Intent to Act on New Legislation -

Bills B20-645, and Proposed Resolutions PR20-620 through PR20-622	000350
--	--------

COUNCIL HEARINGS

Notice of Public Hearings -

B20-344	Special Event Waste Diversion Act of 2013 (revised).....	000351 - 000352
B20-638	Solid Waste Facility Permit Amendment Act of 2014(revised).....	000351 - 000352
B20-641	Waste Management Modernization Amendment Act of 2014 (revised).....	000351 - 000352
B20-531	Non-Profit Certified Business Enterprise Amendment Act of 2013	000353
PR20-605	Board of Trustees of the University of the District of Columbia Dr. Anthony C. Tardd Confirmation Resolution of 2013.....	000354
PR20-606	Board of Trustees of the University of the District of Columbia Joshua S. Wyner Confirmation Resolution of 2013	000354

Notice of Public Oversight Hearing -

Fiscal Year 2013 Comprehensive Annual Financial Report (CAFR)	000355
---	--------

Notice of Public Oversight Roundtable -

Options Public Charter School (Revised/Updated)	000356
---	--------

OTHER COUNCIL ACTIONS

Reprogramming Requests -

20-145	Request to reprogram \$2,458,638 of Capital funds budget authority and allotment from the Department of General Services (DGS) and the Fire and Emergency Medical Services Department (FEMS) to the Department of Forensic Sciences	000357
20-146	Request to reprogram \$1,500,000 of Master Equipment Lease/Purchase Capital funds budget authority and allotment from the Department of Corrections (DOC) to the Office of the Deputy Mayor for Planning and Economic Development (DMPED).....	000357

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

Alcoholic Beverage Regulation Administration -

ABC Board's Calendar – January 22, 2014	000358 - 000360
DC Eagle - ANC 7F – Correction	000361
Events Concept - ANC 6C - Correction	000362
Fort Carroll Market - ANC 8C - Substantial Change	000363
French Bistro Bistro B Lounge - ANC 2B - Renewal	000364
Good Hope Deli & Market - ANC 8A - New.....	000365
Hilltop Bar & Restaurant - ANC 1B - New.....	000366
Macon-DC - ANC 3G - New.....	000367
Mova - ANC 1B - Renewal	000368
New Town Kitchen and Lounge - ANC 1B - Renewal	000369
Phase I of Dupont - ANC 2B - Renewal.....	000370
Rosebar - ANC 2B - Renewal	000371
Steel Plate - ANC 5B - New	000372
Stetson's - ANC 2B - Renewal	000373
The American - ANC 2F - Renewal.....	000374
Tico - ANC 2B – Correction	000375

Elections, Board of - Intent to Review Initiative Matter

Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014	000376 - 000381
--	-----------------

General Services, Department of - Proposed surplus of District property

Square 2892, Lot 0105 – Georgia Avenue NW.....	000382
--	--------

Health, Department of / SHPDA

Certificate of need application - MedStar Health, Inc	000383
---	--------

Insurance, Securities and Banking, Department of

GHMSI Surplus and Community Health Reinvestment Review and Determination	000384
---	--------

Zoning Adjustment, Board of - February 11, Hearings

18613 Continental Mortgage and Investment Corp – ANC- 7E.....	000385 - 000387
18671 Jemal’s TP Land LLC - ANC - 4B	000385 - 000387
18705 Kingman Park Civic Association and W. Simpkins - ANC-5D.....	000385 - 000387
18706 Lawrence S. Ward and Jessica Furey - ANC-3E.....	000385 - 000387
18707 Antioch Baptist Church - ANC-7C.....	000385 - 000387
18708 Amir Motlagh - ANC-3D.....	000385 - 000387
18709 DAZ LLC - ANC-5E	000385 - 000387

Zoning Commission Cases

13-10 ZP Georgia, LLC	000388 - 000390
-----------------------------	-----------------

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

FINAL RULEMAKING

Contracting and Procurement, Office of – Amend 27 DCMR (Contracts and Procurement), Ch. 13 (Publicizing Contract Actions) , Sec. 1304.1 to update publication requirements for small purchases.....000391

Health, Dept. of – Amend 17 DCMR (Business, Occupations, and Professions), Ch. 63 (Occupational Therapy) to remove provisions governing occupational therapy assistants which will be codified in Ch. 73 (Occupational Therapy Assistants) 000392 - 000407

Health, Dept. of – Amend 17 DCMR (Business, Occupations and Professions) to adopt Ch. 73 (Occupational Therapy Assistants) to establish guidelines for regulating the profession of occupational therapy assistants000408 - 000424

Lottery and Charitable Games Control Board - Amend 30 DCMR (Lottery and Charitable Games), Ch. 9 (Description of On-Line Games) to implement changes to the Powerball Power Play Game.....000425 - 000427

Public Service Commission – Formal Case 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia (Pepco’s proposed tariff amendment to update the retail transmission rates included in the Rider Standard Offer Service)000428 - 000429

PROPOSED RULEMAKING

Behavioral Health, Dept. of – Amend 22A DCMR (Mental Health), Ch. 51, (Supported Employment Program – Reimbursement), to revise the reimbursement rates for Supported Employment services000430

Housing Authority, DC– Amend 14 DCMR (Housing, Ch. 98 (Public Housing: Achieving Your Best Life Rewards Property Program) update policies for DCHA’s Achieving Your Best Life Rewards Property Program; Second proposed rules to incorporate review changes from proposed rules published on November 15, 2013, at 60 DCR 15868.....000431 - 000437

Water and Sewer Authority, D.C. – Amend 21 DCMR (Water and Sanitation), Ch. 1 (Water Supply), Sec. 112, (Fees), and Ch. 41 (Retail Water and Sewer Rates), Sec. 4100 (Rates for Water Service), and Sec. 4101, (Rates for Sewer Service) to update retail water and sewer rates000438 - 000441

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

EMERGENCY AND PROPOSED RULEMAKING

Health Care Finance, Dept. of - Amend 29 DCMR (Public Welfare),
Ch. 19 (Home and Community Based Services for Individuals
with Intellectual and Developmental Disabilities), Sec. 1915
“Host Home Services” to establish standards governing
reimbursement of host home services; Second emergency and
proposed rules to incorporate review changes from emergency and
proposed rules published on September 20, 2013 at 60 DCR 13205000442 - 000452

Health Care Finance, Dept. of - Amend 29 DCMR (Public Welfare),
Ch. 19 (Home and Community Based Services for Individuals
with Intellectual and Developmental Disabilities) to adopt
Sec. 1917 (Live-In Caregiver), to establish standards governing
reimbursement of shared living services; Second emergency and
proposed rules to incorporate review changes from emergency and
proposed rules published on September 27, 2013 at 60 DCR 13410.....000453 - 000457

Health Care Finance, Dept. of - Amend 29 DCMR (Public Welfare),
Ch. 19 (Home and Community Based Services for Individuals
with Intellectual and Developmental Disabilities) to adopt
Sec. 1925 (Individualized Day Supports Services), to establish
standards governing reimbursement of individualized day
supports services; Second emergency and proposed rules to
incorporate review changes from emergency and proposed
rules published on September 27, 2013 at 60 DCR 13415000458 - 000463

Health Care Finance, Dept. of - Amend 29 DCMR (Public Welfare),
Ch. 52 (Medicaid Reimbursement for Mental Health
Rehabilitative Services), Sec. 5213 (MEDICAID
Reimbursement For Mental Health Rehabilitative Services)
to update the reimbursement rates to Department of
Behavioral Health-certified mental health providers000464 - 000467

NOTICES, OPINIONS, AND ORDERS

MAYOR’S ORDERS

2014-012 Reappointments - Historic Preservation Review Board
(M. Cunningham, N. Metzger and D. Davidson) 000468

2014-013 Amendment - Delegation of Authority to the Deputy
Mayor for Planning and Economic Development to
Execute Certain Documents with the District of
Columbia Water and Sewer Authority 000469 - 000470

2014-014 Appointments - Alcoholic Beverage Control Board
(James N. Short and Victor H. Rodriguez)..... 000471

2014-015 Appointment - Commission for Women (Mary Ivey)..... 000472

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS CONT'D

MAYOR'S ORDERS CONT'D

2014-016 Appointment - District of Columbia Real Estate
Commission (Ulani D. Prater Gulstone)..... 000473

2014-017 Appointments - Commission on Aging
(Virginia Williams and Carolyn Nicholas)..... 000474

2014-018 Delegation of Authority – Office of the State
Superintendent of Education –
Testing Integrity Act of (Dr. Janette Harris) 000475

BOARDS, COMMISSIONS, AND AGENCIES

Alcoholic Beverage Regulation Administration -
ABC Board's Investigative Agenda – January 22, 2014..... 000476 - 000477
ABC Board's Legal Agenda – January 22, 2014 000478
ABC Board's Licensing Agenda – January 22, 2014 000479 - 000480

Asian and Pacific Islander Affairs, Office on - Meeting
Commission on Asian and Pacific Islander Affairs - 1/23/2014..... 000481

DC Housing Finance Agency - Board Meeting - January 25, 2014..... 000482

D.C. Preparatory Academy PCS - Request for Proposals
Solar Power Purchase Agreement 000483

Elections, Board of
Certification of ANC/SMD Vacancy (4A04) 000484
Monthly Report of Voter Registration Statistics
as of December 31, 2013..... 000485 - 000494

Elections, Board of - Proposed Polling Place Relocation
Precinct #4, Ward 2 000495
Precinct #5, Ward 2 000496
Precinct #31, Ward 3 000497
Precinct #38, Ward 1 000498
Precinct #70, Ward 5 000499
Precinct #139, Ward 5 000500

Environment, District Department of the - Permit
#6659-R1 Lafarge Mid-Atlantic LLC,
888 New Jersey Avenue SE 000501 - 000502

#6820 All Make Auto Inc., 1800 Adams Street NE 000503 - 000504

#6821 Potomac Electric Power Company,
Building 59, 3400 Benning Road NE 000505 - 000506

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

**NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D**

#6822	Potomac Electric Power Company, Building 56, 3400 Benning Road NE	000507 - 000508
#6824	Potomac Electric Power Company, Building 75, 3400 Benning Road NE	000509 - 000510
#6825	Potomac Electric Power Company, Building 88, 3400 Benning Road NE	000511 - 000512
Health, Department of - Public meeting		
	DC Board of Medicine - January 29, 2014	000513
	Medical Marijuana Intergovernmental Subcommittee of the Medical Marijuana Advisory Committee.....	000514
Not-For-Profit Hospital Corporation - General Board Meeting		
	General Board Meeting - January 23, 2014	000515 - 000516
	General Board Meeting 2014 Annual Calendar	000517
Planning and Economic Development, Office of the Deputy Mayor for -		
	Great Streets Small Business Capital Improvement Grant- Change in due date	000518
	H Street, NE Small Business Capital Improvement Grants - Change in due date	000519
Public Safety and Justice, Office of the Deputy Mayor for -		
	DC Corrections Information Council - Open Meeting – January 14, 2014	000520
Public Service Commission – Extension of Comment Period		
	Formal Case 1112, In the Matter of Amendment of the Commission's Rules Regarding Regulation of Local Exchange Carriers (Request for comments on the certification and regulation of local exchange carriers)	000521
	Retirement Board, DC - Open Board Meeting - January 23, 2014	000522
Two Rivers PCS – Request for Proposals		
	Construction Project Management Services	000523
Water and Sewer Authority, DC - Meetings		
	Finance and Budget Committee - January 23, 2014	000524
	Retail Water and Sewer Rates Committee - January 28, 2014	000525
	Strategic Planning Committee - January 23, 2014	000526

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

**NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D**

Zoning Adjustment, Board of -

18506-A	Ontario Residential LLC - ANC 1C	000527 - 000529
18511	Alleyoop LLC - ANC 1A	000530 - 000542
18676	Mundo Verde Public Charter School - ANC 5E.....	000543 - 000546
18682	Government of the District of Columbia - ANC 8C.....	000547 - 000548
18684	Howard University - ANC 1B	000549 - 000550

Zoning Commission – Notice of Closed Meetings	000551
---	--------

Zoning Commission - Cases

03-12Q /	Capper Carrollsburg Venture, LLC and D.C.	
03-13Q	Housing Authority	000552
09-03A	Skyland Holdings, LLC (PUD Modification).....	000553 - 000564
09-03B	Skyland Holdings, LLC (PUD Time Extension).....	000565 - 000568

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-256

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 1, 2014

To amend Chapter 46 of Title 47 of the District of Columbia Official Code to conditionally and temporarily exempt Historic Music Cultural Institutions and property used by them from certain real property, recordation, and transfer taxes and assessments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Historic Music Cultural Institutions Expansion Tax Abatement Act of 2013".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-4662. Historic Music Cultural Institutions."

(b) A new section 47-4662 is added to read as follows:

"§ 47-4662. Historic Music Cultural Institutions.

"(a) For the purposes of this section, the term:

"(1) The term "Expanded Music Cultural Use Property" means real property in the District of Columbia leased or purchased by an HMCI that is capable of supporting one or more buildings larger in size than the Historic Music Cultural Property leased or owned by the HMCI immediately prior to the lease or purchase of the expanded use property, where the principal purpose of the lease or purchase is to relocate the HMCI into that expanded use property; provided, that the expanded use property is used to continue and to increase the HMCI's ability to present live music performances in the District, and to further the goal of expanding public access to live music and other entertainment and employment opportunities in, as well as increasing revenue for, the District.

"(2) "Historic Music Cultural Institution" or "HMCI" means an organization, whether organized for private gain or not, operating a Historic Music Cultural Property for a minimum of 45 years, and which, in each of the 5 calendar years preceding the effective date of this section, hosted a minimum of 100 live musical performances at the Historic Music Cultural Property that were open to the public.

"(3) "Historic Music Cultural Property" means real property in the District of Columbia owned or leased by an HMCI and used by the HMCI to stage live musical performances for the public and associated activities. A Historic Music Cultural Property includes the music

ENROLLED ORIGINAL

venue, including a stage for performances and seating area for an audience, as well as portions of the building or buildings that are dedicated to food or beverage service or preparation and used exclusively by the HMCI, supporting office spaces used exclusively by the HMCI, and spaces occupied exclusively by directly affiliated nonprofit music-oriented cultural organizations, together with associated grounds.

“(b) The tax imposed by Chapter 8 of this title with respect to an Expanded Music Cultural Use Property purchased or leased by an Historic Music Cultural Institution shall be abated for the period commencing with the beginning of the month following the date that a deed, memorandum of lease, or other document reflecting the HMCI’s current and full ownership or possessory interest, as applicable, in the property, that is effective at least as of the date of recordation, is recorded and ending upon the end of the 10th real property tax year following the real property tax year in which such recording occurs; provided, that the HMCI’s interest in the real property is recorded within one year prior to or within 5 years after the effective date of this section.

“(c) If a document reflecting an Historic Music Cultural Institution’s ownership or lease of an Expanded Music Cultural Use Property is recorded within one year prior to or within five years after the effective date of this section, the difference of any real property taxes imposed on the Expanded Music Cultural Use Property at a rate in excess of the rate of tax under § 47-812 prescribed for class 2 property, as defined by § 47-813, for the applicable tax year; during the tax year that the document reflecting the HMCI’s interest is recorded, or during any of the 4 preceding tax years, shall be, along with associated penalty and interest, abated and forgiven to the extent the taxes, penalties, and interest have not been paid on or before the recordation date.

“(d)(1) Any document reflecting a transfer, assignment, or other disposition of an Expanded Music Cultural Use Property to a Historic Music Cultural Institution, and any security interest instrument with respect to such property given by an Historic Music Cultural Institution to a third party lender, including an assignment of leasehold interest in the real property, shall be exempt from the tax imposed by § 42-1103.

“(2) Any transfer, assignment, or other disposition of all or any portion of an Historic Music Cultural Property or an Expanded Music Cultural Property by a Historic Music Cultural Institution shall be exempt from the tax imposed by § 47-903.

“(e)(1)(A) The exemption or abatement of real property, recordation, and transfer taxes pursuant to this section shall not exceed \$200,000 in any given fiscal year (provided that any amount not used in a fiscal year may be carried over to a subsequent fiscal year) and, in the aggregate, shall not exceed \$2 million.

“(B) The Mayor shall certify to the Office of Tax and Revenue the amount of exemption or abatement that is allowable with respect to each Historic Music Cultural Institution, Historic Music Cultural Property or Expanded Music Cultural Property for each fiscal year.

“(2) No Historic Music Cultural Institution, Historic Music Cultural Property or Expanded Music Cultural Property shall be entitled to receive any one exemption, abatement, or forgiveness provided under this section more than once.

ENROLLED ORIGINAL

“(3)(A) During the time that any Expanded Music Cultural Use Property is receiving the abatement provided under subsection (b) of this section, at least 50% of any new employees hired by the Historic Music Cultural Institution owning or leasing the property shall be residents of the District.

“(B) The Mayor shall certify to the Office of Tax and Revenue that these conditions have been met and shall inform the Office of Tax and Revenue if these conditions are no longer met.

“(4) If the Expanded Music Cultural Use Property is leased by the Historic Music Cultural Institution, the abatement provided under subsection (b) of this section shall be allowable only to the extent that the benefit of the abatement is passed on to the HMCI in the form of reduced rent.

“(5) An Historic Music Cultural Institution owning or leasing property receiving the real property tax abatement under subsection (b) of this section shall furnish the reports required pursuant to § 47-1007 and, if the property fails to qualify for the relief provided by subsection (b) of this section, the HMCI shall advise the Office of Tax and Revenue of the failure in the report filed for the year in which the property fails to so qualify. If the HMCI leases property and files the report required pursuant to § 47-1007, the owner of the property shall not be required to file the report pursuant to § 47-4702.

“(6) An Expanded Music Cultural Use Property shall be entitled to receive the real property tax abatement provided under subsection (b) of this section only during the time that the Historic Music Cultural Institution owns or leases the real property and uses that real property for the activities described in subsection (a)(3) of this section.

“(7)(A) The tax benefits provided by this section shall be subject to the provisions of §§ 42-1108.01, 47-903(e), 47-1005, and 47-1009.

“(B) The Office of Tax and Revenue shall administer the relief provided under this section in the same manner as an exemption granted pursuant to § 47-1002.

“(8) In the course of providing any tax or fee abatement, forgiveness, or exemption pursuant to this act, the Mayor, or his designee, shall provide cooperative assistance to an Historic Music Cultural Institution to facilitate the prompt, efficient, and coordinated review of any permit or license application, or application to transfer a permit or license, made necessary by a change of music venue location, including a license or permit associated with food and beverage service, demolition and construction, or utility hook-ups.”

Sec. 3. Applicability.

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

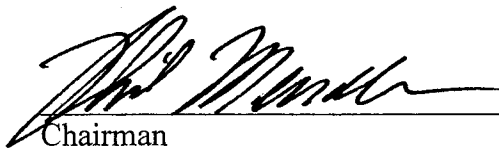
Sec. 4. Fiscal impact statement.

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

ENROLLED ORIGINAL

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
December 31, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-257

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 2, 2014

To amend the State Education Office Establishment Act of 2000 to establish a career and technical education grant program to provide grants beginning in the 2015-2016 school year, and to require the Office of the State Superintendent of Education to administer the program and to issue regulations for the implementation of the program by October 1, 2014; to amend the Board of Education Continuity and Transition Amendment Act of 2004 to add new requirements to the annual budget submission for District of Columbia Public Schools; and to amend the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998 to add weightings to the funding formula and to set guidelines for spending within the District of Columbia Public Schools.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fair Student Funding and School-Based Budgeting Amendment Act of 2013".

Sec. 2. The State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601 *et seq.*), is amended as follows:

(a) Section 2b (D.C. Official Code § 38-2601.02) is amended as follows:

(1) Redesignate paragraph (1) as paragraph (1B).

(2) New paragraphs (1) and (1A) are added to read as follows:

"(1) "CTE grant program" is the supplemental career and technical education grant program established by section 7e that provides grants to DCPS and public charter schools to support and enhance their career and technical education programs.

"(1A) "DCPS" means the District of Columbia Public Schools, established by section 102 of the District of Columbia Public Schools Agency Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D. C. Official Code § 38-171)."

(3) New paragraphs (2A) and (2B) are added to read as follows:

"(2A) "Formula" shall have the meaning as provided in section 102(8) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901(8)).

"(2B) "Fund" means the CTE Grant Program Fund established by section 7f."

(b) Section 3(b) (D.C. Official Code § 38-2602(b)) is amended as follows:

(1) Paragraph (4) is amended to read as follows:

ENROLLED ORIGINAL

“(4) Make recommendations for periodic revisions to the Uniform Per Student Funding Formula pursuant to section 112 of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2911);”.

(2) Paragraph (18) is amended by striking the word “and” at the end.

(3) Paragraph (19) is amended striking the period and inserting the phrase “; and” in its place.

(4) A new paragraph (20) is added to read as follows:

“(20) Implement and administer the CTE grant program established by section 7e, and administer the CTE Grant Program Fund established by section 7f.”.

(c) New sections 7e and 7f are added to read as follows:

“Sec. 7e. CTE grant program.

“(a) There is established the career and technical education grant program, which shall be administered by OSSE, that, beginning in the 2015-2016 school year, shall provide supplemental funds to DCPS and to public charter schools to support and enhance career and technical education programs.

“(b) Grants awarded pursuant to the CTE grant program shall be supplemental to Formula, federal, or other funds received by a school for career and technical education.

“(c) By October 1, 2014, OSSE shall issue regulations for the implementation of this section.

“Sec. 7f. CTE Grant Program Fund.

“(a)(1) There is established the CTE Grant Program Fund, which shall be administered by OSSE in accordance with subsections (c) and (d) of this section.

“(b) The Fund shall consist of the revenue from the following sources:

“(1) Annual appropriations, if any; and

“(2) Grants, gifts, or subsidies from public or private sources.

“(c) Except as provided in subsection (d) of this section, the Fund shall be used solely for the purposes set forth in section 7e(a).

“(d) The OSSE shall not use more than 5% of the funds in the Fund to pay the administrative expenses associated with managing the CTE grant program.

“(e)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year, or at any other time.

“(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.”.

Sec. 3. Section 6(b) of the Board of Education Continuity and Transition Amendment Act of 2004, effective December 7, 2004 (D.C. Law 15-211; D.C. Official Code § 38-2831(b)), is amended to read as follows:

“(b) The DCPS submission shall also include a delineation of:

“(1) All funds budgeted for each school, by revenue source for activities and service levels, and by revenue source for comptroller source group by activities and service levels;

ENROLLED ORIGINAL

“(2) The programs and services, along with a narrative description of each program and service, to be supported by the allowable maximum 5% allocation for central administration functions as prescribed in section 108a(1) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, passed on 2nd reading on December 17, 2013 (Enrolled version of Bill 20-309); and

“(3) All funds not allocated directly to a school or to central administration functions, by revenue source for activities and service levels, and by revenue source for comptroller source group by activities and service levels, including a presentation of:

“(A) Any funds that will support costs associated with programs and services provided at the school level or directly to students; and

“(B) Any funding associated with at-risk students, as defined in section 102(2A) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901(2A)), that has been retained by the Chancellor.”

Sec. 4. The Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 38-2901) is amended adding new paragraphs (2A) and (2B) to read as follows:

“(2A) “At-risk” means a DCPS student or a public charter school student who is identified as one or more of the following:

“(A) Homeless;

“(B) In the District’s foster care system;

“(C) Qualifies for the Temporary Assistance for Needy Families program or the Supplemental Nutrition Assistance Program; or

“(D) A high school student that is one year older, or more, than the expected age for the grade in which the student is enrolled.

“(2B) “Central administration” means the functions necessary for the governance of a school district as a whole, including general oversight and management of support services such as procurement, human resources, and financial administration. The term “central administration” does not include any functions that are:

“(A) Budgeted at the individual school level; or

“(B) Budgeted centrally and which support costs associated with programs and services provided at the school level or directly to students.”

(b) A new section 106a is added to read as follows:

“Sec. 106a. Supplement to foundation level funding on the basis of the count of at-risk students.

“(a) In addition to the grade level and supplemental allocations provided pursuant to sections 105 and 106, additional allocations shall be provided on the basis of the count of students identified as at-risk.

ENROLLED ORIGINAL

“(b) The additional allocations required by subsection (a) of this section shall be calculated by applying a weighting factor, as determined by the Mayor, to the foundation level.

“(c) The weighting for at-risk students shall be applied cumulatively in the counts of students who fall into more than one of the formula weighting categories.”.

(c) A new section 108a is added to read as follows:

“Sec. 108a. DCPS budget.

“(a) The annual operating budget for DCPS shall:

“(1) Allocate no more than 5% of its gross budget to central administration;

“(2) Provide each school with not less than 95% of its prior year allocation of Formula funds, excluding those Formula funds directed to a school pursuant to paragraph (3) of this section; provided, that a school may receive less than 95% of such funds if that school is eliminating one or more grade levels offered at the school, faces a budgetary reduction due to the closing or consolidation of one school into another, or is undergoing a substantial instructional or programmatic change and the Chancellor includes in the budget submission to the Council a written justification for the greater than 5% reduction; provided further, that this paragraph shall not apply if the total Formula allocation to DCPS, excluding those Formula funds generated pursuant to section 106a, is reduced by more than 5% from its prior year allocation; and

“(3) Direct no less than 90% of the funds allocated to DCPS pursuant to section 106a to school-level budgets and distribute such funds to schools proportionally based upon the number of at-risk students within each school’s projected student count.

“(b)(1) Funds provided to schools pursuant to subsection (a)(3) of this section shall be available to the principal to use at the principal’s discretion, in consultation with the school’s local school advisory team, for the purpose of improving student achievement among at-risk students; provided, that the principal submits to the Chancellor and makes publicly available a written plan explaining with particularity how the use of the funds will improve student achievement among at-risk students before the use of any such funds. The Chancellor may review and amend the plan as submitted by a principal. If the Chancellor amends a plan as submitted by a principal, the Chancellor shall provide the principal with a written justification for the amendment.

“(2) The Chancellor shall review the performance of each DCPS principal based upon the principal’s utilization of the funds made available to the principal pursuant to subsection (a)(3) of this section, including a review of whether use of the funds has improved student achievement among at-risk students.

“(3) Funds allocated pursuant to subsection (a)(3) of this section shall be supplemental to the school’s gross budget and shall not supplant any Formula, federal, or other funds to which the school is entitled.”.

(d) Section 112 (D.C. Official Code § 38-2911) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Designate the existing text as paragraph (1).

(B) The newly designated paragraph (1) is amended by striking the phrase “The Mayor and” and inserting the phrase “Except as provided in paragraph (2) of this subsection, the Mayor and” in its place.

ENROLLED ORIGINAL

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

“(2) Beginning January 30, 2016, the Mayor shall submit to the Council a report every 2 years that reviews the Formula and includes recommendations for revisions to the Formula based upon a study of actual costs of education in the District of Columbia, research in education and education finance, and public comment.”.

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

(A) Paragraph (3) is amended by striking the word “and”.

(B) Paragraph (4) is amended by striking the period and inserting the phrase “; and” in its place.

(C) A new paragraph (5) is added to read as follows:

“(5) A review of the costs associated with serving at-risk students and of how at-risk students are identified.”.

(3) Subsection (c) is amended to read as follows:

“(c) The Office of the State Superintendent for Education shall be responsible for the development of the report required by subsection (a) of this section and shall convene a working group, which shall be comprised of, at a minimum, representatives from DCPS, public charter schools, and the public, to solicit input and recommendations regarding revisions to the Formula.”.

Sec. 5. Applicability.

Section 4(b) shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Sec. 6. Fiscal impact statement.

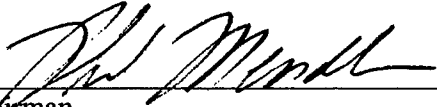
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 7. Effective date.

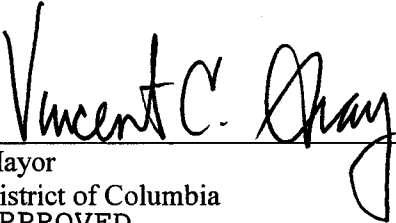
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 2, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-258

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 2, 2014

To order the closing of a portion of the public alley in Square 858, bounded by I Street, N.E., 6th Street, N.E., H Street, N.E., and 7th Street, N.E., in Ward 6.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Closing of a Portion of the Public Alley in Square 858, S.O. 12-03336, Act of 2013”.

Sec. 2. (a) Pursuant to section 404 of District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council finds that the portion of the public alley in Square 858, as shown on the Surveyor’s plat filed under S.O. 12-03336, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor’s plat.

(b) The approval of the Council of this closing is contingent upon the recordation of a covenant establishing new portions of the alley system by easement as shown on the Surveyor’s plat in S.O. 12-03336 that includes an agreement by the owner of the property encumbered by the easement to maintain the new portions of the alley system.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor and the Office of the Recorder of Deeds.

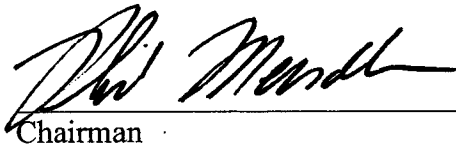
Sec. 4. Fiscal impact statement.

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

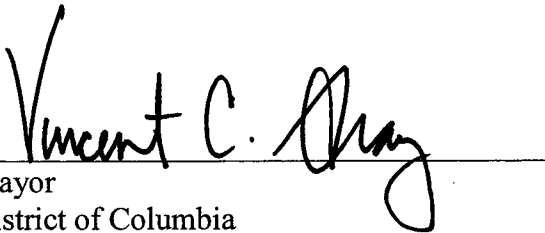
ENROLLED ORIGINAL

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 2, 2014

ENROLLED ORIGINAL

AN ACT
D.C. ACT 20-259

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 2, 2014

To amend the Accrued Sick and Safe Leave Act of 2008 to expand the definition of employees protected by the act, strengthen remedies and procedures available to employees under the act, and to establish an outreach program to inform the public about the act.

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

Sec. 2. The Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-131.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 32-131.01) is amended as follows:

(1) Paragraph (2) is amended to read as follows:

“(2) "Employee" means any individual employed by an employer, but shall not include:

“(A) Any individual who, without payment and without expectation of any gain, directly or indirectly, volunteers to engage in the activities of an educational, charitable, religious, or nonprofit organization;

“(B) Any lay member elected or appointed to office within the discipline of any religious organization and engaged in religious functions;

“(C) Any individual employed as a casual babysitter, in or about the residence of the employer.

“(D) An independent contractor;

“(E) A student; or

“(F) Health care workers who choose to participate in a premium pay program.”.

(2) Paragraph (3) is amended by striking the phrase “who employs” and inserting the phrase “who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of” in its place.

(b) Section 3 (D.C. Official Code § 32-131.02) is amended as follows:

(1) Subsection (c) is amended to read as follows:

“(c)(1) Paid leave under this act shall accrue in accordance with the employer’s established pay period. An individual shall accrue paid leave at the beginning of his or her

ENROLLED ORIGINAL

employment. An employee may begin to access paid leave after 90 days of service with his or her employer.

“(2) If an employee is transferred to a separate division, entity, or location within the District, or transferred out of the District and then transferred back to a division, entity, or location within the District, but remains employed by the same employer, the employee shall be entitled to all paid leave accrued at the prior division, entity, or location and shall be entitled to use all paid leave as provided in this act.

“(3) When there is a separation from employment and the employee is rehired within one year of separation by the same employer, previously accrued unused paid leave shall be reinstated. The employee shall be entitled to use accrued paid leave and accrue additional paid leave immediately upon the re-commencement of employment; provided, that the employee had previously been eligible to use paid leave. If there is a separation of more than one year, an employer shall not be required to reinstate accrued paid leave and the rehired employee shall be considered to have newly commenced employment.

“(4) An employee who is discharged after the completion of a probationary period of 90 days or more, and is rehired within 12 months, may access paid leave immediately.”

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

“(g) Notwithstanding the requirements in subsections (a)(1)-(4) of this section, for an employee of a restaurant or bar who regularly receive tips, commissions, or other gratuities to supplement a base wage that is below the minimum wage as established in section 4(a) of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003(a)) (“1992 Act”), the employer shall provide the employee not less than one hour of paid leave for every 43 hours worked, not to exceed 5 days per calendar year. The paid leave shall be compensated in accordance with the District minimum wage, as established in section 4(a) of the 1992 Act.”

(c) Section 7(b) (D.C. Official Code § 32-131.06(b)) is amended to read as follows:

“(b) The paid leave requirements under this act shall not be waived for less than 3 paid leave days per calendar year by the written terms of a bona fide collective bargaining agreement; provided, that the paid leave requirements under this act shall not apply to any employee in the building and construction industry covered by a bona fide collective bargaining agreement that expressly waives the requirements in clear and unambiguous terms.”

(d) Section 9 (D.C. Official Code § 32-131.08) is amended as follows:

(1) Subsection (b)(2) is amended to read as follows:

“(2) Pursuant or related to this act:

“(A) Complains to the employer;

“(B) Files a complaint with the Department of Employment Services;

“(C) Files a civil complaint alleging a violation of any provision of this

act;

“(D) Informs any person about an employer’s alleged violation of this act;

“(E) Cooperates with the Department of Employment Services or another person’s investigation or prosecution of any alleged violation of this act;

ENROLLED ORIGINAL

“(F) Opposes any policy, practice, or act that is unlawful under this act; or
“(G) Informs any person of his or her rights under this act.”.

(2) New subsections (d) and (e) are added to read as follows:

“(d) An employer taking an adverse action against an employee within 90 days of any of the actions set forth in subsection (b)(2) of this section shall raise a rebuttable presumption that the employer has violated this act.

“(e) It shall be unlawful for an employer’s absence control policy to count paid leave taken under this act as an absence that may lead to, or result in, discipline, discharge, demotion, suspension, or other adverse action.”.

(e) Section 10(b)(1) (D.C. Official Code § 32-131.09(b)(1)) is amended to read as follows:

“(b)(1) An employer who violates this section shall be assessed a civil penalty not to exceed \$100 for each day that the employer fails to post the notice; provided, that the total penalty shall not exceed \$500 unless the ongoing violation is willful.”.

(f) New sections 11a and 11b are added to read as follows:

“Sec. 11a. Statute of limitations.

“All civil complaints brought under this act shall be filed within 3 years of the event on which the complaint is based, except that the 3-year period shall be tolled when an administrative complaint is filed, or for any period during which the employer does not post the notice required under section 10.

“Sec. 11b. Employer records.

“(a) Employers shall retain records documenting hours worked by employees and paid leave taken by employees for a period of 3 years, and shall allow the Mayor and the Office of the District of Columbia Auditor access to the records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this act.

“(b) When an issue arises as to an employee's entitlement to paid leave under this act, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid leave taken by the employee, or does not allow the Mayor or the Office of the District of Columbia Auditor reasonable access to the records, there shall be a rebuttable presumption that the employer has violated this act.”.

(g) Section 13 (D.C. Official Code § 32-131.12) is amended to read as follows:

“Sec. 13. Enforcement and penalties.

“(a) An employee or similarly situated employees injured by a violation of this act shall be entitled to maintain a civil action or an administrative action.

“(b) If an employer fails to allow an employee to use paid leave as required by this act, the employer shall pay \$500 in additional damages to the employee for each accrued day denied, regardless of whether the employee takes unpaid leave or reports to work on that day.

“(c) Except as provided in section 10(b), an employer who willfully violates the requirements of this act shall be subject to a civil penalty of \$1,000 for the 1st offense, \$1,500 for the 2nd offense, and \$2,000 for the 3rd and each subsequent offense.

“(d) If the Mayor determines that an employer has violated any provision of this act, the Mayor shall order the employer to provide affirmative remedies including:

ENROLLED ORIGINAL

“(1) Back pay for lost wages caused by the employer’s violation of this act;

“(2) Reinstatement or other injunctive relief;

“(3) Compensatory or punitive damages, including at least \$500 for every day an employee who was denied access to paid leave was required to work; and

“(4) Reasonable attorney’s fees and costs of enforcement.

“(e) An action may be maintained against any employer in a court of competent jurisdiction by any one or more employees for and on behalf of himself or themselves. An employer who violates the provisions of this act shall be liable to the employee or employees affected for:

“(1) Back pay for lost wages caused by the employer’s violation of this act;

“(2) Reinstatement or other injunctive relief;

“(3) Compensatory damages or punitive damages, including at least \$500 for every day an employee who was denied access to paid leave was required to work; and

“(4) Reasonable attorney’s fees and costs.

“(f)(1) Where compliance with this act or regulations enacted to implement this act is not forthcoming, the Mayor shall take any appropriate enforcement action to secure compliance, including initiating a civil action and, except where prohibited by another law, revoking or suspending any registration certificates, permits or licenses held or requested by the employer or person until the violation is remedied.

“(2) To compensate the District for the costs of investigating and remedying the violation, the Department of Employment Services may also order the violating employer or person to pay to the District a sum of not more than \$500 for each day or portion thereof and for each employee or person as to whom the violation occurred or continued. The funds recovered by the District under this act shall be allocated to offset the costs of implementing and enforcing this act.

“(g) In any administrative or civil action brought under this act, the Mayor or court shall award interest on all amounts due and unpaid at the rate of interest specified in D.C. Official Code §§ 28-3302(b) or 28-3302(c).

“(h) Any money awarded to an employee under this act shall be enforceable by the employee to whom the debt is owed or may be collected by the District on behalf of the employee.”.

(h) Section 14 (D.C. Official Code § 32-131.13) is amended by striking the phrase “within 60 days after its effective date”.

(i) Section 16(1) (D.C. Official Code § 32-131.15(1)) is amended by striking the phrase “with the posting requirements”.

(j) A new section 16a is added to read as follows:

“Sec. 16a. Public education and outreach.

“(a) The Department of Employment Services shall develop and implement a multilingual outreach program to inform employees of the availability of paid leave under this act.

“(b) The program shall include the distribution of notices and other written materials in English and in other languages to all childcare and elder care providers, domestic violence

ENROLLED ORIGINAL

shelters, schools, hospitals, community health centers, and other health care providers within the District.”.

Sec. 3. Applicability.

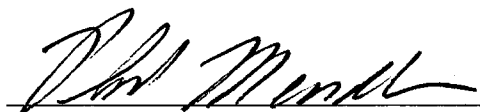
This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Sec. 4. Fiscal impact statement.

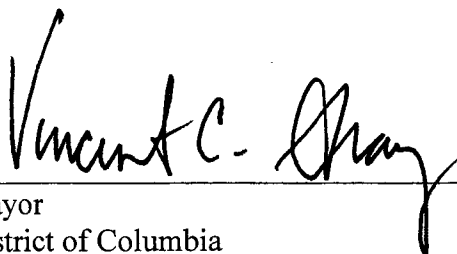
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 2, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-260

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 2, 2014

To amend, on a temporary basis, Chapter 18 of Title 47 of the District of Columbia Official Code to define a teaching award as an award given to public school teachers in recognition of their service to their school or community and to exclude from District gross income the value of a teaching award.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Tax Exemption for Teacher Awards Temporary Act of 2013".

Sec. 2. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1801.04 is amended by adding a new paragraph (52A) to read as follows:

"(52A) "Teaching award" means a benefit with pecuniary value given to a teacher who is the primary teacher in a classroom for a majority of the school days of the academic year in a District public or public charter school, from a person other than the teacher's current employer, for the teacher's service to the school and, for example, in recognition of the teacher's:

"(1) Exemplary teaching;

"(2) Overall student achievement in the teacher's primary classroom; or

"(3) Community engagement in the District, including exceptional leadership of student organizations and engaging students' parents."

(b) Section 47-1803.02(a)(2) is amended by adding a new subparagraph (CC) to read as follows:

"(CC) Beginning January 1, 2013, a teaching award, as defined in § 47-1801.04(52A), above \$1,000 but not more than \$40,000."

Sec. 3. Applicability.

(a) The Chief Financial Officer shall recognize \$14,577 from the fiscal year 2014 local funds operating margin to fund the cost of this legislation in fiscal year 2014.

(b) After October 1, 2014, this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget

ENROLLED ORIGINAL

Director of the Council in a certification published by the Council in the District of Columbia Register.

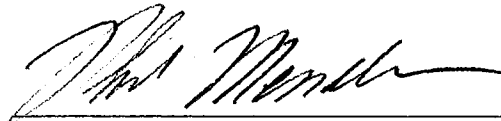
Sec. 4. Fiscal impact statement.

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

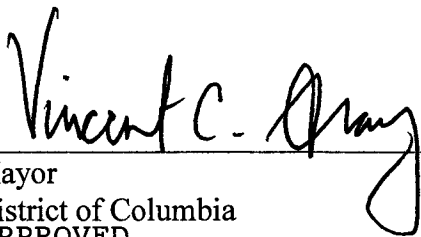
Sec. 5. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 2, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-261

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 2, 2014

To amend, on an emergency basis, the Firearms Control Regulations Act of 1975 to extend to January 1, 2016, the date for implementation of the microstamping requirement for semiautomatic pistols.

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

Sec. 2. The Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501.01 *et seq.*), is amended as follows:

(a) Section 408(b) (D.C. Official Code § 7-2504.08(b)) is amended by striking the phrase "January 1, 2014" wherever it appears and inserting the phrase "January 1, 2016" in its place.

(b) Section 503 (D.C. Official Code § 7-2505.03) is amended by striking the phrase "January 1, 2014" wherever it appears and inserting the phrase "January 1, 2016" in its place.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

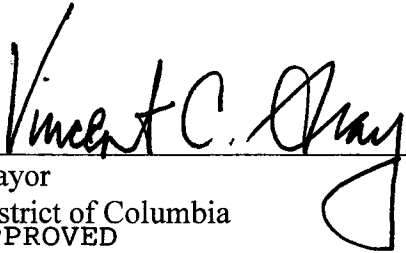
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 2, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-262

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 2, 2014

To order, on an emergency basis, the closing of a portion of the public alley in Square 858, bounded by I Street, N.E., 6th Street, N.E., H Street, N.E., and 7th Street, N.E., in Ward 6.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Portion of the Public Alley in Square 858, S.O. 12-03336, Emergency Act of 2013".

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council finds that the portion of the public alley in Square 858, as shown on the Surveyor's plat filed under S.O. 12-03336, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

(b) The approval of the Council of this closing is contingent upon the recordation of a covenant establishing new portions of the alley system by easement as shown on the Surveyor's plat in S.O. 12-03336 that includes an agreement by the owner of the property encumbered by the easement to maintain the new portions of the alley system.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor and the Office of the Recorder of Deeds.

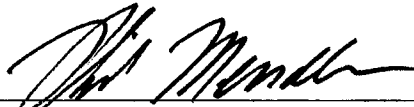
Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206-02(c)(3)).

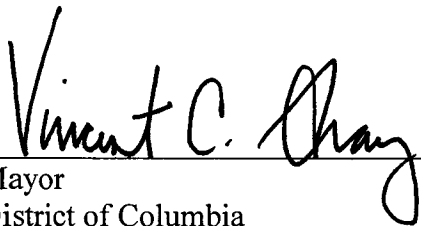
ENROLLED ORIGINAL

Sec. 5. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 2, 2014

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-263

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 9, 2014

To amend, on an emergency basis, due to Congressional review, the Legalization of Marijuana for Medical Treatment Initiative of 1999 to limit the number of medical marijuana cultivation centers and dispensaries that may locate in an election ward in the District of Columbia and to prohibit locating medical marijuana cultivation centers in certain Retail Priority Areas.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Marijuana Cultivation Center Second Congressional Review Emergency Amendment Act of 2013”.

Sec. 2. Section 7 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06), is amended as follows:

(a) Subsection (d) is amended to as follows:

(1) Paragraph (2) is amended to read as follows:

“(2)(A) No more than 5 dispensaries shall be registered to operate in the District; provided, that the Mayor may increase the number to as many as 8 by rulemaking to ensure that qualifying patients have adequate access to medical marijuana; provided further, that no more than 2 dispensaries shall be registered to operate within an election ward established by the Council in section 4 of the Redistricting Procedure Act of 1981, effective March 16, 1982 (D.C. Law 4-87; D.C. Official Code § 1-1041.03)(“Redistricting Procedure Act”).

“(B) The prohibition of no more than 2 dispensaries being registered to operate within an election ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of the effective date of the Medical Marijuana Cultivation Center Amendment Act of 2013, returned unsigned by the Mayor on October 21, 2013 (D.C. Act 20-206; 60 DCR 15484).

“(C)(i) No more than one dispensary may be registered to operate in any election ward in which 5 or more cultivation centers have been registered to operate.

“(ii) The prohibition of no more than one dispensary being registered to operate within an election ward in which 5 or more cultivation centers have been registered to operate set forth in sub-subparagraph (i) of this subparagraph shall apply to applications pending as of the effective date of the Medical Marijuana Cultivation Center

ENROLLED ORIGINAL

Amendment Act of 2013, returned unsigned by the Mayor on October 21, 2013 (D.C. Act 20-206; 60 DCR 15484).”.

(2) Paragraph (3) is amended to read as follows:

“(3)(A) The number of cultivation centers that may be registered to operate in the District shall be determined by rulemaking; provided, that no more than 6 cultivation centers shall be registered to operate within an election ward established by the Council in section 4 of the Redistricting Procedure Act.

“(B) The prohibition of no more than 6 cultivation centers being registered to operate within an election ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of the effective date of the Medical Marijuana Cultivation Center Amendment Act of 2013, returned unsigned by the Mayor on October 21, 2013 (D.C. Act 20-206; 60 DCR 15484).”.

(b) A new subsection (g-1) is added to read as follows:

“(g-1)(1) A cultivation center shall not be located within a Retail Priority Area, as designated pursuant to section 4 of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.73), and as approved by the Council pursuant to the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194).

“(2) Any applicant that had an application pending as of the effective date of the Medical Marijuana Cultivation Center Temporary Amendment Act of 2012, effective June 20, 2012 (D.C. Law 19-146; 59 DCR 4164), for a registration to operate a cultivation center within a Retail Priority Area as identified in paragraph (1) of this subsection, shall be allowed to modify the application within 180 days of the effective date of the Medical Marijuana Cultivation Center Temporary Amendment Act of 2013, effective May 1, 2013 (D.C. Law 20-1; 60 DCR 3962), without negatively affecting the current status of the application.”.

Sec. 3. Applicability.

This act shall apply as of December 12, 2013.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
January 2, 2014

ENROLLED ORIGINAL

A RESOLUTION

20-364

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2013

To confirm the reappointment of Mr. Donald Graham Davidson to the Historic Preservation Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Historic Preservation Review Board Donald Graham Davidson Confirmation Resolution of 2013”.

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Mr. Donald Graham Davidson
3610 Warren Street, N.W.
Washington, D.C. 20008
(Ward 3)

as a public member of the Historic Preservation Review Board, established by Mayor’s Order 83-119, issued May 6, 1983 (30 DCR 3031), in accordance with section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103), for a term to end July 21, 2016.

Sec. 3. The Chairman of the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-365

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2013

To confirm the reappointment of Ms. Nancy L. Pryor Metzger to the Historic Preservation Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Historic Preservation Review Board Nancy L. Pryor Metzger Confirmation Resolution of 2013".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Ms. Nancy L. Pryor Metzger
638 G Street, S.E.
Washington, D.C. 20003
(Ward 6)

as a public member of the Historic Preservation Review Board, established by Mayor's Order 83-119, issued May 6, 1983 (30 DCR 3031), in accordance with section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103), for a term to end July 21, 2016.

Sec. 3. The Chairman of the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-366

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 17, 2013

To confirm the reappointment of Ms. Maria Casarella Cunningham to the Historic Preservation Review Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Historic Preservation Review Board Maria Casarella Cunningham Confirmation Resolution of 2013”.

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Ms. Maria Casarella Cunningham
3524 Quebec Street, N.W.
Washington, D.C. 20016
(Ward 3)

as an architect member of the Historic Preservation Review Board, established by Mayor’s Order 83-119, issued May 6, 1983 (30 DCR 3031), in accordance with section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103), for a term to end July 21, 2016.

Sec. 3. The Chairman of the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-383

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to extend the time in which the Mayor may dispose of certain District-owned real property located at 5131 Nannie Helen Burroughs Avenue, N.E., known as the Strand Theater.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Extension of Time to Dispose of the Strand Theater Congressional Review Emergency Declaration Resolution of 2014”.

Sec. 2. (a) In October, the Council enacted the Extension of Time to Dispose of the Strand Theater Emergency Amendment Act of 2013 (D.C. Act 20-205; 60 DCR 15482) (“emergency legislation”), and in November, the Extension of Time to Dispose of the Strand Theater Temporary Amendment Act of 2013 (D.C. Act 20-221; 60 DCR 16538) (“temporary legislation”), which amended An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to extend the time in which the Mayor may dispose of certain District-owned real property located at 5131 Nannie Helen Burroughs Avenue, N.E., known as the Strand Theater.

(b) The emergency legislation will expire on January 15, 2014, before the temporary legislation is projected to become law.

(c) It is important that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation is in effect.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Extension of Time to Dispose of the Strand Theater Congressional Review Emergency Amendment Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-384

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To declare the existence of an emergency, due to Congressional review, with respect to the need to create a separate fund for fees for project review and mitigation measures by developers, property owners, and utility companies in connection with projects on private property or public space that may impact the District Department of Transportation's ability to manage and maintain the transportation infrastructure in the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Transportation Infrastructure Mitigation Congressional Review Emergency Declaration Resolution of 2014".

Sec. 2. The District Department of Transportation ("DDOT") needs authority to receive funds from developers, property owners, and utility companies in connection with projects on private property or public space that may impact the safe flow of buses, trucks, passenger vehicles, and other modes of transportation through the District. Pursuant to Board of Zoning orders or similar directives from outside agencies, developers and property owners are required, from time to time, to provide DDOT with funds to study and mitigate the impact of their projects on the transportation infrastructure. Until recently, those funds were transferred to the District using the donation system. However, recent legal review has determined that DDOT must receive those funds through an appropriation approved by Congress. This legislation will enable DDOT to continue receiving these funds and installing the necessary traffic mitigation measures, which in turn will ensure the public safety at or near new or improved developments. Without this legislation, DDOT will not have enough funds to study the impact of new or improved developments and install the necessary traffic signals or other devices to ensure pedestrian and vehicular safety at those locations. Furthermore, this Congressional review emergency legislation is necessary to ensure that there is no gap between the expiration of the emergency version of this legislation and the enactment of the temporary version of this legislation.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Transportation Infrastructure Mitigation Congressional Review Emergency Amendment Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-385

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Ms. Kathleen McKirchy to the District of Columbia Occupational Safety and Health Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Occupational Safety and Health Board Kathleen McKirchy Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Kathleen McKirchy
4100 W Street, N.W., #502
Washington, D.C. 20007
(Ward 3)

as a private sector labor member of the District of Columbia Occupational Safety and Health Board, established by section 6 of the District of Columbia Occupational Safety and Health Act of 1988, effective March 16, 1989 (D.C. Law 7-186; D.C. Official Code § 32-1105), for a term to end April 12, 2016.

Sec. 3. The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-386

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Mr. Michael Kirkpatrick to the District of Columbia Occupational Safety and Health Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Occupational Safety and Health Board Michael Kirkpatrick Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Michael T. Kirkpatrick
1641 Hobart Street, N.W.
Washington, D.C. 20009
(Ward 1)

as a public sector labor member of the District of Columbia Occupational Safety and Health Board, established by section 6 of the District of Columbia Occupational Safety and Health Act of 1988, effective March 16, 1989 (D.C. Law 7-186; D.C. Official Code § 32-1105), for a term to end April 12, 2015.

Sec. 3. The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-387

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Ms. Aryan Rodriguez Bocquet to the District of Columbia Occupational Safety and Health Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Occupational Safety and Health Board Aryan Rodriguez Bocquet Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Aryan Rodriguez Bocquet
1851 Columbia Road, N.W., Apt. 305
Washington, D.C. 20009
(Ward 1)

as a private sector management member of the District of Columbia Occupational Safety and Health Board, established by section 6 of the District of Columbia Occupational Safety and Health Act of 1988, effective March 16, 1989 (D.C. Law 7-186; D.C. Official Code § 32-1105), for a term to end April 12, 2016.

Sec. 3. The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-388

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Mr. Earl Woodland to the District of Columbia Occupational Safety and Health Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Occupational Safety and Health Board Earl Woodland Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Earl Woodland
3333 Croffut Place, S.E.
Washington, D.C. 20019
(Ward 7)

as a private sector management member of the District of Columbia Occupational Safety and Health Board, established by section 6 of the District of Columbia Occupational Safety and Health Act of 1988, effective March 16, 1989 (D.C. Law 7-186; D.C. Official Code § 32-1105), for a term to end April 12, 2014.

Sec. 3. The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-389

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Ms. Jennifer M. Fisher to the Commission on Fashion Arts and Events.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on Fashion Arts and Events Jennifer M. Fisher Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Jennifer M. Fisher
425 L Street, N.W., #1206
Washington, D.C. 20001
(Ward 6)

as a member of the Commission on Fashion Arts and Events, established by section 2 of the Commission on Fashion Arts and Events Establishment Act of 2008, effective April 15, 2008 (D.C. Law 17-148; D.C. Official Code § 3-651), replacing Patricia Elam Walker, to complete the remainder of an unexpired 4-year term to end April 15, 2017.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-390

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Mr. Marcus A. Williams to the Commission on Fashion Arts and Events.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on Fashion Arts and Events Marcus A. Williams Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Marcus A. Williams
5045 C Street, S.E., No. 201
Washington, D.C. 20019
(Ward 7)

as a member of the Commission on Fashion Arts and Events, established by section 2 of the Commission on Fashion Arts and Events Establishment Act of 2008, effective April 15, 2008 (D.C. Law 17-148; D.C. Official Code § 3-651), replacing Brian L. Evans, to complete the remainder of an unexpired 3-year term to end April 15, 2016.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-391

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Mr. Victor H. Rodriguez to the Alcoholic Beverage Control Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Alcoholic Beverage Control Board Victor H. Rodriguez Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Victor H. Rodriguez
1868 Columbia Road, N.W., No. 705
Washington, D.C. 20009
(Ward 1)

as a member of the Alcoholic Beverage Control Board, established by D.C. Official Code § 25-201, replacing L. Jeanette Mobley, for a term to end May 7, 2015.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-392

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Mr. James N. Short to the Alcoholic Beverage Control Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Alcoholic Beverage Control Board James N. Short Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. James N. Short
2400 Branch Avenue, S.E.
Washington, D.C. 20020
(Ward 7)

as a member of the Alcoholic Beverage Control Board, established by D.C. Official Code § 25-201, replacing Calvin Nophlin, to a term to end May 7, 2016.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-393

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To confirm the appointment of Ms. Claudia McKoin to the Rental Housing Commission.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Rental Housing Commission Claudia McKoin Confirmation Resolution of 2014".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Ms. Claudia McKoin
1610 Tamarack Street, N.W.
Washington, D.C. 20012
(Ward 4)

as a member of the Rental Housing Commission, established by section 201 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.01), replacing Marta Berkley, for a term to end July 18, 2016.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-394

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To declare the existence of an emergency with respect to the need to approve Modifications Nos. 4-7 to Contract No. NFPHC-151 between the Not-for-Profit Hospital Corporation (“NFPHC”) and Wisconsin Avenue Psychiatric Center *dba* Psychiatric Institute of Washington (“PIW”) to provide, in consultation with the NFPHC, management and operation of the Behavioral Health and Professional Psychiatric Services Program, and to authorize payment for the services received and to be received under the contract modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. NFPHC-151 Modifications Nos. 4-7 Approval and Payment Authorization Emergency Declaration Resolution of 2014”.

Sec. 2. (a) There exists an immediate need to approve Modifications Nos. 4-7 to Contract No. NFPHC-151 (“Contract”) between the NFPHC and Wisconsin Avenue Psychiatric Center *dba* PIW to provide, in consultation with the NFPHC, management and operation of the Behavioral Health and Professional Psychiatric Services Program (“Program”), and to authorize payment for the services received and to be received under these contract modifications.

(b) After a competitive procurement under the NFPHC procurement rules, the NFPHC awarded PIW a letter contract on August 15, 2012. A letter contract was used to allow PIW to begin providing critical services yet provide ample time for the parties to definitize the contract. The letter contract had an initial period of 9 months, and a value of \$712,150.00.

(c) Modification No. 1 (effective October 29, 2012) added language to the letter contract defining parameters around PIW adding one additional physician to support the Program. Modification No. 1 did not have any financial impact on the 9-month base period.

(d) Modification No. 2 (effective May 9, 2013) extended the letter contract by 3 months (to August 14, 2013), as permitted in section 3 of the letter contract. This change was necessary to allow the NFPHC, now working closely with Huron Consulting Group, LLC pursuant to Contract No. DCHT-2012-C-0014 with the Department of Health Care Finance, to initiate discussions with PIW regarding expansion of PIW’s services within the general scope of the contract. The value of Modification No. 2 was \$229,050.00, which brought the total value of the 12-month base period of the letter contract to \$941,200.00.

ENROLLED ORIGINAL

(e) Modification No. 3 (effective August 14, 2013) inserted language providing the authority for the contract to be extended for up to 6 months. This change was necessary because in August 2013, both the NFPHC and PIW realized that even more time was needed in order to continue negotiating the definitized contract, including the details of the expansion of PIW's services for the Program, more precise performance metrics, and contract incentives by which the NFPHC would evaluate and better leverage PIW's expertise, especially regarding managed care payors. Most importantly, the NFPHC and PIW needed the time to ensure the ongoing discussions and proposed changes aligned with the new Hospital Strategic Plan, approved by the NFPHC Board of Directors in July 2013. Modification No. 3, providing the authority for but not yet exercising a 6-month option period, did not have any financial impact.

(f) Modification No. 4 used the authority inserted by Modification No. 3 and extended the contract to November 13, 2013, exercising the first 3 months of the option period, with the same terms as the base year. This change allowed time for the discussions contemplated by Modification No. 3. The value of Modification No. 4, the 3-month option period, was \$231,250.00.

(g) During the Modification No. 4 term, the NFPHC realized that the definitized contract changes would cause the full 12-month proposed option year one, which would incorporate the existing option period, to exceed \$1 million in a 12-month period, and therefore require Council approval as a tipping contract modification.

(h) Modification No. 5, exercising an additional 2 months of the option period, extended the contract through January 13, 2014. This change was necessary to provide ample time for preparation of the Council package, receive appropriate NFPHC approvals, and provide time for Council review. The value of Modification No. 5 was \$154,156.66, bringing the 5-month option value to \$385,406.66.

(i) Modification No. 6 exercised an additional 2 weeks of the option period to allow for Council consideration of this tipping contract at a regularly scheduled legislative meeting. Modification 6 did not have any financial impact. The value of Modification No. 6 was \$77,078.33, bringing the option period value to \$462,484.99.

(j) Proposed Modification No. 7 seeks to exercise the remainder of the definitized option year one (\$1,394,282.01) and will cause the aggregate value of this definitized option year to exceed \$1 million in a 12-month period.

(k) Emergency approval of Modifications Nos. 4-7 to Contract No. NFPHC-151 for a total value of \$1,856,767.00 for the definitized contract option year one is necessary so that NFPHC can continue to support the Program. Without this approval, PIW cannot be paid for these critical services provided and to be provided in excess of \$999,999.99.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. NFPHC-151 Modifications Nos. 4-7 Approval and Payment Authorization Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-395

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To approve, on an emergency basis, Option Year Four to Contract No. DCPL-2009-C-0004B with Baker & Taylor, Inc., for the purchase of new books, electronic materials, and other book-related services for the District of Columbia Public Library (“DCPL”) and authorize payment for those services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. DCPL-2009-C-0004B Modification Approval and Payment Authorization Emergency Declaration Resolution of 2014”.

Sec. 2. (a) There exists a need to approve Option Year Four to Contract No. DCPL-2009-C-0004B with Baker and Taylor, Inc., to provide new books and other book-related services and to authorize payment for the book services received and to be received under the contract.

(b) On January 21, 2013, the DCPL agreed to exercise Option Year Four to Contract No. DCPL-2009-C-0004B with Baker and Taylor, Inc., to provide books, electronic materials, programmatic initiatives support, and other book-related services for the contract period of January 21, 2013, to January 20, 2014, in the not to exceed amount of \$995,000.00.

(c) On November 21, 2013, by Modification No. 7, the DCPL’s Procurement Office proposed an increase to the contract ceiling for the contract period of January 21, 2013, to January 20, 2014, by \$300,000.00, from \$995,000.00 to a new contract amount of \$1,295,000.00.

(d) DCPL now seeks Council approval to increase the total not to exceed amount for the period from January 21, 2013, to January 20, 2014, to a total increased contract amount of \$1,295,000.00.

(e) Approval is necessary to allow the payment for these vital services. Without this approval, Baker and Taylor, Inc., cannot be paid for services provided in excess of \$1 million over the previously approved amount for the period from January 21, 2013, to January 20, 2014.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. DCPL-2009-C-0004B Modification Approval and Payment Authorization Emergency Act of 2014 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-396

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To declare the existence of an emergency with respect to the Council's support in requesting that the executive branch update the living wage under the Living Wage Act of 2006 to \$13.70 per hour by March 1, 2014.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council in Support of the Living Wage Emergency Declaration Resolution of 2014".

Sec. 2. (a) Under the Living Wage Act of 2006 ("Act"), the executive branch is required by March 1st of every year to recalculate, according to the consumer price index, the pay of employees of companies that are recipients of government contracts or government assistance in the amount of \$100,000 or more.

(b) Just recently, for the first time in 3 years, the executive branch increased the living wage from \$12.50 an hour to \$13.40 an hour. However, another recalculation must be made on March 1, 2014.

(c) Of particular concern is that the Director of the Department of Employment Services ("DOES") has left the agency and a new or interim director will be in charge of implementing an updated living wage by March 1, 2014.

(d) The executive branch's prior lack of urgency on this issue has caused harm to working families, costing them over \$3,500 in lost wages.

(e) It is important for the Council to stay on top of this issue and pass this resolution on an emergency basis to make clear to the new or the interim Director of DOES that the implementation of the most up-to-date living wage by March 1, 2014 should be a top priority.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Sense of the Council in Support of the Living Wage Emergency Resolution of 2014 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-397

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 7, 2014

To declare, on an emergency basis, the sense of the Council in support of requesting that the executive branch update the living wage under the Living Wage Act of 2006 to \$13.70 per hour by March 1, 2014.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council in Support of the Living Wage Emergency Resolution of 2014".

Sec. 2. The Council finds that:

(1) The executive branch is required by March 1st of every year to recalculate, according to the consumer price index, the pay of employees of companies that are recipients of government contracts or government assistance in the amount of \$100,000 or more.

(2) The executive branch, for the past 3 years, has failed to amend the living wage according to the consumer price index.

(3) The executive branch's failure to make increases to the living wage according to the consumer price index since 2010 has cost an employee over \$3,500 in lost wages.

(4) Just recently, the executive branch announced it was increasing the living wage from \$12.50 an hour to \$13.40 an hour.

(5) However, another recalculation of the living wage must be made again on March 1, 2014.

(6) Due to the failure of the executive branch to make the proper living wage adjustments without pressure from the Council, this emergency would put the administration on notice to properly recalculate the living wage by March 1, 2014.

(7) It is the policy of the District to promote living wage jobs to help working families make ends meet and protect the health, safety, and welfare of our community.

Sec. 3. It is the sense of the Council that an increase to the living wage will be beneficial to the citizens of the District, create more jobs, and stimulate the economy.

Sec. 4. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Director or interim Director of the Department of Employment Services.

Sec. 5. This resolution shall take effect immediately.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT
MARY M. CHEH, CHAIR

REVISED

NOTICE OF PUBLIC HEARING ON

Bill 20-344, the Special Event Waste Diversion Act of 2013
Bill 20-638, the Solid Waste Facility Permit Amendment Act of 2014
Bill 20-641, the Waste Management Modernization Amendment Act of 2014

Wednesday, February 5, 2014
at 11:00 a.m.
in Room 412 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Wednesday, February 5, 2014, Councilmember Mary M. Cheh, Chairperson of the Committee on the Transportation and the Environment, will hold a public hearing on Bill 20-344, the Special Event Waste Diversion Act of 2013; Bill 20-638, the Solid Waste Facility Permit Amendment Act of 2014; and Bill 20-641, the Waste Management Modernization Amendment Act of 2014. The hearing will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Bill 20-344 would require organizers of parades, festivals, and other large special events that use public space to provide for recycling in addition to trash collection services at their large public events. Bill 20-638 would clarify the existing moratorium on new solid waste facility permits and would improve the application and renewal process for those permits. Bill 20-641 would update and modernize recycling laws and policies in the District.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 8 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108,

Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on February 18, 2014.

This hearing notice is revised to include Bills 20-638 and 20-641, and to change the room number.

**Council of the District of Columbia
Committee on Business, Consumer, and Regulatory Affairs
Notice of Public Hearing**

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Ste. G-6 Washington, DC 20004

**COUNCILMEMBER VINCENT B. ORANGE, SR., CHAIR
COMMITTEE ON BUSINESS, CONSUMER, AND REGULATORY AFFAIRS**

ANNOUNCES A PUBLIC HEARING ON

**B20-531, THE “NON-PROFIT CERTIFIED BUSINESS ENTERPRISE AMENDMENT
ACT OF 2013”**

**Tuesday, March 11, 2014, 10:00 am
John A. Wilson Building, Room 500
1350 Pennsylvania Ave., NW
Washington, D.C. 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public hearing of the Committee on Business, Consumer, and Regulatory Affairs for the purpose of receiving testimony on B20-531, the “Non-Profit Certified Business Enterprise Amendment Act of 2013”. The public hearing is scheduled for Tuesday, March 11, 2014 at 10:00 a.m. in Room 500 of the John A. Wilson Building located at 1350 Pennsylvania Ave., N.W., Washington, DC 20004.

B20-531, the “Non-Profit Certified Business Enterprise Amendment Act of 2013”, proposes to amend the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005 to permit District-based non-profit organizations to be certified business organizations under Certified Business Enterprise program. The proposal would allow non-profit entities to compete with for-profit small and certified business enterprises for contract and procurement opportunities awarded by District government agencies.

Individuals and representatives of organizations who wish to testify at the public hearing are asked to contact Ms. Faye Caldwell or Gene Fisher of the Committee on Business, Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us or gfisher@dccouncil.us. Witnesses are asked to furnish their names, addresses, telephone number, email address, and organizational affiliation, if any, by the close of business, Tuesday, March 4, 2014. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made part of the official record. The official record will remain open until the close of business of Tuesday, March 25, 2014. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite G-6, 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

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

on

**PR 20-605, Board of Trustees of the University of the District of Columbia Dr. Anthony C. Tardd
Confirmation Resolution of 2013**

&

**PR 20-606, Board of Trustees of the University of the District of Columbia Joshua S. Wyner
Confirmation Resolution of 2013**

on

**Thursday, February 13, 2014
11:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public hearing of the Committee of the Whole on PR 20-605, Board of Trustees of the University of the District of Columbia Dr. Anthony C. Tardd Confirmation Resolution of 2013 and PR 20-606, Board of Trustees of the University of the District of Columbia Joshua S. Wyner Confirmation Resolution of 2013. The hearing will be held at 11:00 a.m. on Thursday, February 13, 2014 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PRs 20-605 and 20-606 is to confirm for appointment the nominations of Dr. Anthony Tardd and Joshua Wyner to the Board of Trustees of the University of the District of Columbia. The purpose of this hearing is to receive testimony from government and public witnesses as to the fitness of these nominees for the Board.

Those who wish to testify should contact Ms. Christina Setlow, Legislative Counsel, at (202) 724-8196, or via e-mail at csetlow@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, February 11, 2014. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Friday, June 21, 2014 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. A copy of PRs 20-605 and 20-606 can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <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, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on February 17, 2014.

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

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

on

“Fiscal Year 2013 Comprehensive Annual Financial Report (CAFR)”

on

**Wednesday, February 5, 2014
9:30 a.m., Council Chamber, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public oversight hearing of the Committee of the Whole on the Fiscal Year 2013 Comprehensive Annual Financial Report (CAFR). The public oversight hearing will be held Wednesday, February 5, 2014, at 9:30 a.m. in the Council Chamber, room 500, of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of this public oversight hearing is to receive testimony from government witnesses, including the Executive, Chief Financial Officer, and Inspector General, regarding the results of the Fiscal Year 2013 CAFR, as conducted by the independent auditing firm KPMG. The CAFR will be released on or about Friday, January 31, 2014 and can be obtained from the Office of the Chief Financial Officer thereafter.

This hearing is the first in a series of hearings to be held by the Council and its committees in connection with its oversight of Fiscal Year 2013 and 2014 agency performance. The full schedule of hearings is available on the Council’s website (<http://www.dccouncil.us>) and will be published separately in the D.C. Register.

While this roundtable will include oral testimony only from government witnesses, written statements from the public 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, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Wednesday, February 19, 2014.

REVISED/UPDATED

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON EDUCATION
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, NW, Suite 119, Washington, DC 20004

COUNCILMEMBER DAVID A. CATANIA
CHAIRMAN, COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE

on

Options Public Charter School

on

Wednesday, January 22, 2014, at 9:00 a.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember David A. Catania, Chairman of the Committee on Education, announces the reconvening of a Public Oversight Roundtable by the Committee on Education for Options Public Charter School. The public oversight roundtable will take place at 9:00 a.m. on Wednesday, January 22, 2014, in room 412 of the John A. Wilson Building. **This notice has been updated and revised to reflect the new date of the hearing.**

On December 16, 2013, the DC Public Charter School Board (PCSB) voted in favor of a proposal to begin revocation proceedings against Options Public Charter School in response to “a pattern of fiscal mismanagement.” The purpose of this public oversight roundtable is to hear from District education officials about the recent PCSB vote and any next steps, including, but not limited to, plans to ensure the dissolution of the charter in the most efficient manner. The roundtable will also cover any plans to support the transition of students to a new and appropriate educational setting and an update from the PCSB, on any plans developed since the Committee’s October 25, 2013 roundtable to ensure effective oversight of public charter school governance and compliance with applicable laws.

Testimony at the public oversight roundtable is by invitation only. The public may provide written statements to be included as part of the official record. Copies of written statements should be submitted to the Committee on Education, via email to jjordan@dccouncil.us or by mail to Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. Written statements should be submitted to the Committee on Education no later than 5:00 p.m. on Friday, January 24, 2014, when the hearing record closes.

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

Reprog. 20-145: Request to reprogram \$2,458,638 of Capital funds budget authority and allotment from the Department of General Services (DGS) and the Fire and Emergency Medical Services Department (FEMS) to the Department of Forensic Sciences was filed in the Office of the Secretary on January 8, 2014. This reprogramming will support the implementation of the new Laboratory Information Management System (LIMS).

RECEIVED: 14 day review begins January 9, 2014

Reprog. 20-146: Request to reprogram \$1,500,000 of Master Equipment Lease/Purchase Capital funds budget authority and allotment from the Department of Corrections (DOC) to the Office of the Deputy Mayor for Planning and Economic Development (DMPED) was filed in the Office of the Secretary on January 8, 2014. This reprogramming will support the costs of construction of the Engine Company Number One Temporary West End Fire Station.

RECEIVED: 14 day review begins January 9, 2014

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JANUARY 22, 2014
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members: Nick Alberti, Donald Brooks, Herman Jones
Mike Silverstein, Hector Rodriguez, James Short

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00142; Penthouse Navy Yards, LLC, t/a Penthouse Navy Yard
1212 4th Street SE, License #90303, Retailer CT, ANC 6D
New Application
This hearing has been cancelled due to the submission of a Settlement Agreement.

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00151; 19th & K, Inc., t/a Ozio Martini & Cigar Lounge
1813 M Street NW, License #89394, Retailer CN, ANC 2B
Renewal Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00149; Acott Ventures, LLC, t/a Shadow Room, 2131 K Street
NW, License #75871, Retailer CN, ANC 2A
Renewal Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00134; The Fab Lounge, Inc., t/a The Fab Lounge, 1805
Connecticut Ave NW, License #70719, Retailer CT, ANC 2B
Renewal Application
This hearing has been cancelled due to the submission of a Settlement Agreement.

Show Cause Hearing (Status) **9:30 AM**
Case # 12-AUD-00006; Esteban Ramirez & Franciso Nunez, t/a Carolina Palace
3700 14th Street NW, License #21055, Retailer CR, ANC 4C
Failed to Comply With the Terms of its Offer in Compromise dated May 1, 2013

Board's Calendar
January 22, 2014

9:30 AM

Show Cause Hearing (Status)

Case #'s 13-251-00032, # 12-251-00045, # 13-251-00046 and # 13-251-00047
Superclub Ibiza, LLC, t/a Ibiza; 1222 First Street NE, License #74456, Retailer
CN, ANC 6C

Failed to Follow Security Plan

Show Cause Hearing (Status)

9:30 AM

Case # 12-CMP-00456; Mama Chuy DC, Inc., t/a Mama Chuy, 2620 Georgia
Ave NW, License #60432, Retailer CR,ANC 1B

Violation of Settlement Agreement

Show Cause Hearing (Status)

9:30 AM

Case # 12-CMP-00568; Mama Chuy DC, Inc., t/a Mama Chuy, 2620 Georgia
Ave NW, License #60432, Retailer CR, ANC 1B

Violation of Settlement Agreement

Fact Finding Hearing

9:30 AM

Cyril W. Smith and Warren J. Smith, t/a California Liquors; 1801 California
Street NW, License #5018, Retailer A, ANC 1C

License in Safekeeping

Fact Finding Hearing

9:30 AM

Dylan's Café, Inc., t/a Hunan Peking; 3251 Prospect Street NW, License #8348
Retailer CR, ANC 2E

License in Safekeeping

Show Cause Hearing*

11:00 AM

Case # 13-CMP-00338; Pines Restaurant, Inc., t/a Pines of Florence, 2100
Connecticut Ave NW, License #21995, Retailer CR, ANC 2D

No ABC Manager on Duty, Failed to Post License in a Conspicuous Place

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Show Cause Hearing*

1:30 PM

Case # 12-CMP-00393(a); Krakatoa, Inc., t/a Chief Ike's Mambo Room, 1723
Columbia Road NW, License #17940, Retailer CT, ANC 1C

**Failed to Post In a Conspicuous Place the Name of the Licensee, Substantial
Change In Operation Without Board Approval**

Board's Calendar
January 22, 2014

Protest Hearing*

2:30 PM

Case # 13-PRO-00097; The Propal Group, LLC, t/a Napoleon, 1847 Columbia Road NW, License #75836, Retailer CR, ANC 1C

Renewal Application

Protest Hearing*

4:30 PM

Case # 13-PRO-00128; JC 7, LLC, t/a NY NY Diva, 2406 18th Street NW License #92380, Retailer CR, ANC 1C

Renewal Application

This hearing has been continued to March 12, 2014 at 1:30 p.m.

Protest Hearing*

4:30 PM

Case # 13-PRO-00131; Historic Restaurants, Inc. t/a Washington Firehouse 1626 North Capitol Street NW, License #92685, Retailer CT , ANC 5E

New Application

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

****Correction****

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 10, 2014
 Petition Date: February 24, 2014
 Roll Call Hearing Date: March 10, 2014

License No.: ABRA-093984
 Licensee: Eagle N Exile LLC
 Trade Name: DC Eagle
 License Class: Retailer’s Class “C” Tavern
 Address: 3701 Benning Road NE
 Contact: Paul Pascal, Esq. 202-544-2200

WARD 7 ANC 7F SMD 7F01

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

NATURE OF OPERATION

Transfer to new location tavern, restaurant and dance bar with continental restaurant fare. Types of entertainment include four piece bands, dancing, open microphone nights, contests, charitable fundraisers. Summer Garden with 100 seats and Sidewalk Café with 36 seats. Total occupancy load is 800.

HOURS OF OPERATION

Saturday and Sunday 24 hours, Monday through Thursday 7am -2am, Friday 7am – Midnight

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION

Sunday through Thursday 11am-2am, Friday and Saturday 11am-3am

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

Sunday through Thursday 11am-2am, Friday and Saturday 11am-3am

HOURS OF ENTERTAINMENT

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

****Correction**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 10, 2014
Petition Date: February 24, 2014
Hearing Date: March 10, 2014
Protest Date: April 30, 2014

License No.: ABRA-093538
Licensee: Admiral of the Bay, LLC
Trade Name: Events Concept
License Class: Retailer’s Class “C” Tavern
Address: 444 North Capitol Street, NW
Contact: Linda Schnabl 202-258-3168

WARD 6

ANC 6C

SMD 6C02

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on April 30, 2014.

NATURE OF OPERATION

Private space contracted for events with seating for 209 and occupancy load of 409. Food will be catered. Request a summer garden with 200 seats and entertainment endorsement with live music and DJ. No nude performances.

HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION OF ALCOHOLIC

**Sunday through Saturday 8 am – 12 am

HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION OF ALCOHOLIC BEVERAGE ON SUMMER GARDEN

**Sunday through Saturday 8 am – 12 am

HOURS OF ENTERTAINMENT

**Sunday through Saturday 8 am – 12 am

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

Posting Date: January 17, 2014

Petition Date: March 3, 2014

Hearing Date: March 17, 2014

License No.: ABRA-091423

Licensee: Lideta, LLC

Trade Name: Fort Carroll Market

License Class: Retail Class "B" Market

Address: 3705 M. L. King Jr., Ave SE

Contact: Addis Abate 202-569-3123

WARD 8

ANC 8C

ANC8C05

Notice is hereby given that this licensee has applied for a substantial change to his license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 2000 14th Street, N.W., Suite 400 South Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date.

Licensee has requested a Change of License Class from a Retailer's "B" Market to a Retailer's "A", Liquor Store.

HOURS OF OPERATION/SALES/SERVICE/CONSUMPTION

Sunday through Saturday 7 am – 12 am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
1/17/2014**

Notice is hereby given that:

License Number: ABRA-081479

License Class/Type: C Tavern

Applicant: Bistro Inc.

Trade Name: French Bistro Bistro B Lounge

ANC: 2B

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

1727 CONNECTICUT AVE NW, Washington, DC 20009

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

3/3/2014

HEARING WILL BE HELD ON

3/17/2014

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

ENDORSEMENTS: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Tuesday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Wednesday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Thursday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Friday:	9 am - 3 am	9 am - 3 am	6 pm - 3 am
Saturday:	9 am - 3 am	9 am - 3 am	6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 17, 2014
 Petition Date: March 3, 2014
 Hearing Date: March 17, 2014
 Protest Hearing Date: May 7, 2014

License No.: ABRA-093974
 Licensee: S & A Deli, Inc.
 Trade Name: Good Hope Deli & Market
 License Class: Retailer’s Class “B”
 Address: 1736 Good Hope Road SE
 Contact: Seres Snyder 202 610-9888

WARD 8

ANC 8A

SMD 8A02

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for May 7, 2014 at 1:30 pm.

NATURE OF OPERATION

This is a transfer of a license from Safekeeping to a new location.

HOURS OF OPERATION

Sunday through Saturday 7 am – 10 pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE

Sunday through Saturday 9 am – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 17, 2014
Petition Date: March 3, 2014
Roll Call Hearing Date: March 17, 2014
Protest Hearing Date: May 7, 2014

License No.: ABRA #94002
Licensee: 2737 Sherman Avenue NW LLC
Trade Name: Hilltop Bar & Restaurant
License Class: Retailer's Class "C" Tavern
Address: 2737 Sherman Avenue, NW
Contact: Kala be Getaneh: 202-494-0593

WARD 1 ANC 1B SMD 1B09

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 May 7, 2014 at 1:30 pm.

NATURE OF OPERATION

New Tavern with Sidewalk Café Seating 25, total Occupancy Load 39.

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

SIDEWALK CAFÉ HOURS OF OPERATION

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

SIDEWALK CAFÉ HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 17, 2014
 Petition Date: March 3, 2014
 Roll Call Hearing Date: March 17, 2014
 Protest Hearing Date: May 7, 2014

License No.: ABRA-093939
 Licensee: Macon-DC, LLC
 Trade Name: Macon-DC
 License Class: Retailer’s Class “C” Restaurant
 Address: 5520 Connecticut Avenue NW
 Contact: Andrew Kline, 202-686-7600

WARD 3 ANC 3G SMD 3G06

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for May 7, 2014 at 1:30 pm.

NATURE OF OPERATION

New restaurant serving French bistro food. Total load is 99. Sidewalk Café with 24 seats and Summer Garden with 10 seats.

HOURS OF OPERATION FOR INSIDE PREMISES, SIDEWALK CAFÉ AND SUMMER GARDEN

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

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES, SIDEWALK CAFÉ AND SUMMER GARDEN

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
1/17/2014

Notice is hereby given that:

License Number: ABRA-087030

License Class/Type: C Tavern

Applicant: Kiel, LLC

Trade Name: Mova

ANC: 1B

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

2204 14TH ST NW, WASHINGTON, DC 20009

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

3/3/2014

HEARING WILL BE HELD ON

3/17/2014

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

ENDORSEMENTS: Cover Charge, Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Thursday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Friday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am
Saturday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
1/17/2014

Notice is hereby given that:

License Number: ABRA-093095

License Class/Type: C Tavern

Applicant: CHAM RESTAURANT GRO

Trade Name: NEW TOWN KITCHEN AND LOUNGE

ANC: 1B

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

1336 U ST NW, WASHINGTON, DC 20009

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

3/3/2014

HEARING WILL BE HELD ON

3/17/2014

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

ENDORSEMENTS: Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Tuesday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Wednesday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Thursday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Friday:	10 am - 3 am	10 am - 3 am	6 pm - 3 am
Saturday:	10 am - 3 am	10 am - 3 am	6 pm - 3 am

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

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
1/17/2014**

Notice is hereby given that:

License Number: ABRA-087629

License Class/Type: C Tavern

Applicant: AJC III LLC

Trade Name: Phase I of Dupont

ANC: 2B

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

1415 22ND ST NW, WASHINGTON, DC 20037

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

3/3/2014

HEARING WILL BE HELD ON

3/17/2014

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

ENDORSEMENTS: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	12 pm - 2 am	12 pm -2 am	6 pm - 1:30 am
Monday:	5 pm - 2 am	5 pm - 2 am	6 pm - 1:30 am
Tuesday:	5 pm - 2am	5 pm - 2 am	6 pm - 1:30am
Wednesday:	5 pm - 2 am	5 pm - 2 am	6 pm - 1:30 am
Thursday:	5 pm - 3am	5 pm - 2 am	6 pm - 2:30am
Friday:	5 pm - 4am	5 pm - 3 am	6 pm - 3:30am
Saturday:	5 pm - 4am	5 pm - 3 am	6 pm - 3:30am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
1/17/2014

Notice is hereby given that:

License Number: ABRA-077883

License Class/Type: C Tavern

Applicant: 1215 CT, LLC

Trade Name: Rosebar

ANC: 2B

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

1215 CONNECTICUT AVE NW, Washington, DC 20036

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

3/3/2014

HEARING WILL BE HELD ON

3/17/2014

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

ENDORSEMENTS: Cover Charge, Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 3 am	11 am -2 am	6 pm - 3 am
Monday:	11 am - 3 am	11 am - 2 am	6 pm - 3 am
Tuesday:	11 am - 3 am	11 am - 2 am	6 pm - 3 am
Wednesday:	11 am - 3 am	11 am - 2 am	6 pm - 3 am
Thursday:	11 am - 3 am	11 am - 2 am	6 pm - 3 am
Friday:	11 am - 4 am	11 am - 3 am	6 pm - 4 am
Saturday:	11 am - 4 am	11 am - 3 am	6 pm - 4 am

Days	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	11 am - 3 am	11 am - 2 am
Monday:	11 am - 3 am	11 am - 2 am
Tuesday:	11 am - 3 am	11 am - 2 am
Wednesday:	11 am - 3 am	11 am - 2 am
Thursday:	11 am - 3 am	11 am - 2 am
Friday:	11 am - 4 am	11 am - 3 am
Saturday:	11 am - 4 am	11 am - 3 am

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

Posting Date: January 17, 2014
Petition Date: March 03, 2014
Hearing Date: March 17, 2014
Protest Date: May 07, 2014

License No.: ABRA-094011
Licensee: Lepri, LLC
Trade Name: Steel Plate
License Class: Retail Class "C" Tavern
Address: 3523 12th Street, N.E.
Contact: Brian C. Molloy 202-625-7700

WARD 5

ANC 5B

SMD 5B02

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30 pm on May 07, 2014.

NATURE OF OPERATION

New Tavern. Serving a variety of American style dishes. Will provide entertainment in the form of occasional jazz bands, solo artist, and DJ. Occupancy load is 142. Summer Garden

HOURS OF OPERATON

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

HOURS OF SALES/SERVICE/CONSUMPTION

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

HOURS OF OPERATON FOR SUMMER GARDEN (69 Seats)

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

HOURS OF SALES/SERVICE/CONSUMPTION OF SUMMER GARDEN

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

HOURS OF ENTERTAINMENT

Sunday through Saturday 11 am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
1/17/2014

Notice is hereby given that:

License Number: ABRA-060455

License Class/Type: C Tavern

Applicant: 1610 Restaurant, LLC

Trade Name: Stetson's

ANC: 2B

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

1610 U ST NW, Washington, DC 20009

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

3/3/2014

HEARING WILL BE HELD ON

3/17/2014

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

ENDORSEMENTS: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	-
Monday:	4:30 pm - 2 am	4:30 pm - 2 am	-
Tuesday:	4:30 pm - 2 am	4:30 pm - 2 am	-
Wednesday:	4:30 pm - 2 am	4:30 pm - 2 am	-
Thursday:	4:30 pm - 2 am	4:30 pm - 2 am	-
Friday:	4:30 pm - 3 am	4:30 pm - 3 am	-
Saturday:	9 am - 3 am	9 am - 3 am	-

Days	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	10 am - 2 am	10 am - 2 am
Monday:	4:30 pm - 2 am	4:30 pm - 2 am
Tuesday:	4:30 pm - 2 am	4:30 pm - 2 am
Wednesday:	4:30 pm - 2 am	4:30 pm - 2 am
Thursday:	4:30 pm - 2 am	4:30 pm - 2 am
Friday:	4:30 pm - 3 am	4:30 pm - 3 am
Saturday:	9 am - 3 am	9 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
1/17/2014

Notice is hereby given that:

License Number: ABRA-092766

License Class/Type: C Restaurant

Applicant:

Trade Name: The American

ANC: 2F

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

1209 - 1213 10TH ST NW, WASHINGTON, DC 20001

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

3/3/2014

HEARING WILL BE HELD ON

3/17/2014

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

ENDORSEMENTS:

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

****Correction****

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: January 10, 2014
 Petition Date: February 24, 2014
 Roll Call Hearing Date: March 10, 2014
 Protest Hearing Date: April 30, 2014

License No.: ABRA-93610
 Licensee: Good Essen-U Street, LLC
 Trade Name: Tico
 License Class: Retailer’s Class “C” Restaurant
 Address: 1926 14th Street, NW
 Contact: Andrew Kline: 202-686-7600

WARD 2 ANC 2B SMD 2B09

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 April 30, 2014 at 1:30 pm.

NATURE OF OPERATION

Restaurant serving Mexican food. No Nude performances. No Dancing. No Entertainment. Occupancy Load 250. Seating 150.

HOURS OF OPERATION

Sunday through Thursday: 7am- 2am, Friday and Saturday: 7am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

BOARD OF ELECTIONS**NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE**

The Board of Elections shall consider whether the proposed measure, “Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014,” is a proper subject matter for initiative at a public hearing on Tuesday, February 25, 2014 at 10:00 a.m. in the Board’s hearing room, located at One Judiciary Square, 441 4th Street, N.W., Suite 280, Washington, D.C.

The Board requests that written memoranda addressing the issue of whether the proposed measure is a proper subject matter for initiative be submitted for the record no later than 4:00 p.m. on Wednesday, February 19, 2014 to the Board of Elections, Office of the General Counsel, One Judiciary Square, 441 4th Street, N.W., Suite 270, Washington, D.C. 20001.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number, and name of the organization represented, if any, by calling the Office of the General Counsel at 727-2194 no later than Thursday, February 20, 2014 at 4:00 p.m.

The Short Title, Summary Statement, and Legislative Text of the proposed measure read as follows:

SHORT TITLE

Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014

SUMMARY STATEMENT

This Initiative would make it lawful for a person 21 years of age or older to possess up to two ounces of marijuana for personal use; to grow no more than three mature cannabis plants within the person’s principal residence; and to transfer without payment (but not sell) up to one ounce of marijuana to another person 21 years of age or older; and to use or sell drug paraphernalia for use, growing or processing of marijuana or cannabis that is made legal by the Initiative.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014.”

--D.C. Code §48-904.01--

1. Section 401 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §48-904.01), is amended as follows:

(a) Subsection (a)(1) is amended to read as follows: “(a)(1) Except as authorized by this chapter or Chapter 16B or Title 7, it is unlawful for any person knowingly or intentionally to manufacture, distribute, or possess, with intent to manufacture or distribute, a controlled substance. Notwithstanding any provision of this chapter to the contrary, it shall be lawful, and shall not be an offense under District of Columbia law, for any person twenty-one (21) years of age or older to :

“(A) Possess, use, purchase or transport marijuana weighing two ounces or less;

“(B) Transfer to another person twenty-one years of age or older, without remuneration, marijuana weighing one ounce or less;

“(C) Possess, grow, harvest or process, within the interior of a house or rental unit that constitutes such person’s principal residence, no more than six cannabis plants, with three or fewer being mature, flowering plants, provided that all persons residing within a single house or single rental unit may not possess, grow, harvest or process, in the aggregate, more than twelve cannabis plants, with six or fewer being mature, flowering plants;

“(D) possess within such house or rental unit the marijuana produced by such plants;

Provided that, nothing in this subsection shall make it lawful to sell, offer for sale or make available for sale any marijuana or cannabis plants.”

(b) The following new paragraphs are added to subsection (a) after paragraph (1), and the remaining paragraphs are renumbered accordingly:

“(2) The terms ‘controlled substance’ and ‘controlled substances,’ as used in this Code, shall not include:

“(A) Marijuana that is or was in the personal possession of a person twenty-one years of age or older at any specific time if the total amount of marijuana that is or was in the possession of that person at that time weighs or weighed two ounces or less;

“(B) Cannabis plants that are or were grown, possessed, harvested, or processed by a person twenty one years of age or older within the interior of a house or rental unit that constitutes or at the time constituted, such person’s principal residence, if such person at that time was growing no more than six cannabis plants with three or fewer being mature flowering plants and if all persons residing within that single house or single rental unit at that time did not possess, grow, harvest or process, in the aggregate, more than twelve cannabis plants, with six or fewer being mature, flowering plants; or

“(C) The marijuana produced by the plants which were grown, possessed, harvested or processed by a person who was, pursuant to subparagraph (B) of this paragraph, permitted to grow, possess, harvest and process such plants, if such marijuana is or was in the personal possession of that person who is growing or grew such plants, within the house or rental unit in which the plants are or were grown.

Notwithstanding the provisions of this paragraph, the terms ‘controlled substance’ and ‘controlled substances’ as used in this Code shall include any marijuana or cannabis plant sold or offered for sale or made available for sale.

“(3) Notwithstanding any other provision of this Code, no district government agency or office shall limit or refuse to provide any facility service, program or benefit to any person based upon or by reason of conduct that is made lawful by this subsection.

“(4) Nothing in this subsection shall be construed to require any district government agency or office, or any employer, to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of any such agency, office or employer to establish and enforce policies restricting the use of marijuana by employees.

“(5) Nothing in this subsection shall be construed to permit driving under the influence of marijuana or driving while impaired by use or ingestion of marijuana or to modify or affect the construction or application of any provision of this Code related to driving under the influence of marijuana or driving while impaired by marijuana.

“(6) Nothing in this subsection shall be construed to prohibit any person, business, corporation, organization or other entity, or district government agency or office, who or which occupies, owns or controls any real property, from prohibiting or regulating the possession, consumption, use, display, transfer, distribution, sale, transportation or growing of marijuana on or in that property.

“(7) Nothing in this subsection shall be construed to make unlawful any conduct permitted by the District of Columbia Legalization of Marijuana for Medical Treatment Amendment Act of 2010 (D.C. Law 18-210; D.C. Official Code §§7-1671.01 et seq.).”

--D.C. Code §48-1103--

2. Section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code §48-1103), is amended as follows:

(a) Subsection (a) is amended to read as follows:

“(a) Except as authorized by Chapter 16B of Title 7, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inhale, ingest, or otherwise introduce into the human body a controlled substance; except that it shall be lawful for any person twenty-one years of age or older to use, or possess with intent to use, drug paraphernalia to possess or use marijuana if such possession or use is lawful under section 48-904.01(a)(1), or to use, or possess with intent to use, drug paraphernalia to grow, possess, harvest or process cannabis plants, the growth, possession, harvesting or processing of which is lawful under section 48-904.01(a)(1). Whoever violates this subsection shall be imprisoned for not more than 30 days or fined for not more than \$100, or both.”

(b) Subsection (b) is amended to read as follows:

“(b) Except as authorized by Chapter 16B of Title 7, it is unlawful for any person to deliver or sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia, knowingly, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance; except that it shall be lawful for any person to deliver or sell, possess with intent to deliver or sell, or manufacture with

intent to deliver or sell, drug paraphernalia under circumstances in which one knows or has reason to know that such drug paraphernalia will be used solely for use of marijuana that is lawful under section 48-904.01(a)(1) or that such drug paraphernalia will be used solely for growing, possession, harvesting, or processing of cannabis plants that is lawful under section 48-904.01(a)(1). Whoever violates this subsection shall be imprisoned for not more than 6 months or fined for not more than \$1,000, or both, unless the violation occurs after the person has been convicted in the District of Columbia of a violation of this subchapter, in which case the person shall be imprisoned for not more than 2 years, or fined not more than \$5,000, or both."

3. The amounts of the fines set forth in District of Columbia Code sections 22-3571.01 and 48-1103 shall be adjusted through implementing or amending legislation enacted by the Council of the District of Columbia to the extent necessary to ensure that this Act does not negate or limit any act of the Council of the District of Columbia pursuant to D.C. Code §1-204.46.

4. This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), approved December 24, 1971 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)).

DEPARTMENT OF GENERAL SERVICES

NOTICE OF PUBLIC MEETINGS REGARDING
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE 10-801

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

Properties: Square 2892, Lot 0105 – Georgia Avenue NW (“Vacant Lot with Small Structure”)

Date: February 13, 2014

Time: 6:30 p.m.

Location: Parkview Community Center
693 Otis Place NW
Washington, DC 20010

Contact: Regina Payton, Real Estate Specialist
Department of General Services
202.727.7034 or Regina.payton@dc.gov

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 MedStar Health, Inc. for the Establishment of a Comprehensive Multi-Specialty Ambulatory Care Center at 1120 20th Street, N.W. and 1123 21st Street, N.W.
Certificate of Need Registration No. 13-0-2

The hearing will be held on Thursday, January 30, 2014, beginning at 11:00 a.m., at 899 North Capitol Street, N.E., 4th Floor, Room 407, 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 Thursday, February 6, 2014 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 Wednesday, January 29, 2014. Each member of the public who wishes to testify will be allowed a maximum of five (5) minutes.

**DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**

NOTICE OF PUBLIC HEARING

**Surplus and Community Health Reinvestment Review and Determination for
Group Hospital and Medical Services, Inc., a Subsidiary of CareFirst, Inc.**

March 12, 2014

10:00 a.m.

One Judiciary Square

441 4th Street, N.W., Suite 220 South

Washington, D.C. 20001

Pursuant to section 7 of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31- 3506), as amended by the Medical Insurance Empowerment Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-369; D.C. Official Code §§ 31-3501 *et seq.*) (collectively the “Act”), the Commissioner of the Department of Insurance, Securities and Banking (“Department”) hereby gives notice of his intent to conduct a public hearing to review the surplus and community health reinvestment of Group Hospitalization and Medical Services, Inc. (“GHMSI”), a subsidiary of CareFirst, Inc. As set forth in the Act, the public hearing is being conducted to determine: (1) whether the portion of the company’s surplus attributable to the District is unreasonably large; and (2) whether the company has engaged in community health reinvestment to the maximum extent feasible consistent with financial soundness and efficiency.

The public hearing will be held on Wednesday, March 12, 2014, at 10:00 a.m., at One Judiciary Square, 441 – 4th Street, N.W., Suite 220 South, Washington, D.C. 20001. The public hearing will be conducted in accordance with the Procedures for the Determination of Excess Surplus, 26A DCMR § 4601 *et seq.*, and the Department’s Rules of Practice and Procedure for Hearings, 26A DCMR § 3800.1 *et seq.* Information concerning the review of GHMSI’s surplus, briefing schedule, applicable rules, and further instructions to the public will be posted on the Department’s website at www.disb.dc.gov.

All inquiries, correspondence, and informational filings should be sent to the attention of the Hearing Officer: Ms. Lisa Butler, Hearing Officer, District of Columbia Department of Insurance, Securities and Banking, 810 First Street, NE, Suite 701, Washington, DC 20002. Persons who wish to testify at the public hearing should contact the Hearing Officer at the address above or by email at Lisa.Butler@dc.gov. The record for the public hearing will remain open for seven (7) business days following the hearing for the submission of rebuttal or other written statements.

If a party or witness is deaf, has a hearing impediment, or otherwise cannot readily understand or communicate in English, the party or witness may apply to the Department for the appointment of a qualified interpreter. In addition, if any party or witness requires any other special accommodations, please contact the Hearing Officer at least ten (10) business days prior to the hearing.

**BOARD OF ZONING ADJUSTMENT
*REVISED PUBLIC HEARING NOTICE**

TUESDAY, FEBRUARY 11, 2014

441 4TH STREET, N.W.

**JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

***NOTE:** This notice has been revised to include Application Nos. 18671 and 18613.

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

9:30 A.M. MORNING HEARING SESSION

A.M.

WARD THREE

18706 **Application of Lawrence S. Ward and Jessica Furey**, pursuant to 11
ANC-3E DCMR § 3104.1, for a special exception for an addition to a one-family
detached dwelling under section 223, not meeting the lot occupancy
(section 403) and nonconforming structure (subsection 2001.3)
requirements in the R-1-B District at premises 4445 Yuma Street, N.W.
(Square 1591, Lot 827).

WARD THREE

18708 **Application of Amir Motlagh**, pursuant to 11 DCMR § 3104.1, for a
ANC-3D special exception to allow the construction of a one-family detached
dwelling on a theoretical lot (Last approved under BZA Order No. 15882)
under section 2516, in the R-1-A District at premises 4509 Foxhall
Crescents Drive, N.W. (Square 1397, Lot 960).

WARD SEVEN

18707 **Application of Antioch Baptist Church**, pursuant to 11 DCMR §§
ANC-7C 3104.1 and 3103.2, for a variance from the parking lot location
requirements under subsection 214.4, and a special exception to establish
an accessory parking and storage lot under section 214, in the R-2 District
at premises 5014 Lee Street, N.E. (Square 5174, Lot 12).

WARD FIVE

18709 **Application of DAZ LLC**, pursuant to 11 DCMR §§ 3104.1 and 3103.2,
ANC-5E for a special exception for an addition to a flat under section 223, not

BZA PUBLIC HEARING NOTICE

FEBRUARY 11, 2014

PAGE NO. 2

meeting the lot occupancy (section 403), side yard (section 405) and nonconforming structure (subsection 2001.3) requirements, and variances from the lot occupancy (section 403), side yard (section 405) and nonconforming structure (subsection 2001.3) for an addition to an existing child development center in the R-4 District at premises 125 New York Avenue, N.W. (Square 555, Lot 802).

WARD FOUR**THIS APPLICATION WAS POSTPONED FROM THE DECEMBER 10 & 18, 2013 PUBLIC HEARING SESSIONS:**

18671 **Application of Jemal's TP Land LLC**, pursuant to 11 DCMR §§ 3104.1
ANC-4B and 3103.2, for a special exception for a new residential development under section 353, a special exception to allow more than one principal building on a single lot under subsection 2516, a special exception from the roof structure provisions under subsection 411.11, and a variance from the loading requirements under section 2201, to allow two new apartment buildings in the R-5-A District at premises 6923-6953 Maple Street, N.W. and 6916-6926 Willow Street, N.W. (Square 3357, Lots 26, 27, 28, 29, 40, 808, 811, 814, 815, 818, 819, 820, 825, 840 and 843).

THIS APPLICATION WAS CONTINUED FROM THE PUBLIC HEARING SESSIONS OF SEPTEMBER 24, 2013 AND DECEMBER 3, 2013:**WARD SEVEN**

18613 **Application of Continental Mortgage and Investment Corp.**, pursuant
ANC-7E to 11 DCMR § 3103.2, for a variance from the height and story limitations under section 400.1, and a variance from the nonconforming structure requirements under subsection 2001.3, to allow the renovation of and fourth floor additions to two apartment buildings in the R-3 District at premises 11 50th Street, S.E. and 4945 Ayers Street, S.E. (Square 5331, Lots 32 and 33).

WARD FIVE

18705 **Appeal of Kingman Park Civic Association and W. Simpkins**, pursuant
ANC-5D to 11 DCMR §§ 3100 and 3101, from a decision by the Department of Consumer and Regulatory Affairs to permit a Street Car Maintenance Garage , Repair Facility and Street Car Wash, in the R-5-B District at premises 2500 Benning Road, N.E. (Parcel 160/45).

PLEASE NOTE:

BZA PUBLIC HEARING NOTICE

FEBRUARY 11, 2014

PAGE NO. 3

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: Monday, March 3, 2014, @ 6:30 P.M.
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Z.C. Case No. 13-10 (ZP Georgia, LLC - Consolidated PUD & Related Map Amendment @ Square 2892, Lots 102-105, 879 & 910)

THIS CASE IS OF INTEREST TO ANC 2F

On October 23, 2013, the Office of Zoning received an application from ZP Georgia, LLC (the "Applicant"). The Applicant is requesting approval of a consolidated planned unit development and related map amendment for Lots 102, 103, 104, 105, 879, 910, and a portion of a public alley to be closed, all of which are in Square 2892 (the "Subject Property").

The Office of Planning provided a report on November 27, 2013. At its public meeting on December 9, 2013, the Zoning Commission voted to set the application down for a public hearing. The Applicant provided its prehearing statement on December 23, 2013.

The Subject Property has a combined land area of approximately 16,756 square feet, with approximately 116.67 linear feet of frontage on Georgia Avenue. Square 2892 is located in the northwest quadrant of the City and is bounded by Lamont Street to the north, Georgia Avenue to the east, Kenyon Street to the south, and Sherman Avenue to the west. The Subject Property is located in Ward 1 and within the boundaries of Advisory Neighborhood Commission ("ANC") 1A.

The proposed project is a mixed-use development that includes approximately 3,816 square feet of gross floor area devoted to retail uses, and approximately 96,000 square feet of gross floor area devoted to 105 residential units (plus or minus 10%). The project will have a building height of approximately 87 feet, and an overall density of 5.95 FAR. The project also includes 36 off-street parking spaces, with 34 spaces located in a below-grade parking garage and two surface spaces located at the rear of the building.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR § 3022.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most

Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 13-10
PAGE 2

important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3022.3.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person’s interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning’s website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |
| 3. | Organizations | 5 minutes each |
| 4. | Individuals | 3 minutes each |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Z.C. NOTICE OF PUBLIC HEARING
Z.C. CASE NO. 13-10
PAGE 3

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer of the District of Columbia (CPO), pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06) (2012 Repl.)) (Act), hereby gives notice of the intent to adopt a final rulemaking to amend Section 1304.1 of Chapter 13, Publicizing Contract Actions, of Title 27, Contracts and Procurement, of the District of Columbia Municipal Regulations (DCMR).

The rulemaking is necessary to make Section 1304.1 consistent with the recent increase in the small purchase limit from \$5,000 to \$10,000, and with Section 1800.3 of Chapter 18, Small Purchase and Other Simplified Purchase Procedures, of Title 27 of the DCMR.

The CPO gave notice of his intent to adopt these rules on September 19, 2013, and the emergency and proposed rules were published in the *D.C. Register* on October 11, 2013, at 60 DCR 14635. No changes have been made to the text of the rules as published. The CPO took final action to adopt these rules on November 14, 2013.

The rulemaking will become effective upon publication in the *D.C. Register*.

Chapter 13, PUBLICIZING CONTRACT ACTIONS, of Title 27, CONTRACTS AND PROCUREMENTS, of the DCMR is amended as follows:

Section 1304.1 is amended to read as follows:

1304.1 A notice of intent to award a sole source contract shall be published on the OCP Internet for at least ten (10) days prior to contract award if the estimated price is over ten-thousand dollars (\$10,000).

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 63 (Occupational Therapy) of Title 17 (Business, Occupations, and Professions) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking will update and revise the provisions regulating occupational therapy in the following areas: continuing education requirements; responsibilities of occupational therapists; occupational therapy aides. The rulemaking also removes some provisions governing occupational therapy assistants, which are now codified in Chapter 73.

These rules were previously published in the *D.C. Register* as a proposed rulemaking on September 27, 2013, at 60 DCR 13388. No written comments were received from the public in connection with this publication during the thirty (30)-day comment period and no changes have been made.

Final action to adopt the rules took place on December 16, 2013. These rules will be effective upon publication of the notice in the *D.C. Register*.

CHAPTER 63, OCCUPATIONAL THERAPY, of TITLE 17, BUSINESS, OCCUPATIONS, AND PROFESSIONS, of the DCMR is amended as follows:

Section 6300, GENERAL PROVISIONS, is amended as follows:

Section 6300.2 is amended to read as follows:

6300.2 Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), and 73 (Occupational Therapy Assistants) of this title shall supplement this chapter.

Section 6302 is amended to read as follows:

6302 EDUCATIONAL AND TRAINING REQUIREMENTS

6302.1 Except as otherwise provided in this chapter, an applicant for a license to practice occupational therapy shall furnish proof satisfactory to the Board, in accordance with § 504(g)(1) of the Act, D.C. Official Code § 3-1205.04(g)(1), that the applicant has done the following:

- (a) Successfully completed an educational program for occupational therapists that is accredited by the Accreditation Council for Occupational

Therapy Education (ACOTE); and

- (b) Successfully completed a period of supervised fieldwork experience required by the recognized educational institution where the applicant fulfilled his or her academic requirements.

Section 6303 is amended to read as follows:

6303 APPLICANTS EDUCATED IN FOREIGN COUNTRIES

- 6303.1 The Board may grant a license to practice to an applicant who has his or her exam scores submitted from the National Board for Certification in Occupational Therapy (NBCOT) to the Board and who has completed an educational program in a foreign country whose program is approved by the World Federation of Occupational Therapists.
- 6303.2 The applicant shall be currently certified by the National Board for Certification in Occupational Therapy (NBCOT).
- 6303.3 In lieu of meeting the requirements of § 6302.1(a) an applicant for licensure as an occupational therapist shall submit evidence of successful completion of the occupational therapy certification examination developed by NBCOT for occupational therapists, to the Board.
- 6303.4 An applicant shall arrange for the verification of the certification required by § 6303.2 to be sent directly from NBCOT to the Board.

Section 6306 is amended to read as follows:

6306 CONTINUING EDUCATION REQUIREMENTS

- 6306.1 This section shall not apply to applicants for an initial license by examination, reciprocity, or endorsement, nor shall it apply to applicants for the first renewal of a license granted by examination.
- 6306.2 A continuing education contact hour shall be valid only if it is part of a program or activity that the Board approves in accordance with §§ 6307 and 6308.
- 6306.3 An applicant for license renewal shall complete a minimum of twenty-four (24) contact hours of approved continuing education in accordance with §§ 6307 and 6308 during the two (2) year period preceding the date the license expires.
- 6306.4 The Board may require proof of completion of the required continuing education. Such proof shall include the following information:
 - (a) The name and address of the sponsor of the program;

- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The dates on which the licensee attended the program;
- (d) The number of contact hours claimed;
- (e) Verification by the sponsor of the licensee’s completion, by signature or stamp of the sponsor; and
- (f) The name of the licensee completing the program.

6306.5 If the license of an occupational therapist expires while serving in the military whenever the United States is engaged in active military operations against any foreign power or hostile force, and the required continuing education hours were not earned during the earning period, the licensee shall be required to complete the required continuing education hours needed no later than six (6) months after discharge from active service, return to inactive military status, or return to the United States from an active war zone.

6306.6 The continuing education contact hours completed to satisfy the requirement of § 6306.5 shall not be counted toward meeting the continuing education requirement for the next licensing period.

6306.7 The credits received for each approved continuing education program shall be applied in full toward meeting the continuing education requirements for each renewal period. The proration of continuing education credits over more than one (1) renewal cycle shall not be allowed.

6306.8 A licensee who is licensed to practice in a jurisdiction other than the District shall meet the requirements of this section in order to be eligible for license renewal in the District.

Section 6307 is amended to read as follows:

6307 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES

6307.1 The Board may, at its discretion, approve continuing education programs and activities that contribute to the professional competence in the practice of occupational therapy and meet the other requirements of this section.

6307.2 The Board shall approve continuing education programs and activities that are relevant to the practice or education of occupational therapists and occupational therapy assistants that document the following:

- (a) Current subject matter with course description;
- (b) Content focus;
- (c) Learning outcomes;
- (d) Target audience;
- (e) Satisfactory completion of the course by the course participant; and
- (f) The number of contact hours or continuing education units.

6307.3 The Board may approve the following types of activities provided that they are consistent with the requirements of this chapter:

- (a) Activities sponsored by the state or local occupational therapy organizations;
- (b) Activities sponsored by the American Occupational Therapy Association (AOTA), the American Physical Therapy Association (APTA), the American Speech-Language-Hearing Association (ASHA), and the American Society of Hand Therapists (ASHT);
- (c) Activities sponsored by AOTA approved providers;
- (d) Activities sponsored by an accredited healthcare facility; or
- (e) Activities sponsored by an accredited college or university.

6307.4 The following activities shall not meet the requirement of § 6307.1 and may not be approved as continuing education required under this chapter:

- (a) Mandatory non-clinical in-service competency or education programs including, but not limited to, Basic Cardiac Life Support (BCLS) or Cardiopulmonary Resuscitation (CPR), first aid, infection control, emergency preparedness, or documentation update; and
- (b) Mandatory organization-specific trainings or programs required as part of job performance or development.

6307.5 The Board may grant continuing education credits for the following activities:

- (a) Serving as an author of self-study article or series;
- (b) Serving as an instructor or speaker at a conference program or an

academic course;

- (c) Serving as an instructor at a peer-reviewed or non-peer-reviewed seminar, workshop, or in-service training, whether in-person or web-based;
- (d) Serving as supervisor for persons authorized to practice pursuant to § 6317.2;
- (e) Serving as a clinical instructor for students of occupational therapy or students of any other health occupation;
- (f) Authoring or editing a published book, a published chapter in a book, or a published article in a professional journal or other nationally recognized publication;
- (g) Participating as a primary clinical fieldwork educator for Level I or Level II fieldwork;
- (h) Participating in board or committee work in connection with an agency or a non-profit organization whose mission is to promote and enhance the practice of occupational therapy; or
- (i) Participating in research as a principal investigator or research assistant.

6307.6 The licensee shall bear the burden of establishing to the Board's satisfaction that any supervisory activities, professional volunteer activities, or services as an instructor, speaker, publisher or editor are eligible for continuing education credit and approval in accordance with § 6307.1.

Section 6308 is amended to read as follows:

6308 CONTINUING EDUCATION CREDITS

6308.1 The Board may grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) contact hour.

6308.2 For approved undergraduate or graduate courses, each semester hour of credit shall constitute fifteen (15) contact hours of continuing education, and each quarter hour of credit shall constitute ten (10) contact hours of continuing education.

6308.3 The Board may grant continuing education credit for the activities described in § 6307.5(a), (b), or (c) subject to the following restrictions:

- (a) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded for participants;
- (b) The maximum amount of credit which may be granted pursuant to this subsection is fifty percent (50%) of an applicant's continuing education requirement;
- (c) If an applicant had previously received credit in connection with a particular presentation, the Board shall not grant credit in connection with a subsequent presentation unless it involves either a different or a substantially modified program; and
- (d) The presentation shall have been completed during the period for which credit is claimed and includes documentation of the following:
 - (1) A copy of the official program or syllabus;
 - (2) The presentation title;
 - (3) The date of the presentation;
 - (4) The hours of the presentation;
 - (5) The type of audience addressed; and
 - (6) A verification of attendance signed by the sponsor.

6308.4 The Board may grant up to six (6) contact hours per renewal period for the activities described in § 6307.5(d). The supervisor shall submit a copy of the supervised practice letter to receive continuing education contact hours.

6308.5 The Board may grant one (1) continuing education contact hour for each hour of clinical instruction, up to a maximum of eight (8) contact hours per renewal period for the activities described in § 6307.5(e), with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates and duration of instruction; and
- (d) Signature of the program director.

- 6308.6 The Board may grant up to six (6) continuing education contact hours per renewal period for the activities described in § 6307.5(f), if the book, chapter, or article was published or accepted for publication during the period for which credit is claimed, and satisfactory proof is submitted to the Board.
- 6308.7 The Board may grant up to six (6) contact hours per renewal period for the activities described in § 6307.5(g), with the following documentation:
- (a) Name of student as verified by the school;
 - (b) Name of the school;
 - (c) Dates of the fieldwork; and
 - (d) Signature page of student evaluation excluding evaluation scores and comments on student.
- 6308.8 The Board may grant up to three (3) continuing education contact hours to an applicant under this section who has successfully completed a course on management which is directly related to occupational therapy.
- 6308.9 The Board may grant up to three (3) continuing education contact hours for the activities described in § 6307.5(h), provided that such participation totaled no less than eighteen (18) hours during a renewal period. The applicant shall provide the following documentation:
- (a) Name of the committee, board, agency or organization;
 - (b) Purpose for service;
 - (c) Description of duties and roles; and
 - (d) Validation of service by an officer or representative of the organization.
- 6308.10 The Board may grant up to six (6) contact hours for the activities described in § 6307.5(i), provided that such participation is sufficiently documented.
- 6308.11 The Board may require proof of a licensee's completion of continuing education at the completion of a renewal period. A licensee shall:
- (a) Maintain the required proof of completion for each continuing competence activity as specified in these regulations; and
 - (b) Retain documentation of a continuing competence activity for a minimum of two (2) years following the last day of the license renewal period for which the continuing competence activity was completed.

Section 6309 is amended to read as follows:**6309 REACTIVATION**

- 6309.1 The requirements of this section shall apply to licensees under this chapter who have been in inactive status and seeks reactivation of their license in accordance with § 511 of the Act, D.C. Official Code § 3-1205.11.
- 6309.2 A reactivation applicant who has been inactive five (5) years or less and does not hold a license in any other jurisdiction shall submit proof pursuant to § 6306 of having completed twelve (12) contact hours in clinical coursework in an approved continuing education program for each year that the applicant was not licensed, up to a maximum of sixty (60) hours.
- 6309.3 A reactivation application who has been inactive for more than 5 (five) years and who does not hold an active license in any other jurisdiction shall submit proof pursuant to § 6306 of having completed the following:
- (a) Twelve (12) contact hours in clinical coursework in an approved continuing competence program for each year that the applicant was not licensed, up to a maximum of sixty (60) hours. Twenty-four (24) of those contact hours shall have been completed within two (2) years prior to the date the application is submitted; and
 - (b) One hundred sixty (160) hours of supervised clinical training by a licensed occupational therapist within the two (2) months prior to the date the application is submitted.
- 6309.4 An applicant for reactivation of an occupational therapy license who holds an active license in any other jurisdiction shall not be required to submit proof of continuing education contact hours with the application.

Section 6310 is amended to read as follows:**6310 REINSTATEMENT**

- 6310.1 The requirements of this section shall apply to persons with expired licenses who seek reinstatement within five (5) years in accordance with § 512(a) of the Act, D.C. Official Code § 3-1205.12(a).
- 6310.2 A person may not apply for reinstatement if his or her license has expired for more than five (5) years.
- 6310.3 A reinstatement applicant who holds an active license in any other jurisdiction shall submit proof of having completed twelve (12) contact hours of continuing

education for each year that the applicant was not licensed in the District, up to a maximum of sixty (60) hours. Twenty-four (24) contact hours must have been completed within two (2) years prior to the date the application is submitted.

6310.4 A reinstatement applicant who does not hold an active license in any jurisdiction shall submit proof of having completed the following:

- (a) Twelve (12) contact hours in clinical coursework in an approved continuing education program for each year that the applicant was not licensed up to a maximum of sixty (60) hours. Twenty-four (24) contact hours shall have been completed within two (2) years prior to the date the application is submitted; and
- (b) One hundred sixty (160) hours of supervised clinical training by a licensed occupational therapist within two (2) months prior to the date the application is submitted.

Section 6311 is amended to read as follows:

6311 ENDORSEMENT

6311.1 The Board shall issue a license by endorsement to an applicant for licensure who has a valid unrestricted license in good standing from another jurisdiction of the United States and who meets all other requirements of this section.

6311.2 An applicant for licensure as an occupational therapist by endorsement shall submit with a completed application the following:

- (a) Official, certified proof of active licensure in at least one (1) jurisdiction;
- (b) Proof of good standing from all jurisdictions in which the occupational therapist ever held a license in the United States;
- (c) Official, certified proof from NBCOT that the applicant has passed the NBCOT examination; and
- (d) Proof that the applicant is a graduate of a professional occupational therapy or occupational therapy assistant education program, as relevant to the license, accredited by an agency that the United States Department of Education recognizes for that purpose, or that the Board approves.

Section 6312 is amended to read as follows:

6312 RESPONSIBILITIES

- 6312.1 An occupational therapist shall exercise sound judgment and provide adequate care in the performance of duties in accordance with nationally recognized standards of practice while treating patients or supervising the treatment of patients.
- 6312.2 An occupational therapist shall be responsible for managing all aspects of the occupational therapy care of each patient. An occupational therapist shall provide the following:
- (a) The initial evaluation and treatment plan for each patient and all supporting documentation;
 - (b) Periodic reevaluation for each patient and all supporting documentation; and
 - (c) The documented discharge of the patient, including the response to the intervention at the time of discharge.
- 6312.3 An occupational therapist who has been assigned to supervise a student training to be an occupational therapist shall:
- (a) Directly supervise the student assigned to him or her; and
 - (b) Countersign all official or service-related documentation that the student drafts.
- 6312.4 An occupational therapist supervising a student shall be responsible for all of the students' actions performed within the scope of practice during the time of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the person supervised.
- 6312.5 An occupational therapist supervising an occupational therapy assistant shall be responsible for all of the occupational therapy assistant's actions performed within the scope of practice during the time of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the occupational therapy assistant under his or her supervision.
- 6312.6 A supervising occupational therapist shall provide the following:
- (a) Direct supervision of an occupational therapy assistant prior to initiating treatment programs and before planned discharges for patients;
 - (b) An initial and, at a minimum, bimonthly direction to the occupational therapy assistant; and
 - (c) Documentation for verification of supervision and direction.

6312.7 A supervising occupational therapist shall only delegate duties and responsibilities for the care of patients to the occupational therapy assistant with consideration given to the following:

- (a) The level of skill shown by the occupational therapy assistant;
- (b) The ability to use identified intervention in a safe and effective manner;
- (c) Experience of the occupational therapy assistant and work setting demands; and
- (d) The complexity and stability of the patient population to be treated.

Section 6313 is deleted and replaced by the following:

6313 RE-LICENSURE

6313.1 The requirements of this section shall apply to persons seeking re-licensure five (5) or more years after the expiration of their license.

6313.2 A re-licensure applicant shall submit proof of his or her educational and examination eligibilities in accordance with the requirements of §§ 6302 and 6303 and one of the following:

- (a) A certificate of good standing from a jurisdiction in the United States in which he or she holds an active license; or
- (b) Proof of completion of one hundred sixty (160) hours of supervised practice in accordance with § 6317 within the two (2) months prior to the date the application is submitted.

Section 6314 is amended to read as follows:

6314 OCCUPATIONAL THERAPY AIDES

6314.1 An occupational therapy aide may be permitted to perform the following duties:

- (a) Under direct supervision of an occupational therapist:
 - (1) Guarding;
 - (2) Positioning;
 - (3) Holding body parts for splinting or bracing; and
 - (4) Assisting with group and community reentry activities;

- (b) Under direct supervision of an occupational therapist or occupational therapy assistant:
 - (1) Transfer practice;
 - (2) Assisting in routine:
 - A) Functional activity;
 - B) Functional exercise; and
 - C) Activities of daily living (ADL) program;
 - (3) Applying assistive devices;
 - (4) Applying adaptive devices;
 - (5) Assisting the client with the use of assistive equipment; and
 - (6) Reality orientation for the confused client; and
- (c) Under general supervision of an occupational therapist or an occupational therapy assistant:
 - (1) Clerical;
 - (2) Secretarial;
 - (3) Housekeeping;
 - (4) Supply maintenance;
 - (5) Equipment maintenance;
 - (6) Fabrication of straps for splinting and bracing;
 - (7) Fabrication of assistive devices that are not work directly by a client;
 - (8) Routine transfers for transporting clients;
 - (9) Transporting clients; and
 - (10) Activities ancillary to group and individual activities.

6314.2 An occupational therapy aide shall not be permitted to do the following under any circumstance:

- (a) Interpret care plans;
- (b) Participate in care conferences;
- (c) Provide any hands-on care except as specified above;

- (d) Interpret referrals;
- (e) Perform evaluation procedures;
- (f) Initiate or adjust treatment programs;
- (g) Assume responsibility for planning treatment care; or
- (h) Document care given, including checklists or other forms of documentation.

Section 6315, CONTINUING EDUCATION AUDIT, is amended as follows:

A new Section 6315.3 is added to read as follows:

- 6315.3 A licensee who fails to provide proof of continuing education compliance during an audit may be subject to an audit in the subsequent renewal cycle.

A new Section 6317 is added to read as follows:

6317 PRACTICE OF OCCUPATIONAL THERAPY BY A STUDENT, GRADUATE, OR PERSON SEEKING LICENSURE, RE-LICENSURE, REACTIVATION OR REINSTATEMENT

- 6317.1 A student of occupational therapy, graduate of an occupational therapy program or other person seeking licensure, reactivation, or re-licensure may practice only under the general supervision of an occupational therapist with valid, unrestricted license in the District and in accordance with this section.

6317.2 Only the following person may practice under this section:

- (a) A student whose practice fulfills their educational requirements as described in § 103(c) of the Act, D.C. Official Code § 3-1201.03(c) and § 6302.1(b) of this chapter;
- (b) An applicant for licensure whose application has been properly filed with the Board and is pending the result of the national examination or final approval by the Board;
- (c) A person seeking reactivation of licensure as described in § 6309.3;
- (d) A person seeking re-instatement of licensure in accordance with § 6310.4; or
- (e) A person seeking re-licensure five (5) or more years after the expiration of their previous license as described in § 6313.

- 6317.3 A supervisor of a person described in § 6317.2(b), (c), (d), or (e) shall, no less than two (2) weeks prior to the supervision begins, seek the authorization of the Board by providing the following information:
- (a) The supervisor's name and address;
 - (b) The name of the person seeking licensure, reactivation, reinstatement, or re-licensure;
 - (c) The expected period of supervision;
 - (d) The nature and location of the practice of the person seeking licensure, reactivation, reinstatement, or re-licensure; and
 - (e) The attestation that the supervisor understands and intends to comply with the supervisory requirements under this chapter.
- 6317.4 A person seeking to practice under supervision may begin the supervised practice after the Board has approved and authorized the practice.
- 6317.5 Supervised practice authorized for a person described in § 6317.2(c), (d), or (e) shall not exceed four (4) months.
- 6317.6 Supervised practice authorized for a person described in § 6317.2(b) shall not exceed sixty (60) days.
- 6317.7 A person engaged in supervised practice under this section shall identify himself or herself as a student or person practicing under supervision at all times including prior to the initiation of any practice with a client.
- 6317.8 Any of the following events shall result in an automatic and immediate termination of the authorized supervised practice:
- (a) Failure to pass the national examination if the supervised practice has been approved based on a pending license application;
 - (b) The supervision is terminated for any reasons by either the supervisor or the supervisee; or
 - (c) An arrest or charge for a felony.
- 6317.9 A person practicing under supervision in accordance with this section shall not receive any compensation of any nature, directly or indirectly, from a patient but may receive a salary or other form of compensation from his or her supervisor based on the hours of practice performed.

- 6317.10 The supervisor shall be fully responsible for all supervised practice by the supervisee during the period of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the supervisee.
- 6317.11 A person authorized to practice under supervision pursuant to this section shall be subject to all applicable provisions of the Act and this chapter. The Board may deny his or her application for license or take any disciplinary action against him or her in accordance with Chapter 41 of this title if he or she has been found to have violated the Act or this chapter.

Section 6399 is amended to read as follows:

- 6399.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Board - The Board of Occupational Therapy, established by § 206 of the Act, D.C. Official Code § 3-1202.06.

Contact hour - At least fifty (50) minutes of continuing education credit.

Direct supervision - Supervision in which the supervisor is personally present and immediately available within the treatment area to give aid, direction, and instruction when occupational therapy procedures or activities are performed.

Director – The Director of the Department of Health or any successor or assignee.

General supervision - Supervision in which the supervisor is available on the premises or by communication device at the time the supervisee is practicing, and can be on-site in the event of a clinical emergency within two (2) hours.

Graduate – A person who has completed an educational program for occupational therapists that is accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) and is seeking or has obtained authorization to practice occupational therapy without a license under the supervision of a licensed occupational therapist.

Level I Fieldwork - Enrichment of didactic coursework through direct observation and participation in selected aspects of the occupational therapy process to enable students to develop a basic comfort level with and understanding of the needs of clients.

Level II Fieldwork - Development of competent entry-level, general occupational therapists and occupational therapy assistants through exposure to in-depth experiences in delivering occupational therapy services to a variety of clients.

Licensee – A person licensed or seeking renewal or reactivation of a license issued pursuant to this chapter.

Occupational therapist - A person licensed to practice occupational therapy under the Act.

Occupational therapy- (i) The therapeutic use of everyday life activities with individuals or groups, with or without compensation, for the purpose of participation in roles and situations in homes, schools, workplaces, communities, and other settings to promote health and welfare for those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; (ii) Addressing the physical, cognitive, psycho-social, sensory, or other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life; (iii) The education and training of persons in the direct care of patients through the use of occupational therapy; and (iv) The education and training of persons in the field of occupational therapy.

Occupational therapy aide - A person who has received on-the-job training in occupational therapy and is employed in an occupational therapy setting under the immediate supervision of a licensed occupational therapist.

Occupational therapy assistant - A person licensed to practice as an occupational therapy assistant under the Act.

Supervised practice - unlicensed practice by a student, graduate, or person seeking reactivation, reinstatement, or re-licensure, as authorized by the Board and subject to the general supervision of an occupational therapist.

6399.2 Except as specified in § 7399.1, the definitions in § 4099 of Chapter 40 of this title are incorporated by reference and apply to this chapter.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt a new Chapter 73 (Occupational Therapy Assistants), Title 17 (Business, Occupations, and Professions), of the District of Columbia Municipal Regulations (DCMR).

This rulemaking will create a new chapter to establish clear qualification and other requirements governing the profession of occupational therapy assistants, such as continuing education and scope of practice. Prior to this rulemaking, these requirements have been commingled with the rules of occupational therapy and there have been no continuing education requirements.

The proposed rulemaking was published in the *D.C. Register* on September 20, 2013 at 60 DCR 13178. No written comments were received from the public in connection with this publication during the thirty (30)-day comment period, and no changes have been made.

Final action to adopt the rules took place on December 16, 2013. These rules will be effective upon publication of the notice in the *D.C. Register*.

Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONS, of the District of Columbia Municipal Regulations is amended by adding a new Chapter 73, OCCUPATIONAL THERAPY ASSISTANTS, to read as follows:

CHAPTER 73 OCCUPATIONAL THERAPY ASSISTANTS

7300 GENERAL PROVISIONS

7300.1 This chapter shall apply to applicants for and holders of a license to practice as an occupational therapy assistant.

7300.2 Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), and Chapter 63 (Occupational Therapy) of this title shall supplement this chapter.

7301 TERM OF LICENSE

7301.1 Subject to § 7301.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of September 30 of each odd-numbered year.

7301.2 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birth date of the holder of the license, or other date established by the Director.

7302 EDUCATIONAL AND TRAINING REQUIREMENTS

7302.1 An applicant for a license as an occupational therapy assistant shall furnish proof satisfactory to the Board, in accordance with § 504(g)(2) of the Act, D.C. Official Code § 3-1205.04(g)(2), that the applicant has:

- (a) Successfully completed an educational program for occupational therapy assistants that is accredited by the Accreditation Council for Occupational Therapy Education (ACOTE); and
- (b) Successfully completed a period of at least two (2) months of supervised fieldwork experience required by an accredited educational institution or program approved by an accredited educational institution.

7303 NATIONAL EXAMINATION

7303.1 To qualify for licensure as an occupational therapy assistant, the applicant shall pass the certification examination as developed by the National Board for Certification in Occupational Therapy (NBCOT).

7303.2 The passing score on the national examination shall be the passing score established by NBCOT.

7303.3 An applicant shall submit a completed application to the Board and arrange for examination results to be sent by NBCOT directly to the Board.

7303.4 An applicant who has met the requirement of § 7302.1 may submit a completed application prior to taking the examination and seek the Board’s authorization for supervised practice pursuant to § 7316 while the application is pending.

7304 CONTINUING EDUCATION REQUIREMENTS

7304.1 This section shall apply to all renewal applicants and applicants seeking reactivation or reinstatement of their license; except that it shall not apply to applicants for the first renewal of a license granted by examination. This section

shall not apply to applicants for an initial license by examination, reciprocity, or endorsement.

- 7304.2 A renewal applicant shall complete a minimum of twelve (12) contact hours of approved continuing education in accordance with §§ 7305 and 7306 during the two (2)-year period preceding the date the license expires.
- 7304.3 A continuing education contact hour shall be valid only if it is part of a program or activity that the Board approves in accordance with § 7305 and § 7306.
- 7304.4 A renewal applicant shall certify, under penalty of perjury, that he or she has met the requirement of § 7304.2.
- 7304.5 The Board may require proof of completion of the required continuing education. Such proof shall include the following information:
- (a) The name and address of the sponsor of the program;
 - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
 - (c) The dates on which the licensee attended the program;
 - (d) The number of contact hours claimed;
 - (e) Verification by the sponsor of the licensee's completion, by signature or stamp of the sponsor; and
 - (f) The name of the licensee completing the program.
- 7304.6 If the license of an occupational therapy assistant expires while serving in the military whenever the United States is engaged in active military operations against any foreign power or hostile force, and the required continuing education hours were not earned during the renewal period or periods, the licensee shall be required to complete the needed continuing education hours no later than six (6) months after discharge from active service, return to inactive military status, or return to a post in the United States from an active war zone.

7304.7 The continuing education contact hours completed to satisfy the requirement under § 7304.6 shall not be counted toward meeting the continuing education requirement for the next licensing period.

7304.8 The credits received for each approved continuing education program shall be applied in full toward meeting the continuing education requirements for each renewal period. The proration of continuing education credits over more than one (1) renewal cycle shall not be allowed.

7304.9 A renewal applicant who is licensed to practice in a jurisdiction other than the District shall meet the requirements of this section in order to be eligible for license renewal in the District.

7305 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES

7305.1 The Board shall only approve continuing education programs and activities that, in its discretion, contribute to professional competence in the practice of occupational therapy assistants and that may be approved as provided in this section.

7305.2 The Board may approve continuing education programs and activities that are relevant to the practice or education of occupational therapy assistants that document the following:

- (a) Current subject matter with course description;
- (b) Content focus;
- (c) Learning outcomes;
- (d) Target audience; and
- (e) The number of contact hours.

7305.3 The Board may approve the following types of activities:

- (a) Activities sponsored by the state or local occupational therapy organizations;

- (b) Activities sponsored by the American Occupational Therapy Association (AOTA), the American Physical Therapy Association (APTA), the American Speech-Language-Hearing Association (ASHA), and the American Society of Hand Therapists (ASHT);
- (c) Activities sponsored by AOTA approved providers;
- (d) Activities sponsored by an accredited healthcare facility; or
- (e) Activities sponsored by an accredited college or university.

7305.4 The Board may grant continuing education credit for the following activities:

- (a) Serving as an author of a self-study article or series;
- (b) Serving as an instructor or speaker at a conference program or an academic course;
- (c) Serving as an instructor at a peer-reviewed or non-peer-reviewed seminar, workshop, or in-service clinical training, whether in-person or web-based;
- (d) Serving as supervisor for persons authorized to practice pursuant to § 7316.2;
- (e) Serving as a clinical instructor for students of occupational therapy or any other health occupation;
- (f) Authoring or editing a published book, a published chapter in a book, or a published article in a professional journal or other nationally recognized publication;
- (g) Participating as a primary clinical fieldwork educator for Level I or Level II fieldwork; and
- (h) Participating in board or committee work in connection with an agency or a non-profit organization whose mission is to promote and enhance the practice of occupational therapy.

7305.5 The following activities shall not meet the requirement of § 7305.1 and may not be approved as continuing education required under this chapter:

- (a) Mandatory non-clinical in-service competency or education programs including, but not limited to, Basic Cardiac Life Support (BCLS) or

Cardiopulmonary Resuscitation (CPR), first aid, infection control, emergency preparedness, or documentation update; and

- (b) Mandatory organization-specific trainings or programs required as part of job performance or development.

7305.6 The applicant shall bear the burden of establishing, to the Board's satisfaction, that such supervisory activities, professional volunteer activities, or services as an instructor, speaker, publisher, or editor as provided by § 7305.4 are eligible for credit and approval in accordance with § 7305.1.

7306 CONTINUING EDUCATION CREDIT

7306.1 The Board may grant continuing education credit by whole contact hours only.

7306.2 For enrollment in approved undergraduate or graduate courses, each semester hour of credit shall constitute fifteen (15) continuing education contact hours, and each quarter hour of credit shall constitute ten (10) continuing education contact hours.

7306.3 The Board may grant continuing education credit for the activities described in § 7305.4(a), (b), or (c) subject to the following restrictions:

- (a) The maximum amount of credit which may be granted for each activity is twice the amount of the associated presentation time or twice the amount of contact hours awarded for participants;
- (b) The maximum amount of credit which may be granted pursuant to this subsection is fifty percent (50%) of an applicant's continuing education requirement;
- (c) If a renewal applicant had previously received credit in connection with a particular presentation, the Board shall not grant credit in connection with a subsequent presentation unless it involves either a different or a substantially modified program; and
- (d) The presentation shall have been completed during the period for which credit is claimed and includes documentation of the following:
 - (1) A copy of the official program or syllabus;

- (2) The presentation title;
- (3) The date of the presentation;
- (4) The hours of the presentation;
- (5) The type of audience addressed; and
- (6) A verification of attendance signed by the sponsor.

7306.4 The Board may grant credit for up to six (6) continuing education contact hours per renewal period to a renewal applicant for the activities described in § 7305.4(d). The supervisor shall submit a copy of the supervised practice letter to receive continuing education contact hours.

7306.5 The Board may grant credit for up to eight (8) continuing education contact hours per renewal period for the activities described in § 7305.4(e), with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates and duration of instruction; and
- (d) Signature of the program director.

7306.6 The Board may grant credit for six (6) continuing education contact hours per renewal period for the activities described in § 7305.4(f), if the book, chapter, or article was published or accepted for publication during the period for which credit is claimed and satisfactory proof is submitted to the Board.

7306.7 The Board may grant credit for up to six (6) continuing education contact hours per renewal period for the activities described in § 7305.4(g) with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates of the fieldwork; and

- (d) Signature page of student evaluation excluding evaluation scores and comments on student.

7306.8 The Board may grant credit for up to three (3) continuing education contact hours to a renewal applicant who has participated in the activities described in § 7305.4(h), provided that such participation totaled no less than eighteen (18) hours during a renewal period. The applicant shall provide the following documentation:

- (a) Name of the committee, board, agency or organization;
- (b) Purpose for service;
- (c) Description of duties and roles; and
- (c) Validation of service and number of hours of participation by an officer or representative of the organization.

7307 CONTINUING EDUCATION AUDIT

7307.1 The Board may perform a continuing education audit to determine compliance with the continuing education requirements in this chapter.

7307.2 Upon notification by the Board that a licensee has been selected for an audit, the licensee shall submit the required documentation within thirty (30) days of receipt of the notice.

7307.3 Licensees who are unable to provide proof of required continuing education or fail to provide such proof within the time specified in § 7307.2 shall be subject to a fine as determined by the Board.

7308.4 Licensees who fail to provide proof of continuing education compliance during an audit may be subject to an audit in the subsequent renewal cycle.

7308 LATE RENEWAL

7308.1 This section shall apply to any licensee who fails to submit a renewal application before the expiration of his or her current license.

7308.2 A licensee who fails to submit his or her renewal application before the expiration date of his or her current license may apply for a renewal of the license within sixty (60) days of expiration in accordance with § 4005.5 of this title.

7308.3 A licensee submitting a renewal application in accordance with § 7308.2 shall submit, with the renewal application, proof of continuing education compliance in accordance with § 7304.5.

7309 REACTIVATION

7309.1 The requirements of this section shall apply to licensees under this chapter who have been in inactive status and seek reactivation of their licenses in accordance with § 511 of the Act, D.C. Official Code § 3-1205.11.

7309.2 A reactivation applicant who holds an active license in any jurisdiction shall submit a certificate of good standing from all jurisdictions in which he or she holds an active license.

7309.3 A reactivation applicant who has been inactive five (5) years or less who does not hold a license in any other jurisdiction shall submit proof in accordance with § 7304.5, of having completed six (6) contact hours of approved continuing education for each year that the applicant was in inactive status.

7309.4 A reactivation applicant who has been inactive for more than five (5) years and does not hold an active license in any other jurisdiction shall submit proof pursuant to § 7304.5 of having completed the following:

(a) Thirty (30) contact hours of approved continuing education in accordance with §§ 7305 and 7306; at least twelve (12) of the thirty (30) hours shall be completed within two (2) years prior to the date the application is submitted; and

(b) One hundred sixty (160) hours of supervised practice in accordance with § 7316 within the two (2) months prior to the date the application is submitted.

7309.5 A reactivation applicant who holds an active license in any other jurisdiction during the whole period of inactive status in the District shall not be required to submit proof of continuing education contact hours with the application provided that his or her license has not been inactive for more than five (5) years.

7309.6 A reactivation applicant who holds an active license in any other jurisdiction and who seeks to reactivate his or her license in the District more after more than five (5) years of inactive status shall submit proof, in accordance with § 7304.5, of having completed, within a period of twelve (12) months prior to the application, at least twelve (12) hours of approved continuing education.

7310 REINSTATEMENT

7310.1 The requirements of this section shall apply to persons with expired licenses who seek reinstatement within five (5) years in accordance with § 512(a) of the Act, D.C. Official Code § 3-1205.12(a).

7310.2 A reinstatement applicant who holds an active license in any other jurisdiction shall submit a certificate of good standing from all jurisdictions in which he or she holds an active license.

7310.3 A reinstatement applicant who holds an active license in any other jurisdiction shall submit proof pursuant to § 7304.5 of having completed six (6) contact hours of approved continuing education for each year that the applicant was not licensed in the District up to a maximum of thirty (30) hours. Twelve (12) contact hours must have been completed within two (2) years prior to the date the application is submitted.

7310.4 A reinstatement applicant who does not hold an active license in any other jurisdiction shall submit proof:

- (a) Pursuant to § 7304.5, of having completed six (6) contact hours of approved continuing education for each year that the reinstatement applicant was not licensed. Twelve (12) contact hours must have been completed within two (2) years prior to the date the application is submitted; and
- (b) Pursuant to § 7316.3, of having completed one hundred sixty (160) hours of supervised practice in accordance with § 7316 within the two (2) months prior to the date the application is submitted.

7311 RE-LICENSURE

7311.1 The requirements of this section shall apply to persons seeking re-licensure five (5) or more years after the expiration of their license.

7311.2 A re-licensure applicant shall submit proof educational and examination eligibilities in accordance with the requirements of §§ 7302 and 7303 and one of the following:

- (a) A certificate of good standing from a jurisdiction in the United States in which he or she holds an active license; or
- (b) Proof of completion of one hundred sixty (160) hours of supervised practice in accordance with § 7316 within the two (2) months prior to the date the application is submitted.

7312 ENDORSEMENT

7312.1 The Board shall issue a license by endorsement to an applicant for licensure who has an active unrestricted occupational therapy assistant license, registration, or certification in good standing from another jurisdiction of the United States and who meets all other requirements of this section.

7312.2 An applicant for licensure by endorsement shall submit, with a completed application, the following:

- (a) Official, certified proof of active licensure in at least one (1) jurisdiction;
- (b) Proof of good standing from all jurisdictions in which the applicant ever held a license in the United States; and
- (c) Proof of educational and examination eligibilities in accordance with the requirements of §§ 7302 and 7303.

7313 RESPONSIBILITIES

7313.1 An occupational therapy assistant shall exercise sound judgment and provide adequate care in the performance of duties in accordance with nationally recognized standards of practice while treating patients or supervising the treatment of patients.

7313.2 An occupational therapy assistant supervising a student, an occupational therapy aide, or a person authorized to practice under supervision shall be responsible for

all of the student's, aide's, or authorized person's actions performed within the scope of practice during the time of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the person supervised.

7313.3 An occupational therapist supervising an occupational therapy assistant who supervises a student, an occupational therapy aide, or a person authorized to practice under supervision shall be responsible for the actions of all supervised persons.

7314 SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS

7314.1 An occupational therapy assistant may only practice under the supervision, as specified in this section, of an occupational therapist with an active, unrestricted license in good standing in the District of Columbia. The supervising occupational therapist must be available on an as-needed basis and must be able to be on-site within two (2) hours if a need arises.

7314.2 The supervising occupational therapist shall provide the following:

- (a) Direct supervision of an occupational therapy assistant prior to initiating treatment programs and before planned discharges for patients;
- (b) An initial and, at a minimum, bimonthly direction to the occupational therapy assistant; and
- (c) Documentation to verify details of supervision and direction.

7314.3 The supervising occupational therapist shall only delegate duties and responsibilities for the care of patients to the occupational therapy assistant with consideration given to the following:

- (a) The level of skill shown by the occupational therapy assistant;
- (b) The occupational therapy assistant's ability to use identified intervention in a safe and effective manner;
- (c) Experience of the occupational therapy assistant and work setting demands; and

(d) The complexity and stability of the patient population to be treated.

7314.4 An occupational therapy assistant may assist in the collection and some of the documentation of patient information pertaining to the evaluation and treatment of a patient provided that the supervising occupational therapist bases such assignment or delegation of duties on the demonstrated competency of the occupational therapy assistant. This demonstrated competency shall be documented and maintained on file by the supervising occupational therapist.

7314.5 An occupational therapy assistant shall not supervise another occupational therapy assistant.

7314.6 An occupational therapy assistant shall immediately inform the supervising occupational therapist and discontinue treatment if a procedure appears to be harmful to the patient.

7315 OCCUPATIONAL THERAPY AIDES

7315.1 An occupational therapy assistant may supervise an occupational therapy aide to perform duties in accordance with § 6314 of this title.

7315.2 An occupational therapy assistant shall not supervise more than three (3) occupational therapy aides at any given time.

7316 PRACTICE AS OCCUPATIONAL THERAPY ASSISTANT BY A STUDENT, GRADUATE, OR PERSON SEEKING RE-LICENSURE, REACTIVATION OR REINSTATEMENT

7316.1 A student or person seeking licensure, reactivation, reinstatement, or re-licensure may practice only under the general supervision of an occupational therapist or an occupational therapy assistant with a valid, unrestricted license in the District and in accordance with this section.

7316.2 Only the following persons may practice under this section:

(a) A student whose practice fulfills his or her educational requirements as described in § 103 of the Act, D.C. Official Code § 3-1201.03, and § 7302.1(b) of this chapter;

- (b) An applicant for licensure whose application has been properly filed with the Board and is pending the result of the national examination as provided in § 7303.4 or final approval by the Board;
- (c) A person seeking reactivation of licensure as described in § 7309.4;
- (d) A person seeking reinstatement of licensure in accordance with § 7310.4; or
- (e) A person seeking re-licensure five (5) or more years after the expiration of their previous license as described in § 7311.

7316.3 A supervisor of a person described in § 7316.2(b), (c), (d), or (e) shall, no less than two (2) weeks before the supervision begins, seek the authorization of the Board by providing the following information:

- (a) The supervisor's name and address;
- (b) The name of the person seeking licensure, reactivation, reinstatement, or re-licensure;
- (c) The expected period of supervision;
- (d) The nature and location of the practice of the person seeking licensure, reactivation, reinstatement, or re-licensure; and
- (e) The attestation that the supervisor understands and intends to comply with the supervisory requirements under this chapter.

7316.4 A person seeking to practice under supervision may begin the supervised practice after the Board has approved and authorized the practice pursuant to § 7316.3.

7316.5 Supervised practice authorized for a person described in § 7316.2(c), (d), or (e) shall not exceed four (4) months.

7316.6 Supervised practice authorized for a person described in § 7316.2(b) shall not exceed sixty (60) days.

7316.7 A person engaged in supervised practice under this section shall identify himself or herself as a student or person practicing under supervision at all times including prior to the initiation of any practice with a client.

7316.8 Any of the following events shall result in an automatic and immediate termination of the authorized supervised practice:

- (a) Failure to pass the national examination if the supervised practice has been approved based on a pending license application under § 7303.4;
- (b) The supervision is terminated for any reason by either the supervisor or the supervisee; or
- (c) An arrest or charge for a felony.

7316.9 A person practicing under supervision in accordance with this section shall not receive any compensation of any nature, directly or indirectly, from a patient but may receive a salary or other form of compensation from his or her supervisor based on the hours of practice performed.

7316.10 The supervisor shall be fully responsible for all supervised practice by the supervisee during the period of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the supervisee.

7316.11 A person authorized to practice under supervision pursuant to this section shall be subject to all applicable provisions of the Act and this chapter. The Board may deny his or her application for a license or take any disciplinary action against him or her in accordance with Chapter 41 of this title if he or she has been found to have violated the Act or this chapter.

7317 **LAWFUL PRACTICE**

7317.1 An occupational therapy assistant licensed to practice in the District of Columbia shall adhere to the AOTA's Code of Ethics for the practice of occupational therapy as it may be amended from time to time.

7317.2 An occupational therapy assistant shall use the letters "OTA", "COTA", "OTA/L", "COTA/L", or any other similar title or description in connection with the occupational therapy assistant's name or place of business to denote licensure pursuant to the Act.

399 **DEFINITIONS**

7399.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Act – District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*)

Active license – a currently valid license, registration, or certification issued by any jurisdiction of the United States to authorize the practice as an occupational therapy assistant.

Board - the Board of Occupational Therapy, established by § 206 of the Act, D.C. Official Code § 3-1202.06.

Contact hour – at least fifty (50) minutes of continuing education.

Direct supervision - supervision in which the supervisor is personally present and immediately available within the treatment area to give aid, direction, and instruction when occupational therapy procedures or activities are performed.

Director – The Director of the Department of Health or any successor or assignee.

General supervision - supervision in which the supervisor is available on the premises or by communication device at the time the supervisee is practicing, and can be on-site within two (2) hours in the event of a clinical emergency.

Level I Fieldwork - Enrichment of didactic coursework through direct observation and participation in selected aspects of the occupational therapy process to enable students to develop a basic comfort level with and understanding of the needs of the clients.

Level II Fieldwork - Development of competent entry-level, general occupational therapy assistants through exposure to in-depth experiences in delivering occupational therapy services to a variety of clients.

Licensee – A person licensed or seeking renewal or reactivation of a license issued pursuant to this chapter.

Occupational therapist - a person licensed to practice occupational therapy under the Act.

Occupational therapy- (i) The therapeutic use of everyday life activities with individuals or groups, with or without compensation, for the purpose of participation in roles and situations in homes, schools, workplaces, communities, and other settings to promote health and welfare for those

who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; (ii) Addressing the physical, cognitive, psycho-social, sensory, or other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life; (iii) The education and training of persons in the direct care of patients through the use of occupational therapy; and (iv) The education and training of persons in the field of occupational therapy.

Occupational therapy aide - a person who has received on-the-job training in occupational therapy and is employed in an occupational therapy setting under the supervision of a licensed occupational therapist or licensed occupational therapy assistant

Occupational therapy assistant - a person licensed to practice as an occupational therapy assistant under the Act.

Supervised practice - unlicensed practice by a student, graduate, or person seeking reactivation, reinstatement, or re-licensure, as authorized by the Board and subject to the general supervision of an occupational therapist or occupational therapy assistant.

7399.2 Except as specified in § 7399.1, the definitions in § 4099 of Chapter 40 of this title are incorporated by reference and apply to this chapter.

**THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

NOTICE OF FINAL RULEMAKING

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth under Section 4 of the Law to Legalize Lotteries, Daily Numbers, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code § 3-1306 (2012 Repl.)); District of Columbia Financial Responsibility and Management Assistance Authority Order issued September 21, 1996, and Office of the Chief Financial Officer Financial Management Control Order No. 96-22 issued November 18, 1996, hereby gives notice of the intent to adopt the following amendments to Chapters 9 (Description of On-Line Games) of Title 30 (Lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR).

The Notice of Proposed Rulemaking was published in *D.C. Register* on December 13, 2013 at 60 DCR 16868. No comments were received, and no substantive changes were made to the rulemaking. Final action to adopt these rules as final took place on January 13, 2013. These final rules will become effective upon publication of this notice in the *D.C. Register*.

AMEND CHAPTER 9, “DESCRIPTION OF ONLINE GAMES”

Amend Section 914 to read as follows:

914 POWERBALL® POWER PLAY PRIZE POOL AND PRIZE PAYMENT

914.1 The prize pool for all prize categories shall consist of up to forty-nine and thirty six tenths percent (49.36%) of each drawing period's sales, including tax, after the POWERBALL® prize reserve accounts reach the amounts designated by the Executive Director in accordance with all agreements governing the conduct of POWERBALL® and Power Play. Once the prize reserve accounts exceed the designated amounts, the excess shall become part of the prize pool. Any amount remaining in the prize pool at the end of this game shall be carried forward to a replacement game prize reserve account or expended as otherwise directed by the Executive Director in accordance with all agreements governing the conduct of POWERBALL® and Power Play.

914.2 An additional sixty four tenths percent (0.64%) of sales, including tax, may be collected and placed in trust in one or more prize reserve accounts until the prize reserve accounts reach the amounts designated by the Executive Director in accordance with all agreements governing the conduct of POWERBALL® and Power Play.

914.3 Except as provided in these rules, all prizes awarded shall be paid as lump sum set prizes. Instead of the POWERBALL® set prize amounts, qualifying Power Play plays will pay the amounts shown below when matched with the Power Play number drawn:

	Prize Amount	Regardless of Power Play number selected:				
Match 5+0	\$1,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
	Prize Amount	5X	4X	3X	2X	
Match 4+1	\$10,000	\$50,000	\$40,000	\$30,000	\$20,000	
Match 4+0	\$100	\$500	\$400	\$300	\$200	
Match 3+1	\$100	\$500	\$400	\$300	\$200	
Match 3+0	\$7	\$35	\$28	\$21	\$14	
Match 2+1	\$7	\$35	\$28	\$21	\$14	
Match 1+1	\$4	\$20	\$16	\$12	\$8	
Match 0+1	\$4	\$20	\$16	\$12	\$8	

In certain rare instances, the Powerball set prize amount may be less than the amount shown. In such case, the eight (8) lowest Power Play prizes will be changed to an amount announced after the draw. For example, if the Match 4+1 Powerball set prize amount of \$10,000.00 becomes \$5,000.00 under the rules of the Powerball game and a 5x Power Play multiplier is selected, then a Power Play player winning that prize amount would win \$25,000.00.

914.4 The following table sets forth the probability of the various Power Play numbers being drawn during a single Powerball drawing, except that the Power Play amount for the Match 5+0 prize will be two million dollars (\$2,000,000 dollars). The Executive Director may elect to run limited promotions that may modify the multiplier features.

914.5

<u>Power Play</u>	<u>Probability of Prize Increase</u>
5X – Prize Won Times 5	1 in 10
4X – Prize Won Times 4	1 in 10
3X – Prize Won Times 3	1 in 3.33
2X – Prize Won Times 2	1 in 2

Power Play does not apply to the POWERBALL® Grand Prize. Except as provided in section 914.3, a Power Play Match 5 prize is set at two million (\$2 million), regardless of the multiplier selected.

- 914.6 The prize money allocated to the Match 5 Bonus Prize shall be divided equally by the number of games boards winning the Match 5 prize when a game board wins the new high jackpot amount.
- 914.7 All Power Play prizes shall be paid in one lump sum.
- 914.8 Prizes that, under these rules, may become pari-mutuel prizes, may be rounded down so that prizes can be paid in whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

FORMAL CASE NO. 1017, IN THE MATTER OF THE DEVELOPMENT AND DESIGNATION OF STANDARD OFFER SERVICE IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice of its final rulemaking action, taken in Order No. 17345, to approve, pursuant to Section 34-802 of the District of Columbia Official Code,¹ and in accordance with Section 2-505 of the District of Columbia Official Code,² the tariff of the Potomac Electric Power Company (“Pepco”).

2. In its filing, Pepco asserts that its proposed tariff amendment updates the retail transmission rates included in the Rider Standard Offer Service “to reflect the current Federal Energy Regulatory Commission (‘FERC’) approved wholesale transmission rates, which went into effect [on] June 1, 2013.”³ Specifically, Pepco proposes to amend the following thirteen (13) tariff pages:

- ELECTRICITY TARIFF, P.S.C.-D.C. No. 1**
- Seventieth Revised Page No. R-1**
- Seventieth Revised Page No. R-2**
- Sixty-Third Revised Page No. R-2.1**
- Thirty-Ninth Revised Page No. R-2.2**
- Eighteenth Revised Page No. R-41**
- Eighteenth Revised Page No. R-41.1**
- Eighteenth Revised Page No. R-41.2**
- Eighteenth Revised Page No. R-41.3**
- Eighteenth Revised Page No. R-41.4**
- Eighteenth Revised Page No. R-41.5**
- Eighteenth Revised Page No. R-41.6**
- Eighteenth Revised Page No. R-41.7**
- Eighteenth Revised Page No. R-41.8**

3. The Commission issued a Notice of Proposed Rulemaking (“NOPR”) which was published in the *D.C. Register* on November 22, 2013.⁴ No comments were filed in response to

¹ D.C. Official Code § 34-802 (2001).

² D.C. Official Code § 2-505 (2001).

³ *Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia*, Letter from Peter E. Meier, Vice President, Legal Services, Potomac Electric Power Company, to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia (Oct. 8, 2013).

⁴ 60 DCR 16070-16071 (Nov. 22, 2013).

the NOPR. By Order No, 17345, the Commission approved Pepco's proposed tariff. The application of the revised retail transmission rates shall commence with the billing cycle beginning on February 1, 2014.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Behavioral Health (“the Department”), pursuant to the authority set forth in Sections 5113, 5115, 5117 and 5118 of the “Fiscal Year 2014 Budget Congressional Review Emergency Act of 2013”, effective November 8, 2013 (D.C. Act 20-0204, 60 DCR 15341), and any similar succeeding legislation, hereby gives notice of his intent to amend Chapter 51, “Supported Employment Program — Reimbursement,” of Subtitle A, “Mental Health”, of Title 22, “Health” of the District of Columbia Municipal Regulations.

The Department reviewed all of its reimbursement rates to certified Mental Health Rehabilitation Services (MHRS) providers, including the reimbursement rates for Supported Employment services provided by MHRS providers which are also certified as Supported Employment providers. As a result of the review, the Department determined that the reimbursement rates for supported employment services should be increased. This amendment raises the reimbursement rates for those supported employment services that are reimbursed by local funds.

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

Section 5101 of Chapter 51, Subtitle A, “Mental Health”, of Title 22 of the District of Columbia Municipal Regulations is amended by deleting the current Section 5101 and substituting the following:

5101 REIMBURSEMENT RATE

5101.1 The Supported Employment Program rate is as set forth below:

SERVICE	RATE	UNIT	CODE
Supported Employment (non-MHRS)	\$18.61	15 minutes	H2025
Supported Employment - Group (non-MHRS Job Club)	\$6.65	15 minutes	H2025HQ

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of Strategic Planning, Policy and Evaluation for the Department of Behavioral Health at 64 New York Avenue, N.E., 3rd Floor, Washington, D.C. 20002, or e-mailed to Suzanne Fenzel, Deputy Director, OSPPE, at Suzanne.Fenzel@dc.gov. Copies of the proposed rules may be obtained from dmh.dc.gov or from the Department of Behavioral Health at the address above.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY**NOTICE OF SECOND PROPOSED RULEMAKING**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to the District of Columbia Housing Authority Act of 1999, as amended, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), of its intent to adopt the following proposed amendments to Chapter 98 (Public Housing: Achieving Your Best Life Rewards Property Program) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than fifteen (15) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed amendments is to amend the existing policies regarding DCHA's Achieving Your Best Life Rewards Property Program. The comment period for this rulemaking has been reduced for good cause, per D.C. Official Code § 2-505(a). Due to the increased need for affordable housing, a shortened public comment period will immediately create additional affordable housing units. Additionally, the Second Proposed Rulemaking includes public comments received by DCHA stakeholders, all stakeholders have received adequate notice of the proposed changes, and the public will not be harmed by the reduced public comment period.

The rules were first published in the *D.C. Register* on November 15, 2013, at 60 DCR 15868. These proposed amendments contain revisions made as a result of considering comments submitted following the publication of the first proposed rulemaking.

Chapter 98, PUBLIC HOUSING: ACHIEVING YOUR BEST LIFE REWARDS PROPERTY PROGRAM, of Title 14, HOUSING, is amended as follows:

Section 9800 (Program Purpose) is amended as follows:

Subsection 9800.1(b) is amended to read as follows:

- 9800.1 (b) Make progress toward achieving economic independence and prepare for:
- (1) purchasing a home; or
 - (2) renting in the private market without federal or local housing assistance.

Section 9801 (Program Description) is amended as follows:

Subsection 9801.1 is amended to read as follows:

- 9801.1 The District of Columbia Housing Authority (DCHA) recognizes the need to encourage families in their efforts to attain self-sufficiency. As such, DCHA establishes the Achieving Your Best Life Rewards Program (AYBL), a self-

sufficiency program structured around DCHA designated Public Housing developments known as Rewards Properties. Participating AYBL Families reside at these developments while preparing to become (1) homeowners; or (2) sign a lease in the private market without federal or local housing assistance. Although the primary goal of the program is to prepare public housing families to become homeowners or renters in the private market by reducing their dependency on public and housing subsidies, families also set self-declared goals related to achieving homeownership or renting in the private market without federal or local housing assistance. In an effort to assist families to become homeowners, DCHA's goal is to connect residents with available resources and services in such areas as credit and budget counseling, general life skills, job readiness assessment and training, home ownership counseling, education/vocational training and self improvement workshops. Through case management and active participation, families will be connected with community services and related programs critical to their success. Participation in the AYBL program is voluntary.

Section 9802 (Rewards Properties) is amended as follows:

Subsection 9802.4 is amended to read as follows:

- 9802.4 AYBL Families may reside at Reward Properties until the following:
- (a) The family successfully purchases a home;
 - (b) The family has signed a lease with a landlord in the private market without federal or local housing assistance;
 - (c) The Contract of Participation expires;
 - (d) DCHA terminates the family's Contract of Participation;
 - (e) The family breaches the Public Housing dwelling lease or AYBL lease addendum as determined in Landlord Tenant court; or
 - (f) The family is evicted, whichever comes first.

Section 9806 (AYBL Program Eligibility Determination) is amended as follows:

Subsection 9806.3 is amended to read as follows:

- 9806.3 The DCHA shall consider an AYBL Applicant Family eligible for participation in the AYBL program if the AYBL Applicant Family meets the following criteria:

- (a) Is a current resident in a DCHA subsidized conventional public housing unit, in a mixed finance unit subsidized by an Annual Contributions Contract, or is currently in the selection pool;
- (b) Can demonstrate at least one (1) year of timely rental payment history with DCHA or in the private market;
- (c) Bedroom size requirement meets the unit composition of the Reward Property and established DCHA Occupancy Standards of this chapter;
- (d) Income eligible: minimum earned income of the potential borrower/co-borrower or renter of no less than thirty-two thousand dollars (\$32,000) from employment or in the case where the potential borrower/co-borrower or renter is elderly and/or disabled certain unearned income (for example, SSI, SSDI, pension payments, etc.) may be counted toward the thirty-two thousand dollars (\$32,000) minimum. DCHA may from time to time change the minimum income eligibility requirement.
- (e) The family may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement in AYBL, except as follows:
 - (1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option;
 - (2) An individual who is now single, but had previously owned a home with his or her former spouse even within the three (3) year period;
 - (3) A household in which a family member is a person with a disability, if homeownership assistance is needed as a reasonable accommodation; and
 - (4) A family that owns or is acquiring shares in a cooperative.
- (f) Be a DCHA resident in Good Standing:
 - (1) Timely completion of scheduled and interim recertifications;
 - (2) No instances of unreported income;
 - (3) No current debt owed (*i.e.*, rent, excess utility charges, maintenance charges, etc.) to DCHA, federally funded housing program, and any court or in-house repayment agreements must be paid off prior to application to the AYBL program.

- (4) No more than four (4) late rental payments, in either public housing or the private market, within the twelve (12) months prior to approval of an AYBL application provided that the payment is received within the month that the rent is charged. For other charges (*i.e.*, excess utility charges, maintenance charges, etc.) payment must have been made within thirty (30) days of the date of the charge.
- (5) Passed scheduled DCHA inspections that were conducted in the unit within the past twelve (12) months from the date of AYBL application submission;
- (6) No legal actions for non-curable violations of the lease within the last five (5) years at the time of AYBL application submission;
- (7) No repeated breaches of other terms of the Lease by the Lessee(s) or any household member identified in the Public Housing dwelling lease;
- (8) Pass a separate DCHA AYBL Home Visit inspection.
- (9) Pass a criminal background check that will be conducted on all household members who are eighteen (18) years of age or older pursuant to 14 DCMR § 6109.

Section 9807 (AYBL Selection Preferences and Lottery) is amended as follows:

Subsections 9807.4 - 12 are amended to read as follows:

- 9807.4 If DCHA is unable to fill the AYBL units with families residing in conventional public housing or in a mixed financed unit subsidized by an Annual Contributions Contract, at its sole discretion, DCHA shall pull from the selection pool of applicants who have been deemed eligible for admission and who are waiting placement at a public housing property.
- 9807.5 After the returning ABYL families and residents at DCHA designated properties in the area surrounding the Rewards Property have been put on the Site-based Transfer Waiting list, and there is a need for additional families to occupy units at a Rewards Property, DCHA will conduct a lottery as defined in this section for all other AYBL eligible residents.

- 9807.6 Only those AYBL applicant families that have been determined eligible for the AYBL program will be placed in a lottery pool to be selected for an AYBL Site-based Transfer Waiting list pursuant to this section.
- 9807.7 Applicants are assigned a number at the time they are determined eligible. Once the eligibility determination process is complete, DCHA will conduct a public lottery overseen by a third party to determine which applicants will be selected for placement on an AYBL Site-based Transfer Waiting Lists according to bedroom size and property requested.
- 9807.8 The size of AYBL Site-Based Transfer Waiting Lists will be based upon DCHA's projected vacancy rates at each AYBL Rewards Property. The size of AYBL Site-based Transfer Waiting Lists will be determined by DCHA, at its sole discretion, based on projected vacancies.
- 9807.9 Once the required number of AYBL eligible families is selected from the lottery pool to meet projected vacancies for an AYBL Rewards Property, the families will be placed on the AYBL Site-Based Transfer Waiting List based on the order the families were selected from the lottery pool.
- 9807.10 Once the AYBL Families are placed on an AYBL Site-based Transfer Waiting List, that Site-Based Transfer Waiting list will be closed.
- 9807.11 Once a AYBL Site-based Transfer Waiting List is closed, those AYBL Families who were in the lottery pool, but were not selected to be placed on a AYBL Site-based Transfer Waiting List, will be able to re-apply when DCHA determines to reopen the list.
- 9807.12 When there is not a sufficient number of eligible AYBL Families on an AYBL Site-based Transfer Waiting List to meet vacant unit projections for that property, the AYBL Site-based Transfer Waiting List will be opened and applications will be requested in accordance with the provisions of this chapter.

Section 9817 (Contract of Participation) is amended as follows:

Subsections 9817.6 - 14 are amended to read as follows:

- 9817.6 Requests for extensions of the contract term must be submitted to DCHA in writing in a form approved by DCHA at least thirty (30) days prior to the end of the Contract of Participation or extension and must include evidence justifying the request.
- 9817.7 AYBL Families who have identified renting in the private market without federal or local housing assistance are not entitled to an extension of the Contract of Participation. At the end of the contract term the AYBL Family must vacate the

AYBL unit or transfer to a conventional public housing unit pursuant to the transfer regulations in this chapter.

- 9817.8 The Contract of Participation shall incorporate the ITSP(s) for both the potential borrower/co-borrower or the renter/co-renter as applicable.
- 9817.9 The ITSP, in addition to identifying homeownership or renting in the private market as the AYBL Family's end goal, will establish interim goals by which the ABYL Family's progress in fulfilling its obligations will be measured. Mandatory minimum interim goals are to be included in the ITSP and thereby required by the Contract of Participation are that the AYBL Family:
- (a) Has been admitted in the HOAP;
 - (b) Is under contract to purchase a home; or
 - (c) Has identified a private rental unit and is in the process of executing a lease.
- 9817.10 Modification of the Contract of Participation -- DCHA and the AYBL Family may mutually agree to modify the Contract of Participation. The Contract of Participation may be modified in writing with respect to the Individual Training and Services plans, the contract term, and designation of the Head of Household.
- 9817.11 Completion of the Contract of Participation -- A Contract of Participation is considered to be completed and a family's participation in AYBL is considered to conclude when the AYBL Family has fulfilled all of its obligations under the Contract of Participation on or before the expiration of the contract term, including any extension thereof.
- 9817.12 Non-compliance will be determined based on the requirements of the Contract of Participation. AYBL Families will be notified in writing for instances of non-compliance through the issuance of a Notice of Non-Compliance.
- 9817.13 Termination of Contract of Participation -- the Contract of Participation is automatically terminated if the AYBL Family's Public Housing lease is terminated. The Contract of Participation may be terminated before the expiration of the contract term, and any extension thereof, by:
- (a) mutual consent of DCHA and the AYBL Family;
 - (b) the failure of the AYBL Family to meet its obligations under the Contract of Participation without good cause;
 - (c) the AYBL Family's withdrawal from the AYBL program;

- (d) such other act as is deemed inconsistent with the purpose of AYBL; or
- (e) operation of law.

9817.14 Termination of the Contract of Participation for reasons other than a breach of the Public Housing lease, in accordance with this section, may not result in the termination of Public Housing assistance. If the Contract of Participation is terminated for reasons that require an AYBL Family to transfer to a non-Rewards Property unit the AYBL family will be transferred to a conventional public housing unit in accordance with the AYBL transfer policy described in this chapter.

9817.15 AYBL Families who successfully complete the Contract of Participation will transition to the HCVP/HOAP. All members of the AYBL Family must vacate the AYBL unit at the conclusion of the family's participation in the program whether by termination or successful completion of the Contract of Participation.

Section 9899 (Definitions) is amended to replace the definition of “AYBL Applicant Family” to read as follows:

AYBL Applicant Family -- a Public Housing family living in conventional public housing or in a mixed finance development unit which is subsidized with Annual Contributions Contract assistance, or is currently in the selection pool, and who has submitted a completed application, including all required documents, for consideration to become an AYBL Family.

All persons desiring to comment on the subject matter of this rulemaking should file comments in writing no later than fifteen (15) days after the publication of this Notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599; (202) 535-2835; copies of these rules may be obtained from DCHA at that same address. Alternatively, copies of the rules can be requested from and comments can be sent to Karen Harris, at Office of the General Counsel, District of Columbia Housing Authority, at PublicationComments@dchousing.org. Individuals wishing to comment by email must include the phrase “Comment to Proposed Rulemaking” in the subject line.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Section 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) (2010 Repl.) and D.C. Official Code §§ 34-2202.16 (2010 Repl.)); Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a)(2011 Repl.)); and in accordance with Chapter 40, "Retail Ratemaking," of Title 21, "Water and Sanitation," of the District of Columbia Municipal Regulations (DCMR), hereby gives notice that at its regularly scheduled meeting on December 5, 2013, took final action through adoption of Board Resolution #13-120 to propose the amendment of Section 112, (Fees), of Chapter 1, (Water Supply), and Sections 4100, (Rates for Water Service), and 4101, (Rates for Sewer Service), of Chapter 41, (Retail Water and Sewer Rates), of Title 21, (Water and Sanitation), of the DCMR.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

In addition, the Board will receive comments on these proposed rates at a public hearing at a later date. The public hearing notice will be published in a subsequent edition of the *D.C. Register*.

Section 112, FEES of Chapter 1, WATER SUPPLY, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsection 112.8 is amended to read as follows:

112.8 Effective October 1, 2014, the District of Columbia Right of Way Occupancy Fee Pass Through Charge and the Payment in Lieu of Taxes (PILOT) Fee, shall be increased from seventy cents (\$0.70) for each one hundred cubic feet (1 Ccf) (or the equivalent of ninety-three cents (\$0.93) for each one thousand gallons (1,000 gals.) (one hundred cubic feet (1 Ccf) equals seven hundred forty-eight and five hundredths gallons (748.05 gals.)) to seventy-eight cents (\$0.78) for each one hundred cubic feet (1 Ccf) (or the equivalent of one dollar and four cents (\$1.04) for each one thousand gallons (1,000 gals.)) of water used, divided as follows:

- (a) District of Columbia Right of Way Fee, assessed to recover the cost of fees charged by the District of Columbia to D.C. Water and Sewer Authority for use of District of Columbia public space and rights of way, shall be:

- (1) Residential Customers: seventeen cents (\$0.17) per Ccf (or the equivalent of twenty-two cents (\$0.22) per one thousand gallons (1,000 gals.)) of water used;
 - (2) Multi-Family Customers: seventeen cents (\$0.17) per Ccf (or the equivalent of twenty-two cents (\$0.22) per one thousand gallons (1,000 gals.)) of water used; and
 - (3) Non-Residential Customers: seventeen cents (\$0.17) per Ccf (or the equivalent of twenty-two cents (\$0.22) per one thousand gallons (1,000 gals.)) of water used; and
- (b) Payment in Lieu of Taxes to the Office of the Chief Financial Officer (OCFO) of the District of Columbia, assessed to cover the amount which D.C. Water and Sewer Authority pays each fiscal year to the District of Columbia, consistent with D.C. Water and Sewer Authority's enabling statute for public goods and services received from the District of Columbia: shall be increased from fifty-three cents (\$0.53) per Ccf (or the equivalent of seventy-one cents (\$0.71) per one thousand gallons (1,000 gals.)) of water used to:
- (1) Residential Customers: sixty-one cents (\$0.61) per Ccf (or the equivalent of eighty-two cents (\$0.82) per one thousand gallons (1,000 gals.)) of water used;
 - (2) Multi-Family Customers: sixty-one cents (\$0.61) per Ccf (or the equivalent of eighty-two cents (\$0.82) per one thousand gallons (1,000 gals.)) of water used; and
 - (3) Non-Residential Customers: sixty-one cents (\$0.61) per Ccf (or the equivalent of eighty-two cents (\$0.82) per one thousand gallons (1,000 gals.)) of water used.

Section 4100, RATES FOR SEWER SERVICE, of Chapter 41, RETAIL WATER AND SEWER RATES, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsection 4100.3 is amended to read as follows:

4100 RATES FOR WATER SERVICE

4100.3 Effective October 1, 2014, the rate for retail metered water service shall be increased from three dollars and sixty-one cents (\$3.61) for each one hundred cubic feet (1 Ccf) (or the equivalent of four dollars and eighty-three cents (\$4.83) for each one thousand gallons (1,000 gals.) (one hundred cubic feet (1 Ccf) equals seven hundred forty-eight and five hundredths gallons (748.05 gals.)) of water used to:

- (a) Residential Customers: three dollars and eighty-eight cents (\$3.88) per Ccf (or the equivalent of five dollars and nineteen cents (\$5.19) for each one thousand gallons (1,000 gals.)) of water used;
- (b) Multi-Family Customers: three dollars and eighty-eight cents (\$3.88) per Ccf (or the equivalent of five dollars and nineteen cents (\$5.19) for each one thousand gallons (1,000 gals.)) of water used; and
- (c) Non-Residential Customers: three dollars and eighty-eight cents (\$3.88) per Ccf (or the equivalent of five dollars and nineteen cents (\$5.19) for each one thousand gallons (1,000 gals.)) of water used.

Section 4101, RATES FOR SEWER SERVICE, of Chapter 41, RETAIL WATER AND SEWER RATES, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsection 4101.1 is amended to read as follows:

4101 RATES FOR SEWER SERVICE

4101.1 Effective October 1, 2014, the rates for sanitary sewer service shall be:

- (a) The retail sanitary sewer service rate shall be increased from four dollars and forty-one cents (\$4.41) for each one hundred cubic feet (1 Ccf) (or five dollars and eighty-nine cents (\$5.89) for each one thousand gallons (1,000 gals.) (one hundred cubic feet (1 Ccf) equals seven hundred forty-eight and five hundredths gallons (748.05 gals.)) of water used to:
 - (1) Residential Customers: four dollars and seventy-four cents (\$4.74) per Ccf (or the equivalent of six dollars and thirty-three cents (\$6.33) for each one thousand gallons (1,000 gals.)) of water used;
 - (2) Multi-Family Customers: four dollars and seventy-four cents (\$4.74) per Ccf (or the equivalent of six dollars and thirty-three cents (\$6.33) for each one thousand gallons (1,000 gals.)) of water used; and
 - (3) Non-Residential Customers: four dollars and seventy-four cents (\$4.74) per Ccf (or the equivalent of six dollars and thirty-three cents (\$6.33)) for each one thousand gallons (1,000 gals.)) of water used; and
- (b) The annual Clean Rivers Impervious Surface Area Charge (IAC) shall be increased from one hundred forty-two dollars and twenty cents (\$142.20), billed monthly at eleven dollars and eighty-five cents (\$11.85), per

Equivalent Residential Unit (ERU), to two hundred one dollars (\$201.00) per ERU, billed monthly as follows:

- (1) Residential Customers: sixteen dollars and seventy-five cents (\$16.75) per month for each ERU;
- (2) Multi-Family Customers: sixteen dollars and seventy-five cents (\$16.75) per month for each ERU; and
- (3) Non-Residential Customers: sixteen dollars and seventy-five cents (\$16.75) per month for each ERU.

Comments on these proposed rules should be submitted in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to Linda R. Manley, Secretary to the Board, District of Columbia Water and Sewer Authority, 5000 Overlook Ave., S.W., Washington, D.C. 20032, by email to Lmanley@dcwater.com, or by FAX at (202) 787-2795. Copies of these proposed rules may be obtained from the DC Water at the same address or by contacting Ms. Manley at (202) 787-2332.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2012 Repl. & 2013 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption on an emergency basis of an amendment to Section 1915, entitled “Host Home Services”, of Chapter 19 (Home and Community Based Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The notice of second emergency and proposed rules amends the previously published standards governing providers of host-home support services for participants enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver). These rules amend the previously published rules by: (1) clarifying words and/or phrases to reflect more person-centered language and simplify interpretation of the rule, and (2) establishing that the person’s acuity level will be determined by DDS based on the results of the Level of Need (LON) assessment and screening tool, instead of the Support Intensity Scale.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of host home without transportation services, as required by 1 DCMR § 311.4(e). The ID/DD Waiver serves some of the District’s most vulnerable residents. Host home without transportation services provide essential supports whereby a homeowner assists the person with multiple activities, including activities of daily living, to enable him/her to live successfully in the community. Using a LON assessment and screening tool to determine a person’s acuity level will provide a more comprehensive and uniform assessment tool designed to provide an assessment of a person’s support needs for a person-centered planning process method to determine the level and intensity of services to be needed. These tools will subsequently improve the quality of the overall services received by the person. In order to ensure that the residents’ health, safety, and welfare are not threatened by the lapse in enhanced quality of service delivery, it is necessary that that these rules be published on an emergency basis.

An initial notice of emergency and proposed rulemaking was published in the *D.C. Register* on September 20, 2013 at 60 DCR 13205. Numerous comments were received and substantive changes have been made as described above. This emergency rulemaking was adopted on December 17, 2013 and became effective on that date. These emergency rules shall remain in effect for one hundred and twenty (120) days until April 15, 2014, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

Section 1915 (Host Home) of Chapter 19 (Home and Community Based Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR is amended to read as follows:

1915 HOST HOME WITHOUT TRANSPORTATION SERVICES

- 1915.1 The purpose of this section is to establish standards governing Medicaid eligibility for host home without transportation services under the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (Waiver), and to establish conditions of participation for providers of host home services.
- 1915.2 Host home without transportation services enable a person to retain or improve skills related to: health; activities of daily living; money management; community mobility; recreation; cooking; shopping; use of community resources; community safety; and to develop other adaptive skills needed to live in the community.
- 1915.3 To be eligible for Medicaid reimbursement of host home without transportation services, each person shall demonstrate a need for support for up to twenty-four (24) hours per day, and the services shall be:
- (a) Provided in a private home, referred to as “host home”, which may be leased or owned by the principal care provider; and
 - (b) Identified as a need in the person’s Individual Support Plan (ISP) and Plan of Care.
- 1915.4 The total number of persons living in the host home (including those served in the Waiver), who are unrelated to the principal care provider cannot exceed three (3).
- 1915.5 In order to be reimbursed by Medicaid, the principal care provider shall:
- (a) Use the Department of Disabilities Services (“DDS”) approved person-centered thinking tools to develop an assessment that includes what is important to and for the person, within the first month of the person residing in the home;
 - (b) Participate in the development of the ISP and Plan of Care to ensure the ISP goals are clearly defined;
 - (c) Assist in the coordination of all services that a person may receive by ensuring that all recommended and accepted modifications to the ISP are included in the current ISP;

- (d) Develop a support plan with measurable outcomes using the information from the DDS approved person-centered thinking tools, the ISP, Plan of Care, and other information as appropriate to assist the person in achieving their goals; and
- (e) Review the person's ISP and Plan of Care goals, objectives, and activities at least quarterly, and more often as necessary, and submit quarterly reports to the person, family, as appropriate, guardian, and DDS Service Coordinator in accordance with the requirements described, under Section 1908 (Reporting Requirements) and Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.

1915.6

In order to be reimbursed by Medicaid, the principal care provider shall provide personal supports and assistance to the person in the host home. These services shall include, but are not limited to, the following:

- (a) Room and board (not included in the Waiver reimbursement rate);
- (b) Assistance with eating and food preparation;
- (c) Assistance with personal hygiene;
- (d) Assistance with dressing;
- (e) Assistance with monitoring the person's health and physical condition;
- (f) Assistance with the administration of medication;
- (g) Assistance with communication between the person and other health care providers;
- (h) Assistance with interpersonal and social skills;
- (i) Assistance with household chores;
- (j) Assistance with mobility;
- (k) Assistance with motor and perceptual skills;
- (l) Assistance with problem-solving and decision-making;
- (m) Maintenance of medical records;
- (n) Maintenance of financial records;

- (o) Assistance with attending health care appointments, by the coordination of transportation to and from the person's appointments;
- (p) Assistance with planning and attending events;
- (q) Habilitative support in activities of daily living and/or therapeutic goals and objectives as described in the ISP and Plan of Care;
- (r) Assistance with enhancing the person's opportunities for social, recreational, and religious activities utilizing community resources; and
- (s) Assistance with ensuring that the person's adaptive equipment is appropriate and functioning.

1915.7 In order to be reimbursed by Medicaid, the Waiver provider shall coordinate the delivery of professional services to each person residing in a host home that may include, but are not limited to, the following disciplines or services:

- (a) Medical Care;
- (b) Dentistry;
- (c) Education;
- (d) Nutrition;
- (e) Nursing;
- (f) Occupational therapy;
- (g) Physical therapy;
- (h) Behavioral support;
- (i) Community supports;
- (j) Social work;
- (k) Speech, hearing and language therapy; and
- (l) Recreation.

1915.8 In order to be reimbursed by Medicaid, each Waiver provider that oversees a person's host home placement shall:

- (a) Receive and review packets submitted by DDS requesting development of a host home for a particular applicant;

- (b) Respond to inquiries for host home development in a timely manner;
- (c) Recruit a principal care provider to deliver host home services;
- (d) Identify and develop on-going relationships with local medical professionals (*e.g.*, dentist, physician, psychiatrist, psychologist, occupational therapist, physical therapist, etc.);
- (e) Coordinate a minimum of one (1) visit by the person to the prospective principal care provider's home, one of which may be an overnight stay;
- (f) Coordinate transportation with the DDS Service Coordinator for visits to the prospective host home of the principal care provider;
- (g) Participate in a person centered planning process to develop the person's ISP and Plan of Care;
- (h) Arrange for essential supports, including training, supplies and equipment to be in place prior to the person's move into a host home setting;
- (i) Arrange for non-essential, but recommended and necessary supports to be put into place subsequent to a person's move into a host home setting; and
- (j) Provide information as needed to the person, the person's family or authorized representative, support team, DDS Service Coordinator, and the principal care provider.

1915.9 In order to be reimbursed by Medicaid, the Waiver provider shall:

- (a) Coordinate the use of transportation for each person residing in a host home to their day programs, places of employment, and/or community outings as needed;
- (b) Coordinate general support monitoring at least twice per month to review conditions in the host home, the person's health status, implementation of the ISP, update activity schedules, review medical and other appointments, and draft progress notes;
- (c) Coordinate health care monitoring for each person residing in the host homes including, at a minimum, monitoring by a registered nurse at least every sixty (60) days for persons with no medications, and at least monthly for persons on medications, and complete monthly progress notes during each visit;
- (d) Provide respite to the principal care provider for up to a total of fourteen (14) days per year. If respite care and emergency support is provided in

the host home, Medicaid reimbursement payments for host home services shall continue for fourteen (14) days. If respite is provided in another location, the host home services percentage of the reimbursement rate shall be paid to the Waiver provider;

- (e) Provide emergency support to the person enrolled in the Waiver, in the event that an emergency renders a principal care provider unable to provide supports;
- (f) Coordinate compliance with DDS policies and procedures;
- (g) Provide training to ensure that the principal care provider is knowledgeable about DDS policies and procedures;
- (h) Ensure that the principal care provider is trained on medication administration; and
- (i) Accompany the person to annual review court hearings and provide reports to be utilized during court hearings.

1915.10 In order to be reimbursed by Medicaid, the principal care provider may be a family member who is not a parent, spouse or other legally responsible relative of the person enrolled in the Waiver.

1915.11 In order to be reimbursed by Medicaid, the host home residence and the Waiver provider shall meet the DDS Certification Standards as set forth in the Human Care Agreement between the principal care provider, the Waiver provider, and DDS, if applicable.

1915.12 In order to be reimbursed by Medicaid, host home without transportation services shall be administered by supported living service providers or residential habilitation service providers, which in this section shall be referred to as the Waiver provider.

1915.13 In order to be reimbursed by Medicaid, each Waiver provider of host home services without transportation shall demonstrate verification of passing the DDS Provider Certification Review with experience providing In-Home Supports or Respite for at least three (3) years, unless waived by a designated DDA staff.

1915.14 In order to be reimbursed by Medicaid, each Waiver provider of host home without transportation services shall agree to the following:

- (a) Be a member of the person's support team;
- (b) Comply with Sections 1904 (Provider Qualifications) and 1905 (Provider Enrollment) of Chapter 19 of Title 29 of the DCMR;

- (c) Maintain a signed, current Human Care Agreement with DDS when deemed necessary by DDS;
- (d) Demonstrate that the owner(s)/operator(s) has at least five (5) years of experience in a leadership role with a residential provider that support adults with an intellectual disability, unless waived by the DDS Director or Deputy Director or their designee.

1915.15 In order to be reimbursed by Medicaid, each host home residence and supporting Waiver provider located out-of-state shall be licensed and/or certified in accordance with the host state's laws and regulations and/or consistent with the terms and conditions set forth in an agreement between the District of Columbia and the host state. Each out-of-state host home and Waiver provider shall comply with the following additional requirements:

- (a) Remain in good standing in the jurisdiction where the program is located;
- (b) Submit a copy of the annual certification or survey performed by the host state and provider's corrective action to DDS;
- (c) Allow authorized agents of the District of Columbia government, federal government, and governmental officials of the host state full access to all sites and records for audits and other reviews; and
- (d) Successfully meet the certification review requirements of DDS.

1915.16 Each principal care provider and direct support professional (DSP) providing host home without transportation services shall meet all of the requirements in Section 1906 (Requirements for direct support professionals) of Chapter 19 of Title 29 of DCMR.

1915.17 In order to be reimbursed by Medicaid, each principal care provider providing host home services shall agree to cooperate and attend mandatory training sessions provided by DDS and the Waiver provider, and to allow DDS Service Coordinator and other DDS employees' reasonable access to the Host Home.

1915.18 In order to be reimbursed by Medicaid, services shall be authorized for reimbursement in accordance with the following provider requirements:

- (a) DDS shall provide a written service authorization before the commencement of services;
- (b) The provider shall conduct an assessment and develop a host home assessment plan with training goals and techniques that will assist the principal care provider, within the first thirty (30) days of service delivery;
- (c) The service name and the Waiver provider delivering services shall be identified in the ISP and Plan of Care;

- (d) The ISP, Plan of Care, and Summary of Supports and Services shall document the amount and frequency of services to be received; and
- (e) Services shall not conflict with the service limitations described under Section 1915.25.

1915.19 Each Waiver provider of host home without transportation services shall maintain the following documents for monitoring and audit reviews:

- (a) Any documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR;
- (b) A copy of the person's most recent DDS approved ISP and Plan of Care;
- (c) A current written staffing plan, if In-Home Supports are needed;
- (d) A written explanation of staffing responsibilities when the principal care provider is unavailable to provide support to the person enrolled in the waiver;
- (e) Current financial records of expenditures of public and private funds for each person;
- (f) The records of any nursing care provided pursuant to a physician ordered protocol and procedure, charting, and other supports provided in accordance with a physician's order relating to the development and management of the Health Management Care Plan.
- (g) The progress notes written by the principal care provider on a weekly basis and archived at the Waiver provider's central office, which contain the following information:
 - (1) The progress in meeting each goal in the ISP;
 - (2) Any unusual health or behavioral events or change in status;
 - (3) A listing of all community activities attended by the person and for each, a response to the following questions: "What did the person like about the activity?" and "What did the person not like about the activity?"; and
 - (4) Any matter requiring follow-up on the part of the service provider or DDS.

- 1915.20 In order to be reimbursed by Medicaid, each Waiver provider of host home without transportation services shall comply with Sections 1908 (Reporting Requirements) and 1911 (Individual Rights) of Chapter 19 of Title 29 of the DCMR.
- 1915.21 Host home without transportation services shall not be reimbursed by Medicaid if they are billed for the same day of service that the following waiver services are provided to the person:
- (a) Supported Living;
 - (b) Residential Habilitation;
 - (c) Personal Care;
 - (d) Skilled Nursing;
 - (e) Environmental Accessibility;
 - (f) Transportation;
 - (g) Respite;
 - (h) Personal Emergency Response System (PERS); and
 - (i) In-Home Supports.
- 1915.22 In order to be eligible for Medicaid reimbursement, host home without transportation services shall not include a day when the person is hospitalized, on vacation, or other days during which the person is not residing at the host home, with the exception of days when the person is on vacation with the principal care provider.
- 1915.23 In order to be eligible for Medicaid reimbursement, host home without transportation services shall not include a day when the person is not residing at the host home, with the exception of days when the person is temporarily residing in a hotel or other facility due to an emergency situation.
- 1915.24 The following individuals shall not be authorized to enroll as a Waiver provider of host home without transportation services for the person:
- (a) The person's legal guardian;
 - (b) The person's parent; or
 - (c) The person's spouse.

- 1915.25 Reimbursement for host home without transportation services shall not include:
- (a) Cost of room and board;
 - (b) Cost of facility maintenance, upkeep, and improvement;
 - (c) Activities for which payment is made by a source other than Medicaid; and
 - (d) Time when the person is in school or employed.
- 1915.26 The reimbursement rate for host home without transportation services is a daily inclusive rate based on the person's acuity level. The acuity level shall be determined by DDS based on the results of the Level of Need Assessment and Screening Tool or as documented in the person's ISP.
- 1915.27 The basic support rate that Medicaid will reimburse shall be one hundred thirty-six dollars (\$136.00) per day; the moderate support rate shall be one hundred fifty-three dollars (\$153.00) per day; and the intensive support rate shall be one hundred ninety-six dollars (\$196.00) per day. The host home without transportation services reimbursement rate shall include:
- (a) All training for host home workers;
 - (b) Programmatic supplies;
 - (c) Oral/topical medication management;
 - (d) General and administrative fees for waiver services;
 - (e) Relief of the caregiver and emergency support;
 - (f) All direct support costs based on the needs of the person; and
 - (g) Additional supports provided by a DSP for up to twenty (20) hours per week.
- 1915.28 In the event that additional DSP supports are requested, the Waiver provider shall submit to the DDS Service Coordinator, the following documents:
- (a) A written justification; and
 - (b) A summary of the responsibilities of the DSP who is scheduled to provide the additional supports.

- 1915.29 Persons with extraordinary needs may be eligible to receive a specialized reimbursement rate not to exceed five hundred dollars (\$500.00) per day, subject to DDS approval.
- 1915.30 Forty (40) percent to fifty (50) percent of the daily reimbursement rate shall be paid to the host home by the Waiver provider for support services. The remaining fifty (50) percent to sixty (60) percent of the daily reimbursement rate shall be retained by the Waiver provider for training, additional in-home support services based on the needs of the person, medication management, general and administrative fees for waiver services, general supervision, and relief and emergency coverage. The actual percentage of the daily reimbursement rate allocated between the host home and the Waiver provider shall be negotiated between the parties based on the specific support needs of the person.
- 1915.31 The person receiving host home services shall contribute an amount based on their Social Security benefits to the principal care provider to pay towards their room and board expenses.

Section 1999 (DEFINITIONS) is amended by adding the following:

Homeowner - A person(s) who is (are) the primary owner or renter of a residential property and who provides supports to assist the person enrolled in the Waiver.

Host Home - The residence owned or leased by the homeowner or principal care provider who provides host home services to the person enrolled in the Waiver.

Principal care provider- The person who owns and/or leases the host home and provides host home services and supports to the person enrolled in the Waiver.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-9115, via email at DHCFpubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2012 Repl. & 2013 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 1917 (Live-In Caregiver), of Chapter 19 (Home and Community-based Waiver Services for Individuals with Intellectual and Developmental Disabilities), Title 29 (Public Welfare), of the District of Columbia Municipal Regulations (DCMR).

The notice of second emergency and proposed rules amends the previously published standards governing providers of shared living services for participants enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver). These rules amend the previously published rules by: (1) clarifying words and/or phrases to reflect more person-centered language and simplify interpretation of the rule; (2) establishing that the Waiver provider shall have twenty-four (24) hour responsibility for arranging and overseeing the delivery of the service; (3) mandating that the provider shall provide initial and periodic inspections of the waiver person's home, at a frequency to be determined by the provider, to determine his/her wellbeing; and (4) specifying that the shared living service agreement shall also specify the training the roommate would receive to effectively support the person, and payment for both parties' personal needs, utilities, and food.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of shared living services, as required by 1 DCMR § 311.4(e). Based upon current provider requirements there are insufficient safeguards in place to ensure that the provider will take accurate measures to oversee the delivery of services. By taking emergency action, these rules will clarify that providers shall have twenty four (24) hour responsibility for arranging and overseeing the delivery of shared living services. This oversight will ensure that the person's health, safety, and welfare are not threatened. Therefore, in order to ensure that the residents' health, safety, and welfare are not threatened by the lapse in enhanced quality of service delivery, it is necessary that that these rules be published on an emergency basis.

An initial notice of emergency and proposed rulemaking was published in the *D.C. Register* on September 27, 2013 at 60 DCR 13410. Comments were received and substantive changes have been made as described above. The emergency rulemaking was adopted on December 23, 2013 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days until April 21, 2014 unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

Section 1917 (Live in Caregiver) of Chapter 19 (Home and Community Based Services for Individuals with Intellectual and Developmental Disabilities) of Title 29, (Public Welfare) of the DCMR is amended to read as follows:

1917 SHARED LIVING SERVICES

- 1917.1 The purpose of this section is to establish standards governing Medicaid eligibility for shared living services for persons enrolled in the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers who deliver shared living services.
- 1917.2 Shared living services are supports provided in a person's home by a principal care provider who lives as a roommate to enable the person to live in the community independently and without constant supervision. The roommate provides support as needed to meet the physical and social needs of the person that naturally occur during the course of a day.
- 1917.3 In order to receive Medicaid reimbursement for shared living services, a person shall:
- (a) Currently reside in a home that they own or lease;
 - (b) Not require twenty-four (24) hour constant supervision or support; and
 - (c) Have habilitation or individual support needs.
- 1917.4 Medicaid reimbursable shared living services shall be:
- (a) Provided in the person's own home, by a roommate who lives there in exchange for room and board; and
 - (b) Identified as a support in the person's Individual Support Plan (ISP) and Plan of Care.
- 1917.5 Each Waiver provider shall execute a written Shared Living Services Agreement, (hereinafter referred to as the "Agreement"), developed as part of the person's Plan of Care, that defines at a minimum the shared responsibilities between the roommate and the person receiving waiver services, including activities provided by the roommate, a typical weekly schedule, and payment for both parties' personal needs, utilities and food, and indicating that the roommate may secure employment apart from his/her prescribed role.

- 1917.6 Each Waiver provider shall recruit, or assist the person desiring the service to recruit, the roommate. The roommate providing the actual support shall be referred to as the provider for the agency.
- 1917.7 In order to be eligible for Medicaid reimbursement, the Waiver provider shall:
- (a) Execute the Agreement between the person receiving services and the provider for the agency, prior to the initiation of services;
 - (b) Revise the Agreement in accordance with the recommendations of the person, his/her support team, the Waiver provider, and the provider for the agency;
 - (c) Participate in the development of the ISP by describing the duties of the provider agency;
 - (d) Propose modifications to the ISP and Plan of Care, as appropriate;
 - (e) Provide emergency services as needed;
 - (f) Provide the person receiving shared living with up to fourteen (14) days of respite per year;
 - (g) Have twenty-four (24) hour responsibility for arranging and overseeing the delivery of services;
 - (h) Contact the provider for the agency at least once per month; and
 - (i) Provide initial and periodic inspections, with a frequency determined by the provider, of the person's home to ensure their health, safety, and wellbeing.
- 1917.8 In order to be eligible for Medicaid reimbursement, each provider for the agency shall provide habilitative and personal supports as described in the Agreement and outlined in the ISP and Plan of Care, which may include, but is not limited to, the following:
- (a) Assisting with activities of daily living and instrumental activities of daily living, such as meal preparation, laundry, shopping, money management, banking, and general housekeeping;
 - (b) Fostering the development of social and adaptive skills to enable the person to participate successfully in the community;
 - (c) Assisting with accessing community resources to increase the person's community inclusion and integration;
 - (d) Improving the person's skills related to health and safety; and

- (e) Supervising and supporting the person as described in the ISP and Plan of Care.

1917.9 In order to be eligible for Medicaid reimbursement, each Waiver provider shall meet all of the following criteria:

- (a) Comply with the DDS Provider Certification Review;
- (b) Have experience with providing Supported Living, Residential Habilitation, Host Home, In-Home Supports, Respite, or other relevant services; and
- (c) Comply with the requirements described under Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19, Title 29 of the DCMR.

1917.10 The provider for the agency shall:

- (a) Be chosen by the person, with support from his or her support team;
- (b) Have a written agreement with the Waiver provider agency;
- (c) Participate in the development of the person's ISP and Plan of Care;
- (d) Comply with any additional requirements identified by the Waiver provider agency; and
- (e) Comply with the requirements described under Section 1906 (Requirements for Direct Support Professionals) of Chapter 19, Title 29 of the DCMR.

1917.11 Services shall only be authorized for Medicaid reimbursement if the following conditions are met:

- (a) DDS shall provide a written service authorization before the commencement of services;
- (b) The service name and Waiver provider delivering services shall be identified in the ISP and Plan of Care;
- (c) The ISP and Plan of Care, and Summary of Supports and Services shall document the supports and services to be received including that the provider for the agency shall be responsible for no more than four (4) hours of support per day; and
- (d) Services shall not conflict with the service limitations described under Section 1917.15

- 1917.12 Each Waiver provider of shared living services shall comply with the requirements described under Sections 1908 (Reporting Requirements), 1909 (Records and Confidentiality of Information) and 1911 (Individual Rights) of Chapter 19, Title 29 of the DCMR.
- 1917.13 Shared living services shall not be billed on the same day as residential habilitation, supported living, in-home supports, or host home services.
- 1917.14 Shared living services shall not be provided by a spouse, parent of a minor child, or guardian, or any other legally responsible individual who would customarily perform, or be responsible for performing supports on behalf of the person. A family member who is not legally responsible for the person and meets all other requirements shall be eligible to administer shared living services.
- 1917.15 A provider for the agency shall be responsible for no more than four (4) hours of support per day.
- 1917.16 The reimbursement rate shall be one thousand eight hundred thirty three dollars and thirty-three cents (\$1,833.33) per month for each person based on the Agreement.

Section 1999 (DEFINITIONS) is amended by adding the following:

Provider for the agency – The roommate of the person receiving waiver supports, who is hired as a contract employee by the Waiver provider to provide shared living supports to the individual.

Comments on the proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900, Washington, D.C. 20001, via telephone at (202) 442-9115, via email at DHCFpubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2012 Repl. & 2013 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of a new Section 1925, entitled “Individualized Day Supports Services”, of Chapter 19 (Home and Community-Based Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register (DCMR).

These emergency and proposed rules establish standards governing reimbursement of individualized day supports services provided to participants in the Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The notice of second emergency and proposed rules amends the previously published standards governing providers of individualized day support services for participants enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver). These rules amend the previously published rules by: (1) establishing that providers of individualized day support services shall possess at least one (1) year of experience providing day services to individuals with intellectual and/or developmental disabilities instead of five (5) years of experience; (2) amending the list of documents that providers shall maintain for monitoring and audit reviews by adding a contingency plan to describe how the individualized day supports will be provided when the regular staff person is unavailable and/or when back-up staff is unavailable; (3) changing the name of the individualized activity plan to “community integration plan” and revising its components; and (4) clarifying words and/or phrases to reflect more person-centered language and simplify interpretation of the rule.

Per 1 DCMR § 311.4(e), emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of individualized day support services. Individualized day supports services provide crucial habilitation supports in the community to ensure that a person’s social skills are enhanced outside of his/her home to foster independence and encourage community integration. These rules are essential because they establish the parameters for the delivery and monitoring of all individualized day supports services. Publishing these rules on an emergency basis will mitigate any potential harm to a person’s welfare that may result from lack of access to these services as set forth in the approved Waiver.

An initial notice of emergency and rulemaking was published in the *D.C. Register* on September 27, 2013 at 60 DCR 13415. Numerous comments were received. Substantive changes have been

made as described above. This emergency rulemaking was adopted on December 23, 2013 and became effective on that date. These emergency rules shall remain in effect for one hundred and twenty (120) days or until April 21, 2014, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

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

A new Section 1925 (Individualized Day Supports) is added to Chapter 19 (Home and Community Based Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR to read as follows:

1925 INDIVIDUALIZED DAY SUPPORTS

1925.1 This section establishes standards governing Medicaid eligibility for individualized day supports services for persons enrolled in the Home and Community-Based Services Waiver for Persons with Intellectual and Developmental Disabilities (Waiver), and shall establish conditions of participation for providers of individualized day supports services seeking Medicaid reimbursement.

1925.2 The following rules pertain only to Medicaid reimbursable individualized day supports services to be received by an individual enrolled in the Waiver, hereinafter referred to as “person” or “persons”.

1925.3 In order to receive Medicaid reimbursement for individualized day supports services, a provider must document that the need for the service is consistent with the person’s Individual Support Plan (ISP) and Plan of Care, and show at least one of the following:

- (a) That the person chooses to participate in habilitation services in a non-traditional community-based setting;
- (b) That the person is transitioning into retirement or is retired and chooses to continue habilitation services;
- (c) That the person has individual ISP goals for community integration and participation;
- (d) That the person is likely to be successful in achieving his or her ISP goals; or
- (e) That the person has a documented need for individualized day supports due to medical or safety issues that are consistent with the Health Care Management Plan (HCMP) and Behavioral Support Plan.

- 1925.4 Medicaid reimbursable individualized day supports services shall:
- (a) Be habilitative in nature;
 - (b) Be delivered in a community setting; and
 - (c) Be provided in a group consisting of no more than two (2) persons.
- 1925.5 Medicaid reimbursable individualized day supports services shall provide:
- (a) Highly individualized, structured activities that emphasize social skills development, and/or vocational exploration, and life skills training, within an inclusive community setting;
 - (b) Activities that maximize the person's functional levels;
 - (c) Activities that support the person's choice in identifying his or her own areas of interest and preferences;
 - (d) Activities that provide opportunities for socialization including leisure activities that enhance adult skill development in the community;
 - (e) Training in the safe and effective use of one or more modes of accessible public transportation and/ or coordination and provision of transportation to participate in community activities consistent with this service; and
 - (f) Coordination and provision of transportation to participate in community activities consistent with this service.
- 1925.6 In order to be eligible for Medicaid reimbursement, each individualized day supports provider entity shall:
- (a) Comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR;
 - (b) Have a minimum of one (1) year of experience providing day services to persons with intellectual disabilities and/or developmental disabilities;
 - (c) For current providers, provide verification of passing the Department on Disability Services (DDS) provider certification review for at least three (3) years;
 - (d) Provide oversight, supervision and training of all Direct Service Personnel (DSP) providing individualized day supports; and

- (e) Maintain a staff-to-person ratio as indicated in the ISP and Plan of Care up to a maximum ratio of one to two (1:2), ensuring that services meet the person’s needs and are provided appropriately and safely.

1925.7 Services shall only be authorized for Medicaid reimbursement if the following conditions are met:

- (a) DDS provides a written service authorization before beginning service delivery;
- (b) The individualized day support service name and enrolled provider are identified in the ISP, Plan of Care and Summary of Support Services;
- (c) The amount and frequency of services to be received is documented in the ISP, Plan of Care and Summary of Support Services;
- (d) Services shall not conflict with the service limitations described under Section 1925.11;
- (e) The staffing plan and community integration plan described under Section 1925.8 are submitted upon commencement of services; and
- (f) The quarterly reports shall be submitted within seven (7) business days after the commencement of the first quarter and each subsequent quarter.

1925.8 Each DSP providing individualized day supports shall meet all of the requirements in Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 of the DCMR, in order to be eligible for Medicaid Reimbursement.

1925.9 In order to be eligible for Medicaid reimbursement each DSP providing individualized day supports services shall meet the following requirements:

- (a) Assist with the development of the community integration plan to implement the individualized day supports services;
- (b) Coordinate the scheduled activities specified under the community integration plan; and
- (c) Utilize positive behavioral support strategies and crisis interventions as described in the approved Behavioral Support Plan to address emergency situations.

1925.10 Each provider entity of individualized day supports services shall, in order to be eligible for Medicaid reimbursement, maintain documents for monitoring and audit reviews as described under Section 1909 (Records and Confidentiality of Information) of Chapter 19, of Title 29 of the DCMR and maintain the following additional records:

- (a) A contingency plan that describes how the individualized day supports will be provided when the regular staff person is unavailable; and, if the lack of immediate care poses a serious threat to the person’s health and welfare, how the supports will be provided when back-up staff are unavailable,;
- (b) The community integration plan containing the following information:
 - (1) The name of the person receiving the services;
 - (2) The title of the staff person rendering services;
 - (3) The schedule of activities taking place in the community, including the date, start and end time that the person receiving services will participate in;
 - (4) The goals, including measurable outcomes which promote community integration, for all services identified in the ISP and Plan of Care;
 - (5) The strategies that are being used to support the person to achieve his or her goals as in his or her ISP and Plan of Care;
 - (6) The teaching strategies that are being implemented to achieve the goal and a response to the following questions: What worked well for the person? What didn’t work well for the person?;
 - (7) The observations that are noted by the DSP regarding the person receiving services’ newly acquired skills that should be included in the person’s amended or annual ISP; and
 - (8) The learning styles of the person.

1925.11 In order to be eligible for Medicaid reimbursement, each Provider shall comply with Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 of the DCMR.

1925.12 Medicaid shall only reimburse individualized day supports services for six (6) hours per day, and up to five (5) days a week.

1925.13 Medicaid does not reimburse the person’s family and other individuals who reside with the person receiving individualized day supports services to qualify as a DSP.

- 1925.14 A DSP shall not perform individualized day support services if he/she also provides the person with the following waiver services:
- (a) Residential Habilitation;
 - (b) Supported Living;
 - (c) Shared Living;
 - (d) Host Home; and
 - (h) In-Home Supports.
- 1925.15 Individualized day supports shall be billed at the unit rate. The reimbursement rate shall be six dollars and eleven cents (\$6.11) per billable unit or twenty-four dollars and forty-four cents (\$24.44) per hour. This service shall not exceed 1,560 hours per year or 6,250 units annually. A standard unit of service is fifteen (15) minutes and the provider shall provide at least eight (8) continuous minutes of services to bill for one (1) unit of service.
- 1925.16 Individualized day supports services shall not be billed concurrently with the following services:
- (a) Supported Employment;
 - (b) Employment Readiness;
 - (c) Day Habilitation;
 - (d) Respite; and
 - (e) Shared Living.

Section 1999 (DEFINITIONS) is amended by adding the following:

Community integration plan - A plan that includes structured activities and practical experiences by incorporating goals and strategies that best meets the individual's interests, needs and learning styles, and that can be implemented within a flexible time period.

Person – An individual enrolled in the Home and Community Based Services Waiver for Individuals with Intellectual and Developmental Disabilities.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900, Washington, D.C. 20001, via telephone on (202) 442-9115, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2012 Repl. & 2013 Supp.) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 5213 of Chapter 52 (Medicaid Reimbursement for Mental Health Rehabilitative Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The purposes of this proposed amendment are to update the reimbursement rates to Department of Behavioral Health-certified mental health providers for Mental Health Rehabilitation Services (MHRS). A comprehensive rate analysis had not been conducted the rates since 2001, when the Department of Mental Health – the predecessor to the Department of Behavioral Health – was first created, although some intermittent rate adjustments had been made. Thus the Department of Behavioral Health, with the assistance of providers and stakeholders, conducted a comprehensive rate review and developed a rate-setting methodology to ensure that reimbursement rates reflected the cost-basis of the services. As a result of this review, the majority of reimbursement rates for most services increased; the overall reimbursement rate will see an increase of almost fifteen percent (15%). Additionally, as a result of the rate review, the differentiation between children and adult services for Medication Treatment and for Counseling was eliminated, as the review showed no basis for such rate differential. Finally, the name for one service, Medication Somatic, was changed to Medication Training and Support to reflect the correct terminology used by the Center for Medicaid and Medicare Services.

Per 1 DCMR § 311.4(e), emergency rulemakings are issued when necessary for the immediate preservation of the public peace, health, safety, welfare, or morals. Issuance of these rules on an emergency basis is necessary for the stability of the provider community and therefore the continued provision of necessary mental health services. Any delay in promulgating the new rates will lead to possible reduction in services, to the detriment of the population served by the public mental health system. Thus emergency action is necessary for the immediate preservation of the health, welfare, and safety of children, youth, and adults with mental illness in need of mental health services.

The emergency rulemaking was adopted on December 30, 2013 and became effective on that date. The emergency rules will remain in effect for one hundred twenty (120) days or until April 28, 2014, unless superseded by publication of another rulemaking notice in the *DC Register*, whichever comes first.

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

Chapter 52, MEDICAID REIMBURSEMENT FOR MENTAL HEALTH REHABILITATIVE SERVICES, of Title 29, PUBLIC WELFARE, of the DCMR is amended as follows:

Section 5213, Reimbursement, Subsection 5213.1 is deleted in its entirety and is amended to read as follows:

5213.1 Medicaid reimbursement for MHRS shall be determined as follows:

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
Diagnostic/ Assessment	T1023HE	An assessment, at least 3 hours in duration	\$256.02
	H0002	An assessment, 40 – 50 minutes in duration to determine eligibility for admission to a mental health treatment program	\$85.34
Medication Training & Support	H0034	15 minutes	\$44.65 – Individual
	H0034HQ	15 minutes	\$13.52 – Group
Counseling	H0004	15 minutes	\$26.42 – Individual
	H0004HQ	15 minutes	\$8.00 – Group
	H0004HR	15 minutes	\$26.42 – Family with Consumer On-Site
	H0004HS	15 minutes	\$26.42 – Family without Consumer On-Site
	H0004HETN	15 minutes	\$27.45 – Individual Off-Site
Community Support	H0036	15 minutes	\$21.97 – Individual
	H0036HQ	15 minutes	\$6.65 – Group

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
	H0036UK	15 minutes	\$21.97 – Collateral
	H0036AM	15 minutes	\$21.97 – Physician Team Member
	H0038	15 minutes	\$21.97 – Self-Help Peer Support
	H0038HQ	15 minutes	\$6.65 –Self-Help Peer Support Group
	H0036HR	15 minutes	\$21.97 – Family with Consumer
	H0036HS	15 minutes	\$21.97 – Family without Consumer
	H0036U1	15 minutes	\$21.97– Community Residence Facility
	H2023	15 minutes	\$18.61– Supported Employment (Therapeutic)
Crisis/ Emergency	H2011	15 minutes	\$36.93
Day Services	H0025	One day, at least 3 hours in duration	\$123.05
Intensive Day Treatment	H2012	One day, at least 5 hours in duration	\$164.61
Community- Based Intervention (Level I – Multi-Systemic Therapy)	H2033	15 minutes	\$57.42
Community- Based Intervention (Level II and Level III)	H2022	15 minutes	\$35.74
Community- Based Intervention	H2033HU	15 minutes	\$57.42

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
(Level IV – Functional Family Therapy)			
Assertive Community Treatment	H0039	15 minutes	\$38.04 – Individual
	H0039HQ	15 minutes	\$11.51 – Group

Comments on this proposed rulemaking shall be submitted in writing to Linda Elam, PhD., MPH, Deputy Director, Department of Health Care Finance, 441 4th Street, NW, 9th Floor South, Washington, DC 20002, via email to DHCFPublicComments@dc.gov, online at www.dcregs.dc.gov, or by telephone to (202) 442-9115, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of this proposed rule may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

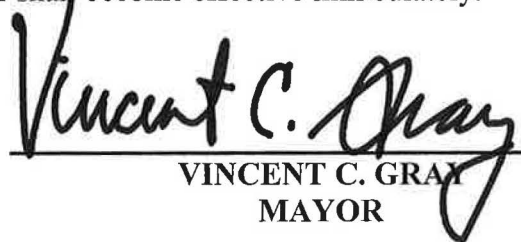
Mayor's Order 2014-012
January 9, 2014


SUBJECT: Reappointments – Historic Preservation Review 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.), in accordance with section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979, D.C. Law 2-144, D.C. Official Code § 6-1103 (2012 Repl.), and pursuant to Mayor's Order 83-119, dated May 6, 1983, it is hereby **ORDERED** that:

1. **MARIA CASARELLA CUNNINGHAM**, who was nominated by the Mayor on September 18, 2013, and approved by the Council of the District of Columbia pursuant to Resolution 20-366 on December 17, 2013, is reappointed as a licensed architect member of the Historic Preservation Review Board ("Board") for a term to end July 21, 2016.
2. **NANCY PRYOR METZGER**, who was nominated by the Mayor on September 18, 2013, and approved by the Council of the District of Columbia pursuant to Resolution 20-365 on December 17, 2013, is reappointed as a public member of the Board for a term to end July 21, 2016.
3. **DONALD GRAHAM DAVIDSON**, who was nominated by the Mayor on September 18, 2013, and approved by the Council of the District of Columbia pursuant to Resolution 20-364 on December 17, 2013, is reappointed as a public member of the Board for a term to end July 21, 2016.
4. **EFFECTIVE DATE:** This Order shall become effective immediately.


VINCENT C. GRAY
MAYOR

ATTEST: 
CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA
000468

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2014-013
January 10, 2014

SUBJECT: Amendment – Delegation of Authority to the Deputy Mayor for Planning and Economic Development to Execute Certain Documents with the District of Columbia Water and Sewer Authority

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(6) 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(6) and (11) (2012 Repl.); section 1 of An Act to authorize the transfer of jurisdiction over public land in the District of Columbia, approved May 20, 1932, 47 Stat. 161, D.C. Official Code § 10-111 (2012 Repl.); and pursuant to section 1(c) of An Act to grant additional powers to the Commissioners of the District of Columbia, and for other purposes, approved December 20, 1944, as amended, 58 Stat. 819, D.C. Official Code § 1-301.01(c) (2013 Supp.), it is hereby **ORDERED** that:

1. Section 1 of Mayor's Order 2012-20, dated February 9, 2012, is hereby amended to read as follows:
 1. The Deputy Mayor for Planning and Economic Development ("Deputy Mayor") is delegated the authority to execute agreements and other associated documents relating to the District of Columbia Water and Sewer Authority's ("DC Water") access to and use of certain real property owned by or under the administrative jurisdiction of the District of Columbia for DC Water's activities relating to the D.C. Clean Rivers project and Long Term Control Plan project, which real property includes: (1) U.S. Reservation 251, (2) U.S. Reservation 128, (3) U.S. Reservation 343-D, (4) U.S. Reservation 343-E, (5) Lot 800 in Square 3128, (6) pursuant to D.C. Official Code § 10-501.01, wharf property within the pierhead lines located in Lot 0802 in Square 0771, and (7) Lot 804 in Square 1112-E.
2. Mayor's Order 2013-186, dated October 10, 2013, is hereby rescinded.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to October 10, 2013.



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 2014-014
January 10, 2014


SUBJECT: Appointments – Alcoholic Beverage Control 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 D.C. Official Code § 25-201(a) (2012 Repl.) and D.C. Official Code § 25-206(d) (2012 Repl.), it is hereby **ORDERED** that:

1. **JAMES N. SHORT**, who was nominated by the Mayor on October 31, 2013, and approved by the Council of the District of Columbia pursuant to Resolution 20-0392 on January 7, 2014, is appointed as a member to the Alcoholic Beverage Control Board (hereinafter referred to as the “ABC Board”), replacing Calvin Nophlin, to complete the remainder of an unexpired term to end May 7, 2016.
2. **VICTOR H. RODRIGUEZ**, who was nominated by the Mayor on October 31, 2013, and approved by the Council of the District of Columbia pursuant to Resolution 20-0391 on January 7, 2014, is appointed as a member to the ABC Board, replacing L. Jeanette Mobley, to complete the remainder of an unexpired term to end May 7, 2015.
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 2014-015
January 10, 2014


SUBJECT: Appointment – Commission for Women

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 3 of the District of Columbia Commission for Women Act of 1978, effective September 22, 1978, D.C. Law 2-109, D.C. Official Code § 3-702 (2013 Supp.), it is hereby **ORDERED** that:

1. **MARY IVEY** is appointed as a member of the Commission for Women, replacing Nusrat “Nucchi” Currier, to complete the remainder of an unexpired term to end April 20, 2015.
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 2014-016
January 13, 2014


SUBJECT: Appointment – District of Columbia Real Estate Commission

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 1002 of the Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999, D.C. Law 12-261, D.C. Official Code § 47-2853.06(h) (2013 Supp.), and Mayor's Order 2009-11, dated February 2, 2009, it is hereby **ORDERED** that:

1. **ULANI D. PRATER GULSTONE**, who was nominated by the Mayor on October 18, 2013 and whose nomination was deemed approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0511 on December 17, 2013, is appointed as an attorney member of the District of Columbia Real Estate Commission, replacing Henry M. Terrell, to complete the remainder of an unexpired term to end on December 13, 2014.
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 2014-017
January 14, 2014


SUBJECT: Appointments – Commission on Aging

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Repl.), and in accordance with section 402 of the District of Columbia Act on the Aging, effective October 29, 1975, D.C. Law 1-24, D.C. Official Code § 7-504.02 (2012 Repl.), it is hereby **ORDERED** that:

1. **VIRGINIA WILLIAMS** is appointed as a member of the Commission on Aging for a term to end October 28, 2015.
2. **CAROLYN NICHOLAS** is appointed as a member of the Commission on Aging for a term to end October 28, 2015.
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 2014-018
January 15, 2014


SUBJECT: Delegation of Authority – Office of the State Superintendent of Education
– Testing Integrity Act of 2013

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) 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(6) and (11) (2012 Repl.), and section 106 of the Testing Integrity Act of 2013 ("Act"), effective October 17, 2013, D.C. Law 20-27, 60 DCR 11120, it is hereby **ORDERED** that:

1. The State Superintendent of Education is delegated the authority vested in the Mayor to promulgate rules pursuant to section 106 of the Act.
2. This order shall supersede all pre-existing Orders to the extent of any inconsistency.
3. **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
INVESTIGATIVE AGENDA**

**WEDNESDAY, JANUARY 22, 2014
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On January 22, 2014 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#13-251-00161 LOOK, 1909 K ST NW Retailer C Restaurant, License#: ABRA-077812

2. Case#13-AUD-00085 Washington Courtyard By Marriott, 1900 CONNECTICUT AVE NW Retailer C Hotel, License#:ABRA-017144

3. Case#13-251-00113 Fairmont Liquor & Grocery, 2633 SHERMAN AVE NW Retailer A Retail - Liquor Store, License#: ABRA-080900

4. Case#13-AUD-00083 Holiday Inn Express Hotel & Suites, 1917 BLADENSBURG RD NE Retailer C Hotel, License#:ABRA-082836

5. Case#13-251-00163 The Mighty Pint, 1831 M ST NW Retailer C Tavern, License#: ABRA-084184

6. Case#13-CMP-00587 RedRocks, 1348 H ST NE Retailer C Restaurant, License#: ABRA-090997

7. Case#13-CC-00122 University Wine & Spirit, 333 Hawaii AVE NE Retailer A Retail - Liquor Store, License#:ABRA-089532

8. Case#13-CC-00121 The Huxley, 1730 M ST NW Retailer C Nightclub, License#: ABRA-089394

9. Case#13-251-00162 The Huxley, 1730 M ST NW Retailer C Nightclub, License#: ABRA-089394

10. Case#13-PRO-00090 Cusbah, 1128 H ST NE Retailer C Restaurant, License#: ABRA-088779

11. Case#13-PRO-00122 Bistro 18, 2420 18TH ST NW Retailer C Restaurant, License#: ABRA-086876

12. Case#13-PRO-00124 Pi, 2309 18TH ST NW Retailer C Restaurant, License#: ABRA-076754

13. Case#13-PRO-00128 NY NY Diva, 2406 - 2408 18th ST NW Retailer C Restaurant, License#: ABRA-092380

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, JANUARY 22, 2014 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of letter dated November 9, 2013 from Rafael DeGennaro. *Remington's*, 639 Pennsylvania Avenue SE, Retailer CT, Lic#: 009328. *Originally posted on the Board's December 4, 2013 Agenda.*

2. Review of documents from Michael Fonseca on Behalf of Remington's in reply to DeGennaro letter. *Remington's*, 639 Pennsylvania Avenue SE, Retailer CN, Lic#: 009238.*

3. Review of Settlement Agreement dated November 16, 2013 from ANC 6B and Remington's. *Remington's*, 639 Pennsylvania Avenue SE, Retailer CN, Lic#: 009238.* *Originally posted on the Board's December 4, 2013 Agenda.*

4. Review of Settlement Agreement with ANC 2F dated November 25, 2013 from Paul L. Pascal, Counsel for *The American*, 1209-1213 10th Street NW, Retailer CR, Lic#: 092766.* *Originally posted on the Board's December 4, 2013 Supplemental Agenda.*

5. Review of Seven (7) Request from E & J Gallo to provide retailers with products valued at more than \$50 and less than \$500.

6. Review of Settlement Agreement dated January 13, 2014 between ANC 6D and Urban Adventures Companies. *Penthouse Navy Yard*, 1212 4th Street SE, Retailer CT, Lic#: 090303.

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, JANUARY 22, 2014 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for License Class Change. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 4C. SMD 4C05. *Super Saver Grocery*, 4413 14th Street NW, Retailer B, License No. 11247.

2. Review Change Hours Request. *Approved Hours of Operation, Sales and Consumption*: Sunday 12pm to 10pm, Monday-Thursday 11:30am to 10pm, Friday and Saturday 11:30 am to 11pm. *Proposed Hours of Operation, Sales and Consumption*: Sunday-Thursday 11am to 2am, Friday and Saturday 11am to 3am. No outstanding fines/citations. No Settlement Agreement. ANC 2B. SMD 2B06. *Malaysia Kopitiam*, 1827 M Street NW, Retailer CT, License No. 60144.

3. Review Request for License Class Change from Class C Restaurant to Class C Tavern. Pending Show Cause Hearing. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 4C. SMD 4C04. *Sabor Latino Bar & Grill*, 3910 14th Street NW, Retailer CR, License No. 84113.

4. Review Request for License Class Change from Class C Restaurant to Class C Tavern. No Show Cause Hearing. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Conflict with Settlement Agreement. ANC 3E. SMD 3E01. *Public*, 4611 41st Street NW, Retailer CR, License No. 85626.

5. Review Request for License Class Change from Class C Restaurant to Class C Tavern. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 1D. SMD 1D05. *Don Jaime*, 3209 Mount Pleasant Street NW, Retailer CR, License No. 21925.

Board's Agenda – January 22, 2014 - Page 2

6. Review Letter from Paul Pascal, Esq. Requesting Substantial Change to Expand into Abutting Property. Pending Fines and Citations. Outstanding Violations. No conflict with Settlement Agreement. ANC 2E. SMD 2E05. *Il Canale*, 1063 31st NW, Retailer CR, License No. 83707.

7. Review Letter from Gregory Casten dated 1/10/14 requesting permission to use Renovated, Elevated, Outdoor Space. No increase in Seating Capacity. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 2E. SMD 2E05. *Tony's and Joe's at Washington Harbour*, 3000 K Street NW, Retailer CR, License No. 10762.

8. Review Request from Andrew Kline for increase seating capacity for outside and inside patios. door Space. No increase in Seating Capacity. Pending enforcement matters. Outstanding fines/citations. No Settlement Agreement. ANC 2B. SMD 2B06. *Rumors*, 1900 M Street NW, Retailer CN, License No. 71717.

9. Review Application for Entertainment Endorsement. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 4C. SMD 4C08. *Sweet Mango Café*, 3701 New Hampshire Avenue NW, Retailer CR, License No. 72512.

10. Review Letter from Alexander Anenia to reconsider decision denying Class B license. ANC 5B. SMD 5B02. *Newton Food Market*, 3600 12th Street NE.

11. Review Application for Manager's License for *Darrell J. Alexander*, ABRA-93629.

12. Review Application for Manager's License for *Todd B. Sennett*, ABRA-94068.

13. Review Application for Manager's License for *Milen Tewoldeberhan*, ABRA-93629.

14. FYI. WRAP Holiday Season Sober Ride Results Update

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

DC MAYOR'S OFFICE ON ASIAN AND PACIFIC ISLANDER AFFAIRS**DC MAYOR'S COMMISSION ON ASIAN AND
PACIFIC ISLANDER AFFAIRS****NOTICE OF REGULAR MEETING**

The DC Mayor's Commission on Asian and Pacific Islander Affairs will be holding its regular meeting on Thursday, January 23, 2014 at 6:30 pm.

The meeting will be held at the OAPIA office at One Judiciary Square, 441 4th Street NW, Suite 721N, Washington, DC 20001. The location is closest to the Judiciary Square metro station on the red line of the Metro. All commission meetings are open to the public. If you have any questions about the commission or its meetings, please contact oapia@dc.gov or Andrew Chang at andrew.chang@dc.gov. Telephone: (202) 727-3120.

The DC Commission on Asian and Pacific Islander Affairs convenes monthly meetings to discuss current issues affecting the DC AAPI community.

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

January 25, 2014 – 9:30am

815 Florida Avenue, NW

Washington, DC 20001

JANUARY 25, 2014 AGENDA

- I. Call to order and verification of quorum.
- II. Vote to close meeting to discuss the training and development of Agency Board Members.

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 the training and development of Agency Board Members (D.C. Code §2-575(b)(12)).

- III. Re-open meeting.
- IV. Other Business.
- V. Adjournment.

**D.C. PREPARATORY ACADEMY
REQUEST FOR PROPOSALS**

SOLAR POWER PURCHASE AGREEMENT (PPA)

D.C. Preparatory Academy Public Charter School (DC Prep) is seeking competitive proposals for a Solar Power Purchase Agreement (PPA) for a public charter school facility project. For a copy of the RFP, please contact Mr. Ryan Gever of Brailsford & Dunlavey at rgever@programmanagers.com. All proposals must be submitted by **5:00 pm** on **Tuesday, January 28, 2014**.

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

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 4A04

Petition Circulation Period: **Tuesday, January 21, 2014 thru Monday, February 10, 2014**
Petition Challenge Period: **Thursday, February 13, 2014 thru Thur., February 20, 2014**

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

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

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

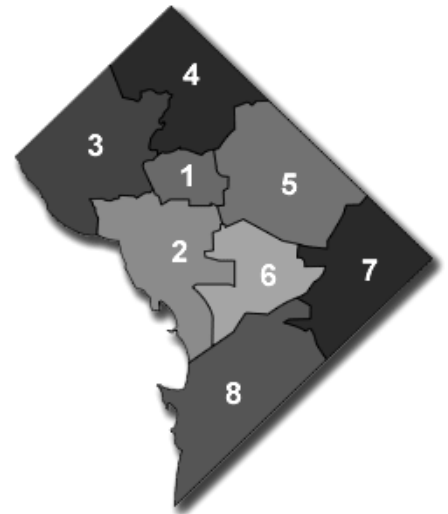
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of DECEMBER 31, 2013**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	40,675	2,563	701	33	123	11,197	55,292
2	28,042	5,445	210	43	121	10,624	44,485
3	35,018	6,688	335	31	95	11,004	53,171
4	45,084	2,154	496	12	132	8,723	56,601
5	47,484	1,890	527	21	137	8,236	58,295
6	47,712	5,943	500	44	155	12,062	66,416
7	47,758	1,225	430	2	107	6,813	56,335
8	45,006	1,224	405	7	160	7,099	53,901
Totals	336,779	27,132	3,604	193	1,030	75,758	444,496
Percentage By Party	75.76%	6.10%	.81%	.04%	.23%	17.04%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF DECEMBER 31, 2013

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
<http://www.dcboee.org>



**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of DECEMBER 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,263	30	6	1	7	187	1,494
22	3,442	299	29	4	8	927	4,709
23	2,584	160	55	3	4	703	3,509
24	2,031	211	32	3	7	739	3,293
25	3,507	391	65	3	6	1,068	5,040
35	3,256	193	59	0	8	969	4,485
36	3,951	260	61	1	9	1,121	5,403
37	2,950	122	49	1	7	669	3,798
38	2,503	126	50	3	8	701	3,391
39	3,945	202	84	5	12	988	5,236
40	3,705	208	92	2	19	1,110	5,136
41	3,138	185	59	5	15	1,004	4,406
42	1,677	61	29	2	6	460	2,235
43	1,576	62	22	0	3	349	2,012
137	877	53	9	0	4	202	1,145
TOTALS	40,675	2,563	701	33	123	11,197	55,292

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of DECEMBER 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	667	143	6	0	9	411	1,236
3	1,259	352	14	3	13	619	2,260
4	1,590	446	7	2	5	769	2,819
5	2,035	661	14	3	9	840	3,562
6	2,268	918	22	2	16	1,257	4,483
13	1,301	262	7	1		470	2,041
14	2,709	440	25	5	10	982	4,171
15	2,837	308	20	5	12	868	4,050
16	3,325	357	24	6	12	897	4,621
17	4,628	636	38	7	17	1,570	6,896
129	1,802	307	10	4	6	719	2,848
141	2,117	235	11	3	7	618	2,991
143	1,504	380	12	2	5	604	2,507
TOTALS	28,042	5,445	210	43	121	10,624	44,485

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of DECEMBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,151	380	17	0	3	528	2,079
8	2,217	618	22	3	7	722	3,589
9	1,083	490	6	2	6	463	2,050
10	1,639	411	11	1	8	599	2,669
11	3,174	903	39	3	6	1,314	5,439
12	455	189	2	0	2	210	858
26	2,762	345	27	3	3	909	4,049
27	2,330	277	16	2	5	587	3,217
28	2,151	507	30	4	6	739	3,437
29	1,115	227	10	0	5	371	1,728
30	1,188	216	16	1	4	266	1,691
31	2,247	316	20	0	9	550	3,142
32	2,568	316	21	1	3	601	3,510
33	2,740	328	33	5	9	710	3,825
34	3,391	490	25	3	6	1,152	5,067
50	1,967	286	14	2	9	464	2,742
136	832	117	8	1		321	1,279
138	2,008	272	18	0	4	498	2,800
TOTALS	35,018	6,688	335	31	95	11,004	53,171

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of DECEMBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,034	72	39	3	8	431	2,587
46	2,636	60	28	0	10	511	3,245
47	2,748	141	33	3	10	692	3,627
48	2,580	125	30	0	8	553	3,296
49	816	38	17	0	4	179	1,054
51	3,110	542	21	0	7	647	4,327
52	1,215	175	4	0	2	224	1,620
53	1,176	75	19	0	4	257	1,531
54	2,206	86	33	0	4	457	2,786
55	2,258	67	21	1	7	409	2,763
56	2,900	86	31	0	10	648	3,675
57	2,381	75	32	0	14	428	2,930
58	2,192	55	16	1	2	365	2,631
59	2,468	79	32	2	9	400	2,990
60	2,061	74	22	1	7	651	2,816
61	1,539	48	12	0	1	277	1,877
62	3,019	124	28	0	2	356	3,529
63	3,224	119	48	0	11	618	4,020
64	2,110	54	12	1	5	309	2,491
65	2,411	59	18	0	7	311	2,806
Totals	45,084	2,154	496	12	132	8,723	56,601

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of DECEMBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	3,779	171	54	5	8	906	4,923
44	2,726	201	27	4	12	621	3,591
66	4,314	100	38	1	9	481	4,943
67	2,875	98	25	0	7	390	3,395
68	1,830	131	28	3	8	380	2,380
69	2,048	69	17	0	9	259	2,402
70	1,397	64	18	1	2	216	1,698
71	2,264	57	28	1	7	339	2,696
72	4,186	109	24	0	14	720	5,053
73	1,806	86	31	3	7	344	2,277
74	3,891	176	53	0	10	761	4,891
75	3,037	123	47	1	4	666	3,878
76	1,270	56	12	0	4	245	1,587
77	2,641	92	27	0	6	466	3,232
78	2,754	79	31	0	7	422	3,293
79	1,812	68	15	1	7	299	2,202
135	2,838	174	42	1	12	517	3,584
139	2,016	36	10	0	4	204	2,270
TOTALS	47,484	1,890	527	21	137	8,236	58,295

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of DECEMBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	3,690	382	44	1	12	986	5,115
18	3,946	244	39	1	13	854	5,097
21	1,101	58	18	1	3	243	1,424
81	4,476	329	46	3	14	933	5,801
82	2,415	259	26	2	10	550	3,262
83	3,553	411	33	7	10	891	4,905
84	1,875	412	25	3	8	552	2,875
85	2,518	481	24	3	7	741	3,774
86	2,204	268	26	0	7	503	3,008
87	2,599	220	20	1	9	539	3,388
88	2,070	288	15	0	8	527	2,908
89	2,417	658	20	5	5	770	3,875
90	1,544	264	12	2	5	477	2,304
91	3,914	352	37	4	16	935	5,258
127	3,621	251	49	3	12	762	4,698
128	2,083	182	29	1	7	581	2,883
130	777	314	9	2	2	288	1,392
131	1,627	417	12	4	5	572	2,637
142	1,282	153	16	1	2	358	1,812
TOTALS	47,712	5,943	500	44	155	12,062	66,416

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of DECEMBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,397	71	14	0	7	261	1,750
92	1,586	37	11	1	6	243	1,884
93	1,527	41	16	0	4	215	1,803
94	1,990	48	16	0	1	267	2,322
95	1,652	43	15	0		299	2,009
96	2,318	66	24	0	7	364	2,779
97	1,505	33	13	0	3	198	1,752
98	1,782	41	25	0	4	255	2,107
99	1,471	44	15	0	5	228	1,763
100	2,137	42	13	0	4	266	2,462
101	1,661	31	19	0	5	180	1,896
102	2,465	50	27	0	6	315	2,863
103	3,586	92	37	0	12	566	4,293
104	2,929	77	27	0	10	438	3,481
105	2,375	56	23	0	3	379	2,836
106	2,944	66	22	0	6	442	3,480
107	1,897	57	18	0	4	284	2,260
108	1,111	25	5	0		120	1,261
109	934	32	7	0	1	89	1,063
110	3,652	92	27	1	7	409	4,188
111	2,450	60	22	0	7	357	2,896
113	2,220	63	19	0	2	283	2,587
132	2,169	58	15	0	3	355	2,600
TOTALS	47,758	1,225	430	2	107	6,813	56,335

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of DECEMBER 31, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,053	54	8	1	8	291	2,415
114	3,120	107	26	0	17	496	3,766
115	2,869	67	17	1	9	604	3,567
116	3,802	99	38	0	13	559	4,511
117	1,857	45	14	0	8	281	2,205
118	2,661	68	27	1	9	385	3,151
119	2,852	108	39	3	10	546	3,558
120	1,923	38	20	0	4	319	2,304
121	3,263	72	33	1	13	487	3,869
122	1,769	45	18	0	5	256	2,093
123	2,219	90	22	0	11	342	2,684
124	2,575	61	14	0	4	358	3,012
125	4,723	117	42	0	11	733	5,626
126	3,852	113	39	0	19	688	4,711
133	1,391	42	10	0	5	186	1,634
134	2,148	40	26	0	5	263	2,482
140	1,929	58	12	0	9	305	2,313
TOTALS	45,006	1,224	405	7	160	7,099	53,901

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 11/30/2013 and 12/31/2013

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	337,950	27,376	3,617	173	1,041	76,389	446,546
Board of Elections Over the Counter	16	4	3	1	1	7	32
Board of Elections by Mail	65	5	1	3	0	21	95
Board of Elections Online Registration	82	6	2	0	0	10	100
Department of Motor Vehicle	789	111	9	9	3	303	1,224
Department of Disability Services	0	0	0	0	0	0	0
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	0	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0	0
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	3	1	0	0	0	1	5
Department of Human Services	21	2	1	0	0	6	30
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	29	0	1	0	0	5	35
+Total New Registrations	1,005	129	17	13	4	353	1,521

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	108	5	0	1	1	21	136
Administrative Corrections	5	4	0	0	2	125	136
+TOTAL ACTIVATIONS	113	9	0	1	3	146	272

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	2,137	349	19	1	15	925	3,446
Moved Out of District (Deleted)	0	0	0	0	0	0	0
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	2	0	0	0	0	1	3
Administrative Corrections	287	24	4	4	2	73	394
-TOTAL DEACTIVATIONS	2,426	373	23	5	17	999	3,843

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P
+ Changed To Party	229	19	5	14	6	88
- Changed From Party	-92	-28	-12	-3	-7	-219
ENDING TOTALS	336,779	27,132	3,604	193	1,030	75,758

DISTRICT OF COLUMBIA BOARD OF ELECTIONS**Public Notice of Proposed Polling Place Relocation**

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code §1-309.10, of proposed action taken at its January 8, 2014 meeting in relocating Precinct #4, Ward 2 Polling Place.

The public is advised that the proposed voting area for Precinct #4 will be changed from:

**West End Public Library
1101 24th Street, N.W.
“Large Meeting Room”**

and moved to:

**School Without Walls @Francis Stevens
2425 N Street, N.W.
“Gymnasium”**

The relocation was proposed when the Board learned that the facility would not be available for use on the dates requested due to scheduled renovation of the site.

Please note that the relocation will be effective beginning with the upcoming April 1, 2014, Mayoral Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, February 3, 2014** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, February 5, 2014. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code §1-309.10, of proposed action taken at its January 8, 2014 meeting in relocating Precinct #5, Ward 2 Polling Place.

The public is advised that the proposed voting area for Precinct #5 will be changed from:

**Georgetown Neighborhood Library
3260 R Street, N.W.
“Large Meeting Room”**

and moved to:

**Christ Episcopal Church
3116 O Street, N.W.
“Keith Hall”**

The relocation was proposed when the Board learned that the facility would be available for use on the dates requested.

Please note that the relocation will be effective beginning with the upcoming April 1, 2014, Mayoral Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, February 3, 2014** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, February 5, 2014. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS**Public Notice of Proposed Polling Place Relocation**

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code §1-309.10, of proposed action taken at its January 8, 2014 meeting in relocating Precinct #31, Ward 3 Polling Place.

The public is advised that the proposed voting area for Precinct #31 will be changed from:

**Janney Elementary School
4130 Albemarle Street, N.W.
“Multi-Purpose Room”**

and moved to:

**St. Columbas Episcopal Church
4201 Albemarle Street, N.W.
“Multi-Purpose Room”**

The relocation was proposed when the Board learned that the facility would be available for use on the dates requested.

Please note that the relocation will be effective beginning with the upcoming April 1, 2014, Mayoral Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, February 3, 2014** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, February 5, 2014. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS**Public Notice of Proposed Polling Place Relocation**

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code §1-309.10, of proposed action taken at its January 8, 2014 meeting in relocating Precinct #38, Ward 1 Polling Place.

The public is advised that the proposed voting area for Precinct #38 will be changed from:

**Park View Recreation Center
639 Otis Place, N.W.
“Recreation Area”**

and moved to:

**Cesar Chavez Prep Charter School
770 Kenyon Street, N.W.
“Multi-Purpose Room”**

The relocation was proposed when the Board learned that the facility would be available for use on the dates requested.

Please note that the relocation will be effective beginning with the upcoming April 1, 2014, Mayoral Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, February 3, 2014** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, February 5, 2014. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code §1-309.10, of proposed action taken at its January 8, 2014 meeting in relocating Precinct #70, Ward 5 Polling Place.

The public is advised that the proposed voting area for Precinct #70 will be changed from:

**Perry Street Prep PCS @Taft
1800 Perry Street, N.E.
“Multi-Purpose Room”**

and moved to:

**Burroughs Elementary School
1820 Monroe Street, N.E.
“Multi-Purpose Room”**

The relocation was proposed when the Board learned that the facility would be available for use on the dates requested.

Please note that the relocation will be effective beginning with the upcoming April 1, 2014, Mayoral Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, February 3, 2014** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, February 5, 2014. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS**Public Notice of Proposed Polling Place Relocation**

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code §1-309.10, of proposed action taken at its January 8, 2014 meeting in relocating Precinct #139, Ward 5 Polling Place.

The public is advised that the proposed voting area for Precinct #139 will be changed from:

**Thurgood Marshall Elementary School
3100 Fort Lincoln Drive, N.E.
“Community Service Room”**

and moved to:

**Theodore Hagan Cultural Center
3201 Fort Lincoln Drive, N.E.
“Multi-Purpose Room”**

The relocation was proposed when the Board learned that the facility would not be available for use on the dates requested.

Please note that the relocation will be effective beginning with the upcoming April 1, 2014, Mayoral Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, February 3, 2014** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, February 5, 2014. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

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, 5th Floor, Washington, DC, intends to issue an air quality permit (#6659-R1) to Lafarge Mid-Atlantic LLC to operate one (1) portable batch concrete plant with associated 2.8 MMBTU/hr No. 2 fuel oil fired hot water heater at 888 New Jersey Avenue SE, Washington, DC 20003. The contact person for the facility is Jeffrey Thornburg, Environmental Manager, at (443) 834-0500. The applicant’s mailing address is 300 East Joppa Road, Suite 200, Towson, VA 20286.

Emissions:

Maximum emissions from the equipment, operating eight (8) hours per day for one hundred thirty five (135) days, are expected to be as follows:

	Maximum Annual Emissions
Pollutant	(tons/yr)
Particulate Matter (PM) (Total)	0.52
Sulfur Oxides (SO _x)	0.07
Nitrogen Oxides (NO _x)	0.19
Volatile Organic Compounds (VOC)	0.01
Carbon Monoxide (CO)	0.05

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. The discharge of particulate matter into the atmosphere from any process shall not exceed three hundredths (0.03) grains per dry standard cubic foot of the exhaust. [20 DCMR 603.1]
- 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]

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.

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, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after February 17, 2014 will be accepted.

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

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, 5th Floor, Washington, DC, intends to issue an air quality permit (#6820) to All Make Auto Inc., to operate an auto body paint spray booth at 1800 Adams Street NE. The contact person for the facility is Mehary Niguse, Owner, at (571) 224-7796.

Emissions:

The maximum estimated potential emissions of volatile organic compound (VOC) from the auto body paint spray booth equipment, operating fifty two weeks (52) per year, is expected to be as follows:

	Maximum Annual Emissions
Pollutant	(tons/yr)
Volatile Organic Compounds (VOC)	5.85

The proposed emission limits are as follows:

- a. No chemical strippers containing methylene chloride (MeCl) shall be used for paint stripping at the facility. [20 DCMR 201.1]
- b. Paints and refinishing coatings that contain volatile organic compounds (VOCs) in excess of the limits specified in Table I below, including any VOC containing materials added to the original coating supplied by the manufacturer, shall be prohibited. [20 DCMR 718.3]

Table I: Allowable Content of VOCs in Mobile Equipment Repair and Refinishing Coatings (*as applied*)

Coating Type	Weight	Limit*
	(Pounds per gallon)	(Grams per liter)
Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Automotive topcoat:		
single stage-topcoat	5.0	600
2 stage basecoat/clearcoat	5.0	600
3 or 4-stage basecoat/clearcoat	5.2	625
Automotive multi-colored topcoat	5.7	680
Automotive specialty coating	7.0	840

*Weight of VOC per volume of coating (minus water and non-VOC solvents)

- c. 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]
- d. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 201.1, 606.1 and 903.1]

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.

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, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after February 17, 2014 will be accepted.

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

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, 5th Floor, Washington, DC, intends to issue Permit #6821 to Potomac Electric Power Company (Pepco) to construct and operate one Kohler emergency diesel generator, located in Washington, DC. The contact person for the facility is Shirley Harmon, Manager, Environmental Compliance & Performance Assessment, at (202) 331-6640.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Model Number	Permit No.
Bldg. 59 Benning Road. Service Center	3400 Benning Road, NE Washington, DC 20019	150 kW (177 hp)	150REOZJF	6821

The proposed emission limits are as follows:

- a. Emissions shall not exceed those found in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]

Emission Standards	
Pollutant	g/kW-hr
NMHC+NO _x	4.0
CO	3.5
PM	0.2

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that 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, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- c. 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]

The estimated emissions from the emergency generator are as follows:

Pollutant	Emission Rate (lb/hr)	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.47	0.12
Oxides of Nitrogen (NO _x)	1.48	0.37
Total Particulate Matter , PM (Total)	0.05	0.01
Volatile Organic Compounds (VOCs)	0.04	0.01
Sulfur Dioxide (SO _x)	0.49	0.12

The application to construct and operate the emergency generator and the draft permit and supporting documents 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.

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, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after February 17, 2014 will be accepted.

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

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, 5th Floor, Washington, DC, intends to issue Permit #6822 to Potomac Electric Power Company (Pepco) to construct and operate one Kohler emergency diesel generator, located in Washington, DC. The contact person for the facility is Shirley Harmon, Manager, Environmental Compliance & Performance Assessment, at (202) 331-6640.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Model Number	Permit No.
Bldg. 56, Benning Road Service Center	3400 Benning Road, NE Washington, DC 20019	150 kW (177 hp)	150REOZJF	6822

The proposed emission limits are as follows:

- a. Emissions shall not exceed those found in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]

Emission Standards	
Pollutant	g/kW-hr
NMHC+NO _x	4.0
CO	3.5
PM	0.20

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that 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, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- c. 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]

The estimated emissions from the emergency generator are as follows:

Pollutant	Emission Rate (lb/hr)	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.47	0.12
Oxides of Nitrogen (NO _x)	1.48	0.37
Total Particulate Matter , PM (Total)	0.05	0.01
Volatile Organic Compounds (VOCs)	0.04	0.01
Sulfur Dioxide (SO _x)	0.49	0.12

The application to construct and operate the emergency generator and the draft permit and supporting documents 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.

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, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after February 17, 2014 will be accepted.

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

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, 5th Floor, Washington, DC, intends to issue Permit #6824 to Potomac Electric Power Company (Pepco) to construct and operate one Kohler emergency diesel generator, located in Washington, DC. The contact person for the facility is Shirley Harmon, Manager, Environmental Compliance & Performance Assessment, at (202) 331-6640.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Model Number	Permit No.
Bldg. 75, Benning Road Service Center	3400 Benning Road, NE Washington, DC 20019	60 kW (96 hp)	60REOZJD	6824

The proposed emission limits are as follows:

- a. Emissions shall not exceed those found in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]

Emission Standards	
Pollutant	g/kW-hr
NMHC+NO _x	4.7
CO	5.0
PM	0.40

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that 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, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- c. 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]

The estimated emissions from the emergency generator are as follows:

Pollutant	Emission Rate (lb/hr)	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.10	0.02
Oxides of Nitrogen (NO _x)	0.67	0.17
Total Particulate Matter , PM (Total)	0.03	0.01
Volatile Organic Compounds (VOCs)	0.03	0.01
Sulfur Dioxide (SO _x)	0.20	0.05

The application to construct and operate the emergency generator and the draft permit and supporting documents 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.

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, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after February 17, 2014 will be accepted.

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

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, 5th Floor, Washington, DC, intends to issue Permit #6825 to Potomac Electric Power Company (Pepco) to construct and operate one Kohler emergency diesel generator, located in Washington, DC. The contact person for the facility is Shirley Harmon, Manager, Environmental Compliance & Performance Assessment, at (202) 331-6640.

Emergency Generator to be Permitted

Equipment Location	Address	Generator (Engine) Size	Model Number	Permit No.
Bldg. 88, Benning Road Service Center	3400 Benning Road, NE Washington, DC 20019	83 kW (133 hp)	80REOZJD	6825

The proposed emission limits are as follows:

- a. Emissions shall not exceed those found in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]

Emission Standards	
Pollutant	g/kW-hr
NMHC+NO _x	4.0
CO	5.0
PM	0.30

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that 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, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- c. 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]

The estimated emissions from the emergency generator are as follows:

Pollutant	Emission Rate (lb/hr)	Maximum Annual Emissions (tons/yr)
Carbon Monoxide (CO)	0.24	0.06
Oxides of Nitrogen (NO _x)	0.62	0.16
Total Particulate Matter , PM (Total)	0.03	0.01
Volatile Organic Compounds (VOCs)	0.04	0.01
Sulfur Dioxide (SO _x)	0.27	0.07

The application to construct and operate the emergency generator and the draft permit and supporting documents 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.

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, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after February 17, 2014 will be accepted.

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

**DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

NOTICE OF MEETING

Board of Medicine
January 29, 2014

On JANUARY 29, 2014 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 8:30 am until 10:30 am to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be open to the public from 10:30 am to 11:30 am to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations until 2:00 pm.

The meeting location is 899 North Capitol Street NE, 2nd Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website www.doh.dc.gov/bomed and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Jacqueline A. Watson, DO, MBA, (202) 724-8755.

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The Acting Director of the Department of Health hereby gives the following notice 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); Section 14 of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010 (Act), effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.01, *et seq.* (2012 Supp.)), and Mayor's Order 2013-201, dated October 28, 2013.

The District of Columbia Medical Marijuana Intergovernmental Subcommittee of the Medical Marijuana Advisory Committee will hold a meeting on:

Friday, January 31, 2014, at 2:00pm.
At 899 North Capitol St, NE, Room 216
Washington, D.C. 20002.

**THE NOT-FOR-PROFIT HOSPITAL CORPORATION
BOARD OF DIRECTORS
NOTICE OF PUBLIC MEETING**

The monthly Governing Board meeting of the Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will be held at 9:00 a.m. on Thursday, January 23, 2014. The meeting will be held at 1310 Southern Avenue, SE, Washington, DC 20032, in Conference Room 2/3. Notice of a location or time change will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website (www.united-medicalcenter.com).

DRAFT AGENDA

- I. CALL TO ORDER**

- II. DETERMINATION OF A QUORUM**

- III. APPROVAL OF AGENDA**

- IV. CONSENT AGENDA**
 - A. READING AND APPROVAL OF MINUTES**
 - 1. December 10, 2013 General Board Meeting

 - B. BOARD EDUCATION SESSION**
 - 1. Dr. Joxel Garcia, Director / Department of Health

 - C. EXECUTIVE REPORTS**
 - 1. Dr. Cyril Allen, Chief Medical Officer
 - 2. Maribel Torres, VP of Nursing
 - 3. Pamela Lee, VP of Hospital Operations
 - 4. Jackie Johnson, VP of Human Resources
 - 5. John Wilcox, Chief Information Officer

- V. NONCONSENT AGENDA**

A. CHIEF EXECUTIVE REPORTS

1. Michael Davis, CFO
2. David Small, CEO

B. MEDICAL STAFF REPORT

1. Dr. Gilbert Daniel, Chief of Staff

C. COMMITTEE REPORTS

1. Finance Committee Report
2. Audit Committee Report
3. Strategic Steering Committee Report
4. Governance Committee Report
5. Patient Safety & Quality Committee Report

D. OTHER BUSINESS

1. Old Business
2. New Business

E. ANNOUNCEMENT

1. The next Governing Board Meeting will be held at 9:00am, Thursday, February 27, 2014.

F. ADJOURNMENT

NOTICE OF INTENT TO CLOSE. The NFPHC Board hereby gives notice that it may close the meeting and move to executive session to discuss contracts, settlements, collective bargaining agreements, personnel, discipline, and investigations of alleged criminal or civil misconduct. D.C. Official Code §§2-575(b)(2)(4A)(5),(9),(10),(14).

**THE NOT-FOR-PROFIT HOSPITAL CORPORATION
BOARD OF DIRECTORS**

NOTICE OF PUBLIC MEETING

The regular monthly meetings of the Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, are held at 9:00am in open session of the fourth Thursday of each month.

The following are dates and times for the regular monthly meetings to be held in calendar year 2014. All meetings are held at 1310 Southern Avenue, Southeast, Washington, DC 20032, conference room 2/3, unless otherwise indicated. Notice of a location of a meeting other than 1310 Southern Avenue, Southeast will be published in the D.C. Register and/or posted on the Not-For-Profit Hospital Corporation's website (www.united-medicalcenter.com).

The Annual Meeting will be held on November 20, 2014 at 6pm at THEARC, 1901 Mississippi Avenue, SE, Washington DC 20032. A notice/draft agenda will be published in the D.C. Register for each meeting.

Thursday, January 23, 2014	9:00am	United Medical Center
Thursday, February 27, 2014	9:00am	United Medical Center
Thursday, March 27, 2014	9:00am	United Medical Center
Thursday, April 24, 2014	9:00am	United Medical Center
Thursday, May 22, 2014	9:00am	United Medical Center
Thursday, June 26, 2014	9:00am	United Medical Center
Thursday, July 24, 2014	9:00am	United Medical Center
Thursday, September 25, 2014	9:00am	United Medical Center
Thursday, October 23, 2014	9:00am	United Medical Center
Thursday, November 20, 2014	6:00pm	THEARC, 1901 Mississippi Avenue, SE

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

NOTICE OF CHANGE IN DUE DATE

GREAT STREETS SMALL BUSINESS CAPITAL IMPROVEMENT GRANTS

The Office of the Deputy Mayor for Planning and Economic Development (DMPED) invites the submission of applications for the Great Streets Small Business Capital Improvement Grant, authorized from the Economic Development Special Account pursuant to DC Official Code §2-1225.21 and also pursuant to the Great Streets Neighborhood Retail Priority Area Congressional Review Emergency Amendment Act of 2013, D.C. Official Code Section 2-1217.71 et seq.

The grant application was released on **Friday, November 22, 2013**. The grant application is available on the Great Streets website at greatstreets.dc.gov. Applicants must submit a completed online application to DMPED by **Monday, February 24, 2014 at 4:00 PM**. Late applications will not be forwarded to the review team. *Please note that the original deadline of Monday, February 17, 2014 was extended by one week.*

All other aspects of the RFA remain unchanged

Please direct all inquiries to:

LaToyia Hampton, Grants Manager
Office of the Deputy Mayor for Planning and Economic Development
1100 4th Street, SW
Washington, DC 20024
Telephone: [\(202\) 724-7648](tel:(202)724-7648)
Email: LaToyia.Hampton@dc.gov

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

NOTICE OF CHANGE IN DUE DATE

H STREET, NE SMALL BUSINESS CAPITAL IMPROVEMENT GRANTS

The Office of the Deputy Mayor for Planning and Economic Development (DMPED) invites the submission of applications for the H Street, NE Small Business Capital Improvement Grant. Funding for this program is authorized under the "H Street NE Retail Priority Area Incentive Act of 2010," effective April 8, 2011 (D.C. Law 18-354; D.C. Official Code § 1-325.171 et seq.), and as amended by the "H Street NE Retail Priority Area Incentive Amendment Act of 2012," effective September 20, 2012 (D.C. Law 19-168).

The grant application was released on **Friday, November 22, 2013**. The grant application is available on the Great Streets website at greatstreets.dc.gov. Applicants must submit a completed online application to DMPED by **Monday, February 24, 2014 at 4:00 PM**. Late applications will not be forwarded to the review team. *Please note that the original deadline of Monday, February 17, 2014 was extended by one week.*

All other aspects of the RFA remain unchanged

Please direct all inquiries to:

LaToyia Hampton, Grants Manager
Office of the Deputy Mayor for Planning and Economic Development
1100 4th Street, SW
Washington, DC 20024
Telephone: [\(202\) 724-7648](tel:(202)724-7648)
Email: LaToyia.Hampton@dc.gov

OFFICE OF THE DEPUTY MAYOR FOR PUBLIC SAFETY AND JUSTICE

D.C. CORRECTIONS INFORMATION COUNCIL

NOTICE OF PUBLIC MEETING

The DC Corrections Information Council (CIC), in accordance with the D.C. Official Code §1-207.42 and § 2-575, hereby gives notice that it has scheduled the following meeting **Tuesday January 14, 2014 from 6:30 pm to 8:00 pm** at **Contee AME Zion Church** located at **903 Division Ave NE Washington DC 20019**. For additional information, please contact Cara Compani, CIC Program Analyst, at (202)445-7623 or DC.CIC@dc.gov.

The CIC is an independent monitoring body mandated to inspect and monitor conditions of confinement at facilities operated by the Federal Bureau of Prisons (BOP), D.C. Department of Corrections (DOC) and their contract facilities where D.C. residents are incarcerated. Through its mandate the CIC will collect information from many different sources, including site visits, and report its observations and recommendations.

Below is the draft agenda for this meeting. A final agenda will be posted on the CIC's website, available at <https://sites.google.com/a/dc.gov/cic/>.

DRAFT AGENDA

- I. Call to Order (Board Chair)
- II. Roll Call (Board Chair)
- III. CIC Annual Report
- IV. Update on: FCI Fairton, Video Visitation at DC Jail, FCI Manchester, USP McCreary, and RRC Fairview
- V. Update on: USP Allenwood, FCI Allenwood Low, and Rivers
- VI. Welcome Home Event
- VII. Community Outreach Intern
- VIII. Questions/Comments
- IX. Schedule Next CIC Open Meeting and Set Open Meeting Schedule
- X. Vote to Close Remainder of Meeting, pursuant to DC Code 2-574(c)(1)
- XI. Closed Session of Meeting (if approved by majority of CIC Board)
- XII. Adjournment (Board Chair)

CLOSED MEETING

- I. Closed Session of Meeting (if approved by majority of CIC Board)
- II. Adjournment (Board Chair)

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA**PUBLIC NOTICE****FORMAL CASE NO. 1112, IN THE MATTER OF THE AMENDMENT OF THE COMMISSION'S RULES REGARDING REGULATION OF LOCAL EXCHANGE CARRIERS**

By this Public Notice, the Public Service Commission of the District of Columbia ("Commission") informs interested persons of an extension of time to file comments and reply comments relating to a Notice of Inquiry ("NOI") published in this proceeding on December 6, 2013 in the *D.C. Register*.¹ The NOI seeks input on several questions relating to certification and regulation of local exchange carriers. By Order No. 17346, issued January 10, 2014, the Commission extended the comment period for any interested person to March 7, 2014 and the reply comment deadline for any interested person to March 24, 2014 in response to a motion for extension of time filed by the Office of the People's Counsel.²

All persons interested in commenting on the subject matter of this Notice of Inquiry shall file comments and reply comments with Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, DC 20005. Copies of the Notice of Inquiry may be obtained by visiting the Commission's website at www.dcpsec.org or at cost, by contacting the Commission Secretary at the above address.

¹ 60 *D.C. Reg.* 16709 (December 6, 2013).

² *Formal Case No. 1112, In the Matter of the Amendment of the Commission's Rules Regarding Regulation of Local Exchange Carriers ("Formal Case No. 1112")*, Revised Motion of the Office of the People's Counsel for Extension of Time to File Comments ("OPC Revised Motion"), filed December 24, 2013.

DISTRICT OF COLUMBIA RETIREMENT BOARD**NOTICE OF OPEN PUBLIC MEETING**

January 23, 2014
12:00 p.m.

900 7th Street, N.W.
Mezzanine Level Training Room
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on January 23, 2014, at 12:00 p.m. The meeting will be held at 900 7th Street, N.W., Mezzanine Level Training Room, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.reaves@dc.gov.

AGENDA

- | | |
|---------------------------------------|-----------------|
| I. Call to Order and Roll Call | Chairman Bress |
| II. Approval of Board Meeting Minutes | Chairman Bress |
| III. Chairman's Comments | Chairman Bress |
| IV. Executive Director's Report | Mr. Stanchfield |
| V. General Counsel's Report | Ms. Sampson |
| VI. Investment Committee Report | Ms. Blum |
| VII. Operations Committee Report | Mr. Ross |
| VIII. Benefits Committee Report | Mr. Smith |
| IX. Legislative Committee Report | Mr. Blanchard |
| X. Other Business | Chairman Bress |
| XI. Adjournment | |

TWO RIVERS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

Two Rivers Pubic Charter School, in compliance with Section 2204 (c) of the District Of Columbia School Reform Act of 1995 ("Act"), hereby solicits expressions of interest for construction project management services for the rehabilitation of a surplus public school building for an elementary school campus. Must have five years of demonstrated experience in project management of school facilities construction in Washington, DC. Additional consideration will be given to CBE firms. For additional information and Statements of Work email Sarah Richardson at procurement@tworiverspcs.org. Deadline for submissions is February 3, 2014.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, January 23, 2014 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

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

DRAFT AGENDA

- | | | |
|----|---------------------------------------|------------------------------|
| 1. | Call to Order | Chairman |
| 2. | December 2013 Financial Report | Director of Finance & Budget |
| 3. | Agenda for February Committee Meeting | Chairman |
| 4. | Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, January 28, 2014 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

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

DRAFT AGENDA

- | | |
|---|-------------------------|
| 1. Call to Order | Committee Chairman |
| 2. Retail Rates Committee Workplan | Chief Financial Officer |
| 3. Other Business | Committee Chairman |
| 4. Executive Session | |
| 5. Agenda for February 25, 2014 Committee Meeting | Committee Chairman |
| 6. Adjournment | Committee Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Strategic Planning Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Strategic Planning Committee will be holding a meeting on Thursday, January 23, 2014 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dcwater.com.

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

DRAFT AGENDA

- | | |
|----------------------------------|--------------------|
| 1. Call to Order | Committee Chairman |
| 2. Strategic Plan Implementation | General Manager |
| 3. Other Business | Committee Chairman |
| 4. Adjournment | Committee Chairman |

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

Application No. 18506-A of Ontario Residential LLC, pursuant to 11 DCMR §§ 3104.1 and 3102.2 for a special exception from the roof structure provision under § 777.1 (§§ 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 § 2101.1 and a variance from the loading berth and delivery space provisions under § 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
ORDER DATE: September 27, 2013
**RECONSIDERATION
DECISION DATE:** October 29, 2013

**ORDER DENYING
MOTION FOR RECONSIDERATION**

On September 27, 2013, the Board of Zoning Adjustment (“Board”) issued an order (“the Order”) granting with conditions the application of Ontario Residential LLC (the “Applicant”) for the zoning relief identified in the above caption. On October 9, 2013, Adams Morgan for Reasonable Development (“AMFRD”), a party to the initial proceeding, filed a motion for reconsideration (“The Motion”). (Exhibit 36.) On October 16, 2013 the Applicant filed a timely response to the Motion. (Exhibit 37.) For reasons explained below, the Board voted on October 29, 2013 to deny AMFRD’s motion for reconsideration.

“A motion for reconsideration shall state specifically all respects in which the final decision is claimed to be erroneous, the grounds of the motion, and the relief sought.” (11 DCMR § 3126.4.) In this case, the Motion alleged that the Board erred in regards to two issues: (1) by not requiring the Applicant to apply for rear yard relief, and (2) by approving the roof structure zoning relief in excess of the Board’s authority and without evidence. The Board concurs with the Applicant that MFRD failed to show errors in the Board’s decision and denies the motion for reconsideration.

The Board did not err in not compelling the Applicant to seek rear yard relief.

AMFRD asserts that the required rear yard will be occupied by non-permitted structures and that the Board “abrogate[d] its authority in not requiring rear-yard relief review”. AMFRD first raised this issue as part of its request for a postponement of the hearing. The Board rejected the argument and denied the postponement noting that the Application was self-certified and

**BZA APPLICATION NO. 18506-A
PAGE NO. 2**

therefore the Applicant assumed the risk of having its application for a building permit rejected should the requested relief prove to be inadequate. (February 26, 2013 Transcript pp. 153-154.) Notwithstanding the Board's clear ruling, AMFRD continued to make this assertion throughout the hearing and again raises it here.

This Board "has consistently held that arguments asserting the need for additional zoning relief are irrelevant to its consideration of an application for special exception relief," *Application No. 18263-B of Stephanie and John Lester*, p. 10 (2013). The self-certification form submitted in this case (Exhibit 4) stated that the minimum required rear yard depth of 15 feet will be provided. Should that prove to be incorrect "the most that can be said is that the applicant will need variance relief. That fact alone does not require the Board to deny a special exception. . . . Our inquiry is limited to the narrow question of whether the Applicant met its burden under the general and specific special exception criteria." *Application No. 16974 of Tudor Place Foundation*, p. 14 (2004). *Accord Application No. 18250 of Raymundo B. Madrid* (2011); *Application No. 17537 of Victor Tabb* (2007) ("The question of whether an applicant should be requesting variance relief is not germane to the question of whether a special exception should be granted.")

Thus, the Board properly rejected AMFRD's assertion that the Application could not be heard until it was amended to add the rear yard relief. This is not to say that AMFRD may be without a remedy. Should a building permit be issued and AMFRD conclude that a compliant rear yard is not being provided, it may appeal that decision, assuming that it has the standing to do so. But its present assertion that rear yard relief is required is both irrelevant and premature.

The Board did not err in granting roof structure relief.

AMFRD's motion argues that the grant of a special exception is a public benefit that "conveys" certain rights, including those found in the Americans with Disabilities Act ("ADA"). Contrary to AMFRD's position, the special exception standard does not give the Board the jurisdiction to adjudge an applicant's compliance with the ADA or any other statute. Similarly, the safety concerns raised by AMFRD are not germane to the Board's review of a special exception. The District of Columbia's Construction Code (Title 12 DCMR), which includes the Fire Safety Code, exists to assure that the proposed building will pose no safety hazards to the public or its residents. Those agencies responsible for Code compliance will review the construction plans submitted with the building permit application for consistency with the applicable provisions and will perform health and safety inspections before any certificate of occupancy issues.

AMFRD alleged that the applicant did not show that the construction of a conforming roof structure would be "impracticable, unduly restrictive, prohibitively costly, or unreasonable" as required under § 411.11. The Board concurs with the Applicant's view that this precise issue was discussed extensively during the public hearing and is sufficiently addressed in the Order.

Finally, the Board rejects AMFRD's contention that a light and air study was required in order for the Board to grant § 411.11 relief. Nothing in this subsection requires that such a study be

BZA APPLICATION NO. 18506-A
PAGE NO. 3

conducted. The topic of light and air was discussed extensively by the Board, including the setback between the roof structure and the adjacent property line, as well as the height of the stairway and the enclosures. (Order, pp. 9-10.) There was clearly substantial evidence in the record for the Board to conclude that the light and air of adjacent buildings would not be unduly affected. If AMFRD felt that a light and air study would have been probative, it could have submitted one. But the absence of such a study in this case did not prevent that Applicant from meeting its burden of proof.

For the reasons stated above, it is ORDERED that the motion for reconsideration is DENIED.

VOTE: 4-0-1 (Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle (by absentee ballot), and Peter G. May (by absentee ballot) voting to Deny the Motion for Reconsideration; 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: January 8, 2014

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.

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

Application No. 18511 of Alleyoop LLC, pursuant to 11 DCMR § 3103.2, for a variance from the use provisions under § 330.4, the alley lot height requirements (§ 2507), the nonconforming structure requirements (§ 2001), the lot area and width requirements (§ 401), rear yard requirements (§ 404), and side yard requirements (§ 404.1) to allow the Applicant to subdivide an alley lot into three separate lots and convert an existing automotive repair shop to an office use and two artist studios in the R-4 District at premises rear 1018 Irving Street, N.W. (Square 2851, Lot 837).¹

HEARING DATES: March 5, 2013 and April 2, 2013
DECISION DATES: April 30, 2013 and July 23, 2013

DECISION AND ORDER

On December 17, 2012, Alleyoop, LLC (the "Applicant"), the owner of 1018 Irving Street N.W. (the "Property"), filed an application with the Board of Zoning Adjustment (the "Board") for zoning relief. The initial application sought area variance relief, pursuant to 11 DCMR § 3103.2, from the limitations on height for buildings on alley lots (§ 2507), and the nonconforming structure requirements (§ 2001) and a use variance to permit a use not allowed in an R-4 District (§ 330) to allow the Applicant to convert a discontinued automotive repair shop to a mixed-use office/residential building.

The Board held a public hearing on the application on March 5, 2013. The Board held a second public hearing on the application on April 2, 2013 to allow the Applicant to supplement the record. On the April 30, 2013 decision date, the Board approved a motion to table the decision pending a subsequent submission by the Application. The Applicant filed an Amended and Restated Application on May 7, 2013, which among other things called for elimination of the residential use, a reduction in height, and the subdivision of the property into three lots to accommodate the proposed uses.

Following public deliberation on July 23, 2013, the Board voted 3-1-1 to approve the revised application.

PRELIMINARY MATTERS

Self-Certification. The zoning relief requested in this case was self-certified pursuant to 11 DCMR § 3114.2.

¹ As will be explained, the original application was amended. Therefore, the caption has been modified to reflect the relief ultimately requested and granted.

BZA APPLICATION NO. 18511
PAGE NO. 2

Notice of Public Hearing. Pursuant to 11 DCMR § 3113.1, notice of the hearing was sent to the Applicant, all individuals and entities owning property within 200 feet of the Property, Advisory Neighborhood Commission ("ANC") 1A, and the Office of Planning ("OP"). The Applicant posted placards at the subject property regarding the application and public hearing and submitted an affidavit to the Board to this effect.

ANC 1A. The Property is located within the area served by ANC 1A, which is automatically a party to this application. ANC 1A filed a report dated January 8, 2013, indicating that ANC 1A, at its regularly scheduled meeting on January 13, 2013, which was properly advertised and where a quorum was present, voted 8-0-2 in support of the application. (See Exhibit No. 23.) Commissioner Kent Boese, on behalf of ANC 1A, testified in support of the application. ANC 1A filed a second report, dated July 11, 2013, indicating that ANC 1A, at its regularly scheduled meeting on June 13, 2013, which was properly advertised and where a quorum was present, voted 9-0-1 to indicate that representatives of the Applicant informed the ANC of changes to the project and that the ANC saw no reason to withdraw its support for the development and therefore continued to support the redevelopment of the property.

Office of Planning (OP) Report. OP submitted a report on February 26, 2013, recommending approval in part and denial in part of the original application. The one relevant recommendation with respect to the revised application was that the Board should approve the use variance to permit an office use. The report found that the property was subject to several exceptional conditions including its irregular shape and large size, that it was bordered by three public alley segments, that it is the sole alley lot in the Square, and that it is improved with a nearly century old single-story industrial building configured for a now defunct automotive repair operation. The report also noted that the Applicant indicated that the property contains some contamination.

The OP report then concluded that these exceptional conditions “lead to a practical difficulty in using the existing building for a conforming use.” OP further concluded that allowing the office use would not result in substantial detriment to the public good. The report concluded that an office use likely “would be less impactful, in terms of noise or vehicle traffic, than the historical automotive repair use” and that “the presence of an active daytime office use could improve both the upkeep and security of the alley.”

OP submitted a supplemental report on May 14, 2013 recommending approval of the Revised and Restated Application. As to the variance relief from the minimum lot area, lot width, rear yard, and side yard requirements resulting from the proposed subdivision of the lot into three lots, OP concluded that the proposed subdivision would be a creative solution for this unusual and difficult site and would not be inconsistent with the neighborhood character, as the relief would facilitate the retention and upgrading of the existing structure with no major additions. With respect to the height variance, OP concluded that the one foot increase would be “essentially imperceptible, but would facilitate the adaptive reuse of the existing structure while keeping the building at a size and scale that is consistent with alley lots.”

BZA APPLICATION NO. 18511
PAGE NO. 3

The District Department of Transportation (DDOT) Report. Through its report dated February 26, 2013, DDOT concluded that project as proposed will not negatively impact the surrounding transportation network, as long as the Applicant implements the following agreed upon measures:

1. Implement the proposed trash pick-up restriction plan that would require the hired trash collection company to wheel trash bins from inside the property to the street during pick-up activities. The truck would park on either Irving Street or Columbia Road, while the trash is wheeled over. In addition, trash pick-up would not occur before 9:30 a.m., in order to reduce traffic impacts;
2. Install appropriate No Parking signs along its property;
3. Install at least three to five secured long-term bicycle parking spaces within the garage, which should be easily accessible and visible to users;
4. Install DDOT-approved pedestrian markings in the alley to delineate a pedestrian path; and
5. Upgrade the existing alley lighting to support the proposed uses.

The report noted that all signage, lighting, and alley pavement markings will need to be permitted through DDOT's public space permitting process.

Party in Opposition. Mr. Adetokunbo Ladejobi, a resident of the property at 3029 11th Street, N.W., which abuts the entryway of an alley that leads to the Property, submitted a request for party status. (See Exhibit No. 27.) The Board granted his request for party status to represent himself as an individual in opposition.

FINDINGS OF FACT

The subject property and the surrounding neighborhood

1. The Property is a large alley lot with approximately 5,901 square feet of land area and a width of roughly 52.7 feet. It is located in the R-4 District.
2. The Property is bounded on three sides (east, west, and south) by public alleys.
3. The north side of the Property was historically abutted by a public alley as well. However, that segment of public alley was subsequently deeded to properties abutting Irving Street N.W.
4. The Square is mostly characterized by two to 2.5-story row dwellings along with a few three-story row dwellings. A three-story multi-family apartment building fronts on Sherman

BZA APPLICATION NO. 18511**PAGE NO. 4**

Avenue on the Square's east side. More generally, the neighborhood is comprised of row dwellings, low density commercial uses, and some garden apartment houses. A public elementary school is located northwest of the Square.

5. The Property is improved with a one-story, 18.5 foot tall, automotive repair shop that had been in use since at least 1928 and remained in use and operation until September 2012.
6. The automotive repair shop use was lawfully established but is no longer permitted in the R-4 District. As such, the use was nonconforming.
7. The existing structure was lawfully constructed, but now is nonconforming in several respects.
8. The structure is nonconforming as to lot occupancy. An industrial structure is not among the structures for which a specific lot occupancy is provided for under § 403.2. Therefore its lot occupancy may not exceed the 40% maximum applicable to "all other structures." The structure occupies 67% of the lot.
9. The structure is nonconforming as to height. Pursuant to 11 DCMR § 2507.4, the height of an alley structure may not be greater than the distance from the opposite side of the abutting alley to the outside wall of the structure nearest the alley. When all three alleys are considered, the most restrictive allows for a height of 12.4 feet. The structure has an existing height of 18.5 feet.
10. The structure is also nonconforming as to its rear yard, because it occupies all but five feet of the area required to be reserved for the 20-foot deep rear yard required by § 404.1.

The proposed project

11. The Applicant's Amended and Restated Application proposed to subdivide the existing alley lot into three separate lots, which the Applicant referred to as "Lot A," "Lot B," and "Lot C." Each subdivided lot will be occupied by a portion of the existing structure. The portion of the structure on Lot A will be occupied by an office use. The portions of the structure on Lots B and C will each be devoted to artist studios.
12. The Applicant will preserve the existing building and the existing footprint will remain the same.
13. The existing nonconforming height, at 18.5 feet, will be increased slightly to 19.5 feet tall.

Zoning Relief Requested***Use Variance***

14. A use variance is a request to permit a use that is not permitted by right or special exception

BZA APPLICATION NO. 18511
PAGE NO. 5

in the zone district where the property is located. (11 DCMR § 3103.6 (a).)

15. The proposed office use is not permitted in an R-4 District as a result of its omission from the list of matter of right uses set forth at 11 DCMR § 330 and that it is not among the uses permitted by special exception. In addition, existing buildings on alley lots may only be used as one-family dwellings or artist studios. (11 DCMR §§ 2507.1 and 2507.5.)
16. The only permitted special exception uses permitted on an alley lot are storage of wares and goods, parking lot, parking garage, or public storage garage. (11 DCMR § 333.)

Area Variances

17. An area variance is a request to deviate from an area requirement applicable to the zone district in which the property is located. (11 DCMR § 3103.4.)
18. The Applicant is seeking permission to deviate from the area requirements pertaining to lot dimensions, rear yards, side yards, and lot occupancy.

Relief Needed to Create Substandard Lots

19. Subsection 401.3 specifies a minimum lot area and minimum lot width based upon the type of structure occupying the lot.
20. The existing structure is not among the types of structures for which a specific minimum lot area and width is prescribed. Therefore, each of the proposed new lots would have to meet the standard applicable to “all other structures”, which requires a minimum lot area of 4,000 square feet and a minimum lot width of 40 feet.
21. Lot A would have a substandard lot area of 2,301 square feet and Lots B and C would each have substandard lot areas of 1,800 square feet.
22. Lot C would have a substandard lot width of 35.6 feet.

Relief Required due to Proposed Subdivision

23. Although the Applicant will not be extending the footprint of the existing structure, the proposed subdivision of the existing lot into three lots requires each portion of the structure to comply with all applicable area requirements. As a result, the following zoning relief is required.

Rear Yard Variance (All Lots)

24. A 20 foot deep rear yard is required in the R-4 District by 11 DCMR § 404.1.

BZA APPLICATION NO. 18511**PAGE NO. 6**

25. After the subdivision Lots A and B will have no rear yard and Lot C will have a rear yard of five feet.

Side Yard Variance (Lot C)

26. Except for one-family detached and semi-detached dwellings, a side yard is not required in an R-4 District. However, if a yard is provided, it must be at least three inches wide per foot of height of building, but not less than eight feet wide.

27. If three inches of width were provided for the proposed height of 19.5 feet, the resulting side yard would be less than eight feet wide. Therefore, a side yard of at least eight feet is required.

28. After the subdivision Lot C will have a side yard of 2.8 feet.

Lot Occupancy (All lots)

29. Similar to § 401.3 pertaining to lot dimensions, § 403.2 specifies a maximum lot occupancy based upon the type of structure occupying the lot.

30. The existing structure is not among the types of structures for which a specific minimum lot area and width is prescribed. Therefore the existing structure is subject to the standard applicable to "all other structures." As a result, each portion of the structure may not occupy more than 40% of each of the new lots.

31. After the subdivision, the structure will occupy 57%, 67%, and 85% of Lots A, B, and C respectively.

Relief Required due to Increase in Nonconforming Height

32. As noted, § 2507.4 limits the height of the building to 12.4 feet. The current building height of 18.5 feet is therefore nonconforming. And as previously indicated the building is also nonconforming with respect to lot occupancy.

33. Under § 2001.3 (a) no addition may be made to an existing structure that is nonconforming as to lot occupancy. Even if a conforming structure met the lot occupancy limit, any increase to an existing nonconformity is disallowed by § 2001.3 (b)(2).

34. The Applicant proposes to increase the structure's present nonconforming height of 18.5 feet to a height of 19.5 feet. Therefore relief from both §§ 2001.3 and 2507.4 is required.

The Variance Standard**Exceptional Conditions**

35. The lot is the largest on the Square. The Property is roughly three times larger than some of

BZA APPLICATION NO. 18511**PAGE NO. 7**

the bigger lots and 8.5 times larger than the lots in the southeast corner of the Square.

36. The lot is an irregular octagon shape. The existing structure follows the awkward shape of the lot creating a bay and many angular walls
37. As noted, the Property is bounded on three sides (east, west, and south) by public alleys.
38. The Property is contaminated by oils, solvents, and chemicals due to its extended use as an automotive repair shop. Environmental remediation may require excavation and removal of contaminated soil as well as hauling and dumping fees.
39. The Applicant neither knew nor should have known the degree of the environmental contamination at the time of acquisition.
40. The existing structure is in poor condition due to a damaged roof structure, deteriorating exterior walls, water damage, and fire damage.
41. The roof structure on the Property suffers from substantial fire and water damage. To ensure safety, the entire roof structure, including the cast-in-place concrete roof structure, must be removed.
42. The capacity of the existing masonry walls to support the roof structure, which must be replaced, has been compromised.
43. The structure has only a single story with an exceptionally tall height.

Undue Hardship

44. The building's structure and layout is not conducive for conversion to a one-family dwelling.
45. The costs associated with the environmental remediation and substantial structural repairs make it not cost effective to convert the entire building to the matter of right artist studio use, or the storage or parking garage uses permitted by special exception.
46. Creating multiple lots for one-family dwellings would require the demolition of the existing building which would be wasteful and would require at least one variance due to the narrowness of the adjacent alley. In addition, the contamination of the site, even if remediated, would likely preclude its use for one-family dwellings.

Practical Difficulty

47. The existing lot must be subdivided into three lots in order to denote the separate ownership interests with respect to the office and two artist studio uses. Doing so also permits each lot to be sold for either immediate use or long term investment. The property would be unmarketable without such demarcations.

BZA APPLICATION NO. 18511**PAGE NO. 8**

48. The exceptional conditions affecting the property and the need to properly allocate space for the office and artist study uses prevent the creation of three lots that could comply with the minimum lot area requirements. Nor could Lot C be configured in a way to avoid noncompliance with the minimum lot width requirements.
49. The existing structure cannot be made to conform to the lot area, rear yard, and lot occupancy requirements triggered by the subdivision; and therefore, strict compliance would require a wasteful demolition of the structure rather than its adaptive reuse.
50. The exceptionally tall interior height of the building's single story renders the building unmarketable for the proposed office and artist studio uses. The only way to adaptively reuse the space is to divide the building's volume into two levels. The two-level design would better accommodate the proposed uses and allow for parking on-site.
51. The two stories would not have marketable heights without the additional foot of height requested by the Applicant.

No Substantial Detriment To Public Good or Impairment of Zone Plan

52. The operation of an office use at this location is unlikely to cause any detriment to the public good and, as noted by OP in its initial report, an active daytime office use could improve both the upkeep and security of the alley.
53. Allowing the office use would not impair the zone plan. Although not permitted in the R-4 District, other similar non-residential uses are, such as hospitals and museums. The proposed office use will be much less intensive than the discontinued automotive repair shop it will replace.
54. Granting the area variances will not result in an increase to the footprint of the building.
55. Permitting the additional one foot of nonconforming height will have a negligible impact on the light and air of neighboring property owners since all properties on the block are required to have 20 foot rear yards and the alley lot is surrounded on three sides by public alleys.

CONCLUSIONS OF LAW

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.) Relief can be granted only "without substantial detriment to the public

BZA APPLICATION NO. 18511
PAGE NO. 9

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) (2012 Repl.), 11 DCMR § 3103.2.)

As noted in § 3103.7:

The standard for granting a variance, as stated in § 3103.2 differs with respect to use and area variances as follows:

- (a) An applicant for an area variance must prove that as a result of the attributes of a specific piece of property described in § 3103.2, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property; and
- (b) An applicant for a use variance must prove that as a result of the attributes of a specific piece of property described in § 3103.2, the strict application of a zoning regulation would result in exceptional and undue hardship upon the owner of the property.

The Applicant is seeking both use and area variances.

Use Variance

The Board finds that the Applicant has demonstrated that the property is subject to several exceptional conditions including the environmental contamination of the Property by oils, solvents, and chemicals due to the extended use as an automotive repair shop. Environmental remediation actions may require excavation and removal of contaminated soil as well as hauling and dumping fees. In addition, the roof structure suffers from substantial fire and water damage. To ensure safety, the entire roof structure, including the cast-in-place concrete roof structure, must be removed. There are also deteriorating exterior walls.

The Applicant has also demonstrated that as a result of these exceptional conditions strict compliance with the use permissions applicable to R-4 Districts will result in an undue hardship. The District of Columbia Court of Appeals has stated that to prove undue hardship an Applicant must show that “the regulations ‘preclude the use of the property in question for any purpose for which it is reasonably adapted, i.e., can the premises be put to any conforming use with a fair and reasonable return arising out of the ownership thereof.’” *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. 1972).

The Applicant has demonstrated that the property cannot be used for the matter-of-right or special exception uses permitted on an alley lot. The costs associated with the environmental remediation and substantial structural repairs make it not cost effective to convert the entire building for artist studios, storage, or as a parking garage.

The current building structure and layout is not conducive for conversion to a one-family dwelling. Creating multiple lots for one-family dwellings would also require significant zoning

BZA APPLICATION NO. 18511
PAGE NO. 10

relief due to the adjacent alley's width, the need for greater lot occupancy than permitted, and the lack of street frontage. To demolish the building for this purpose would be wasteful.

Granting the use variance would not result substantial detriment to the public good or substantially impair the intent, purpose, and integrity of the zone plan. The proposed office use would have similar impacts to the other non-residential uses permitted in an R-4 District and, as noted by the Office of Planning, such a daytime use is likely to improve both the upkeep and security of the alley. The office use would replace an automotive repair shop, which this Board previously concluded was "not a use compatible with a residential neighborhood." *Appeal No. 9021 of Jimmie and Thelma Deoudes* (1966).

The Area Variances

The Applicant's need for the area variances results from its need to establish an office use and its recognition that matter of right artist studios should also be included. In order to make the office and artist studio uses marketable, the Applicant must be able to subdivide the lot into three smaller lots. The subdivision allows for separate ownership of each portion of the existing structure. Without the subdivision the project would not be marketable.

However, as a result of the confluence of the exceptional conditions described in findings of facts 35 through 37 and the need to properly allocate space for the uses it is practically difficult to create three conforming lots. In addition, the relationship of the already nonconforming structure to each of the new lots, together with the exceptional conditions of the property itself, make it practically difficult to comply with the rear yard, side yard, and lot occupancy standards.

As to height, the Applicant has demonstrated the need to divide the existing exceptionally tall single story into two floors to accommodate the proposed uses and to allow for parking on-site. However, the height of the new floors would be inadequate without the one foot height increase requested by the Applicant.

As was true for the use variance, the area variances can be granted without substantial detriment to the public good or substantially impairing the intent, purpose, and integrity of the zone plan. The somewhat substandard lots will not result in an adverse condition but instead will be more consistent with the size of lots located elsewhere in the square. The footprint of the structure will not increase as a result of the yard and occupancy variances and so no adverse impact or impairment to the zone plan could result. Although the building's height will slightly increase, the Board concurs with the Office of Planning that the increase will be "essentially imperceptible." Since the additional height will permit the adaptive reuse of a vacant industrial space into matter of right artist studios and a compatible non-residential use, the Board concludes that no impairment to the zone plan will result.

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations of the Office of Planning. (D.C. Official Code §§ 1- 309.10(d) and 6-623.04 (2012 Repl.)) In this case, ANC 1A voted to recommend approval of the original

BZA APPLICATION NO. 18511
PAGE NO. 11

Application and the Amended and Restated Application. OP recommended approval of the variance for the office use in its first report and subsequently recommended approval of the area variances requested in the Amended and Restated Application. The Board concurs with the ANC and OP recommendations and therefore has afforded each the great weight to which they are entitled.

Although the DDOT report was based upon the original application, the Board believes that its proposed conditions of approval remain relevant and imposes them as conditions of its approval. As noted by DDOT, all signage, lighting, and alley pavement markings will need to be permitted through DDOT's public space permitting process.

CONCLUSION

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 variance relief pursuant to 11 DCMR § 3103.2 from the alley height requirements (§ 2507), the use requirements (§ 330), and the nonconforming structure requirements (§ 2001), lot area and width requirements (§ 401), rear yard requirements (§ 404), and side yard requirements (§405) to allow the Applicant to subdivide an alley lot into three separate lots and convert an existing automotive repair shop to an office use and two artist studios in the R-4 District at premises rear 1018 Irving Street, N.W. (Square 2851, Lot 837).

Accordingly, it is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT** to Exhibit 45 – Revised Plans - and the following **CONDITIONS**:

The Applicant shall:

1. Implement the proposed trash pick-up restriction plan including the requirement that the hired trash collection company wheel trash bins from inside the property to the street during pick-up activities. The truck shall park on either Irving Street or Columbia Road, while the trash is wheeled over. In addition, trash pick-up shall not occur before 9:30 a.m., in order to reduce traffic impacts;
2. Install appropriate No Parking signs along its property;
3. Install at least three (3) secured long-term bicycle parking spaces within their proposed garage. These secured bicycle parking spaces should be easily accessible and visible to users;
4. Install DDOT approved pedestrian markings in the alley to delineate a pedestrian path; and
5. Upgrade the existing alley lighting to support the office and artist studio uses.

BZA APPLICATION NO. 18511**PAGE NO. 12**

VOTE: 3-1-1 (Lloyd J. Jordan, Jeffrey L. Hinkle, Marcie I. Cohen (by absentee vote) to Approve; S. Kathryn Allen (by absentee vote) to Deny; 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: January 13, 2014

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.

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. 18511

PAGE NO. 13

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. 18676 of Mundo Verde Public Charter School, pursuant to 11 DCMR § 3103.2, for a variance from the requirement to provide additional parking spaces to increase the intensity of the use under § 2100.6, and a variance from the requirement to maintain existing required parking spaces under § 2100.10, to allow the reuse and expansion of a former public school building as a public charter school in the R-4 District at premises 44 P Street, N.W. (Square 616, Lot 873¹).

HEARING DATES: December 10 and 18, 2013²
DECISION DATE: December 18, 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 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”) 5E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. ANC 5E filed a letter report that indicated that at a regularly scheduled public meeting on November 19, 2013, with a quorum of Commissioners present, the ANC voted 10:0 to support the application. (Exhibit 27.)

The Office of Planning (“OP”) submitted a timely report, dated December 3, 2013, recommending approval of the application. (Exhibit 26.) The District Department of Transportation (“DDOT”) submitted a report, dated December 5, 2013, stating that it had no objections to the requested relief. (Exhibit 28.)

Letters of support were submitted to the record from Chris Mitchell and John Hagood. (Exhibits 34 and 29.) Danielle Pierce, whose child attends the school, and John Hagood, who resides in the area where the school will be located, testified in support of 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 § 3103.2 for variances from the parking requirements under §§ 2100.6 and 2100.10. Three

¹ Subsequent to filing of the initial application, the lot was converted to record lot 116.

² The hearing was originally scheduled for December 10, 2013, but the hearing was postponed to December 18, 2013 due to inclement weather.

BZA APPLICATION NO. 18676**PAGE NO. 2**

individuals (Phyllis Klein, Peter Waddell, and Brian Brown) submitted applications requesting status as parties in opposition. (Exhibits 21, 24, and 25.) At the hearing, Ms. Klein, who served as the representative for all three individuals, stated that the parties withdrew their objection and supported the application, subject to conditions of approval and a revised site plan that were jointly submitted to the Board by the Applicant and the representative for the parties. (Exhibits 35 and 36.) The Board agreed to condition the application as jointly requested by the Applicant and the representative for the parties. The individuals retained their party status; however, they went from being considered parties in opposition to parties in support. 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, the Board concludes that the Applicant has met the burden of proof 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 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 WITH THE FOLLOWING CONDITIONS**:

1. The Applicant shall construct the Project and use the Property in accordance with the revised site plan included as Exhibit 36 of the Record.
2. The reduced number of staff parking spaces on the Property created by the requested variance (10 zoning compliant spaces plus six stacked spaces) will be used by the intended 75 Mundo Verde staff members.
 - a. If the Applicant determines that the spaces are underutilized by staff, the parking spaces located on the easterly boundary of the Property, adjacent to the public alley, and shown on the revised site plan, shall not be used for short-term parking except between the hours of 9:30 a.m. and 3:00 p.m. on weekdays, Monday through Friday; with no restrictions placed on these spaces on Saturdays and Sundays.
3. The Applicant shall not use the four parking spaces on the east side of the Property as a drop-off and pickup zone. Such spaces shall be used only for staff or short-term visitor parking. The Applicant shall actively monitor the use of the alley to ensure that drop-off and pickup activity does not take place in, or result in

BZA APPLICATION NO. 18676**PAGE NO. 3**

queuing in and/or blocking of the alley.

4. The Applicant shall implement the transportation demand management plan as follows:
 - a. Provide a minimum of 24 bicycle parking spaces as well as shower facilities for staff that bike to work;
 - b. Explore the addition of Capital Bikeshare and carshare locations near the property;
 - c. Prohibit teachers and staff from parking on neighborhood streets including the "school zone" proposed in front of the Property;
 - d. Refrain from subsidizing or incentivizing parking for staff and faculty; and
 - e. Promote and market sustainable commuting efforts to staff and faculty.

VOTE: **4-0-1** (Lloyd J. Jordan, 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

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

FINAL DATE OF ORDER: January 6, 2014

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

BZA APPLICATION NO. 18676**PAGE NO. 4**

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. 18682 of Government of the District of Columbia, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure requirements under subsection 411.3, 411.5, and 400.7(b) for a new Ballou public senior high school, in the R-5-A District at premises 3401 4th Street, S.E. (Square 5978, Lot 59).

HEARING DATE: January 7, 2014

DECISION DATE: January 7, 2014

SUMMARY ORDER

SELF-CERTIFIED

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

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”) 8E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8C, which is automatically a party to this application. ANC 8C did not participate in the application. The Department of Transportation (“DDOT”) submitted a report of no objection to the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of 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 §§411.3, 411.5, and 400.7(b). 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, 411.3, 411.5, and 400.7(b), 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: **4-0-1** (Peter G. May, Lloyd J. Jordan, S. Kathryn Allen and Jeffrey L. Hinkle and to APPROVE. The third mayoral seat vacant.)

BZA APPLICATION NO. 18682

PAGE NO. 2

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: January 7, 2014

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. 18684 of Howard University, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, for hospital administrative space in the ARTS/C-2-B District at premises 2018 Georgia Avenue, N.W. (Square 2877, Lot 1030).

HEARING DATE: January 7, 2014

DECISION DATE: January 7, 2014

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”) 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC submitted a letter in support of the application. The Office of Planning (“OP”) testified and 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 § 2101.1. 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 OP report filed in this case, the Board concludes that in seeking a variance from § 2101.1, 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**.

VOTE: **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Peter G. May and Jeffrey

BZA APPLICATION NO. 18684

PAGE NO. 2

L. Hinkle to APPROVE. The third mayoral member 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: January 7, 2014

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.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF CLOSED MEETINGS**

TIME AND PLACE: **Each Monday @ 6:00 P.M. that a Public Meeting is Scheduled to be Held for the Remainder of Calendar Year 2014 & January 12, 2015
Office of Zoning Conference Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

The Zoning Commission, in accordance with § 406 of the District of Columbia Administrative Procedure Act (“Act”)(D.C. Official Code § 2-576), hereby provides notice it will hold closed meetings, either in person or by telephone conference call, at the time and place noted above, regarding cases noted on the agendas for meetings to be held for the remainder of this calendar year and January 12, 2015, in order to receive legal advice from its counsel, per § 405(b)(4), and to deliberate, but not voting, on the contested cases, per § 405(b)(13) of the Act (D.C. Official Code § 2-575(b)(4) and (13)).

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 03-12Q/03-13Q

**(Capper Carrollsburg Venture, LLC and D.C. Housing Authority – Modification to
1st-Stage PUD @ Squares 739, 767, and 768)
January 7, 2014**

THIS CASE IS OF INTEREST TO ANCS 6B AND 6D

On January 2, 2014, the Office of Zoning received an application from Capper Carrollsburg Venture, LLC and D.C. Housing Authority (together, the “Applicant”) for approval of a modification to a first-stage planned unit development (“PUD”) for the above-referenced property.

The property that is the subject of this application consists of Squares 739, 767, and 768 in Southeast Washington, D.C. (Ward 6), which are part of a larger PUD generally bounded by 2nd Street, S.E. (west), 7th Street, S.E. (east), Virginia Avenue (north), and M Street (south).

The Applicant proposes to reallocate the location and distribution of the required public housing units. The requested modification maintains the approved total number of 707 public housing units for the overall development: instead of providing 695 of the public housing units on the subject property and 12 units off-site as approved, the Applicant proposes to provide 665 public housing units on the subject property and 30 units off-site.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://.dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 09-03A**

Z.C. Case No. 09-03A

Skyland Holdings, LLC

**(PUD Modification @ Squares 5632, 5633, 5641, 5641N and Parcels 213/52, 213/60, 213/61,
214/62, 214/88, 214/104, 214/182, 214/187, 214/189, 214/190, and 214/196)**

December 9, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on June 13, 2013 to consider an application from Skyland Holdings, LLC ("Applicant") on Parcels 213/52, 213/60, 213/61, 214/62, 214/88, 214/104, 214/182, 214/187, 214/189, 214/190, and 214/196; Square 5632, Lots 1, 3-5, and 802; Square 5633, Lots 800 and 801; Square 5641, Lots 10-13 and 819; and Square 5641-N, Lots 12-31 and 33 ("Property" or "Subject Property"), for approval of a modification to a planned unit development ("PUD") approved pursuant to Z.C. Order No. 09-03. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

1. On November 8, 2012, the Applicant submitted an application to the Commission for approval of a modification of a PUD originally approved pursuant to Z.C. Case No. 09-03. (Exhibit ["Ex."] 1-3.)
2. Pursuant to Z.C. Order No. 09-03, the Commission approved a PUD and related Zoning Map amendment for the Subject Property. The Subject Property contains 18.7 acres of land area.
3. The approved PUD will be a mixed-use town center with residential and retail buildings, accompanying parking, and townhouses (the "Project"). The Project will be comprised of five distinct and self-sufficient development parcels, known as Blocks. The Project will include 342,000 square feet of retail space, a Wal-Mart store, 450-500 residential units, and a total of 1,774 parking spaces.
4. The Applicant now seeks a modification to the approved PUD. The PUD and Zoning Map amendment approved in Z.C. Order No. 09-03 shall otherwise remain the same. (Ex. 2, 3, 15, 34, 49A, 49B, 52A.)
 - a. *Changes to Block 1*
 1. Elimination of the underground parking garage, thereby reducing the number of parking spaces by approximately 220 spaces, and modifications to the roof level parking treatment;

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 2

2. Refinement to the architectural details of the building and reduction in the height of the previously approved architectural embellishment at the corner of Main Street and Naylor Road;
 3. Refinement to the retaining walls on the northern and eastern edges of the building and the proposed green screen shading system; and
 4. Refinement of parking ramps and walls.
- b. *Changes to Block 2*
1. Reconfiguration of the buildings to create residential units to meet the expected market demand, while maintaining the ground floor retail uses;
 2. Retention of an internal above-grade parking garage which will provide retail parking for Blocks 2, 3, and 4 as well as residential parking spaces for the residents of Block 2;
 3. Reduction in the area of the first below-grade parking level and the addition of a second below-grade parking level;
 4. Creation of a new covered private alley system which will provide through travel lanes from Naylor/Good Hope Roads to the internal Main Street;
 5. Removal of the vehicular slip lane along Naylor/Good Hope Roads which provided vehicular access into the project;
 6. Improvement of pedestrian access to the site;
 7. Addition of a significant green roof, photovoltaic panels, and outdoor amenity space on the roof of the building;
 8. Refinements to the loading and trash area; and
 9. Elimination of a paseo.
- c. *Changes to Block 3*
1. Increased depth of the retail space and residential building along Alabama Avenue;
 2. Replacement of seven townhouse units with six carriage house units; and
 3. Elimination of structured parking, with the relocation of the retail parking for Block 3 to the central parking garage in Block 2.

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 3

- d. *Change to Block 4* - Elimination of the structured parking garage, with the relocation of the retail parking for Block 4 to the central parking garage in Block 2.
- e. *Changes to Block 5*
 1. Re-alignment of the intersection of the private residential street and Alabama Avenue;
 2. Removal of the RCN switching equipment building; and
 3. Removal of five townhouses, which results in an increased green buffer along the northern edge of Residential Street.
5. On November 30, 2012, the Office of Planning (“OP”) submitted a report recommending that the application be heard at a public hearing and requesting additional information from the Applicant on two distinct issues: (i) changes to screening on the rooftop garage of Block 1; and (ii) reduction of in-line retail along Naylor Road in Block 1. (Ex. 12.)
6. At its December 10, 2012 public meeting, the Commission set the case down for a public hearing as a contested case. (12/10 Transcript [“Tr.”] at pp. 61-62.)
7. On January 15, 2013, the Applicant submitted a prehearing statement with responses to questions and issues raised by the Commission at its December 10, 2012 public meeting. The Applicant’s submission provided more information regarding: (i) screening of vehicles on the roof of Block 1; and (ii) in-line retail along Naylor Road in Block 1. (Ex. 15.)
8. On May 24, 2013, the Applicant submitted a supplemental statement in anticipation of the public hearing. The supplement included refinements to the retaining wall system and parking ramp for Block 1. (Ex. 34.)
9. On June 13, 2013, the Commission held a public hearing on the application.
10. On July 9, 2013, the Applicant submitted a motion to reopen the record to submit new updated plans for Block 2. The Commission granted the motion since it will not prejudice or harm any party. (Ex. 43.)
11. On July 11, 2013, the Applicant submitted a motion requesting a postponement of the post-hearing submission deadlines and a decision in the case. The Applicant requested this postponement because of Wal-Mart’s decision to put its plans on hold pending the outcome of the Large Retailer Accountability Act, which the D.C. Council passed but the Mayor had not acted on. The Commission granted this motion. (Ex. 44.)

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 4

12. On August 16, 2013, the Applicant submitted a motion requesting another postponement of the post-hearing submission deadlines and a decision in this case. The Applicant requested this postponement because of the continued unresolved outcome of the Large Retailer Accountability Act. The Commission granted this motion and agreed to accept a proposed timeline from the Applicant when the status of the legislation is resolved. (Ex. 46.)
13. On September 23, 2013, the Applicant submitted a proposed timeline for post-hearing submissions and a decision date. The Commission accepted this proposal. (Ex. 47.)
14. On October 2, 2013, the Applicant submitted its post-hearing information in response to questions and requests during the public hearing. (Ex. 49.)
15. On November 18, 2013, the Applicant submitted additional information and plans to address the comments made by the Commission at its October 21, 2013 public meeting. (Ex. 52, 52A.)
16. At the public hearing, the Commission considered the party status applications from Roland and Cherise Cole and from Joanne Harris and Gary Puckerin. The Commission denied both party status requests because the requests did not concern or address the proposed modifications; rather, they concerned matters in the approved PUD. The issues raised by both party status requests were thoroughly considered and addressed in the original PUD hearing and Z.C. Order No. 09-03. (Ex. 31, 33; 6/13 Tr. at pp. 8-14.)
17. OP provided a report and provided testimony at the hearing in support of the application and proposed modifications. OP testified that the proposed modifications will be improvements, such as the reduction in parking and the landscaping of the Block 1 retaining walls. The OP report indicated that the proposed modifications to the PUD should be approved subject to two conditions: (i) the Applicant address concerns regarding the design and landscape screening of the retaining walls for Block 1; and (ii) the Applicant make any changes recommended by the District Department of Transportation (“DDOT”). At the public hearing, the OP representative noted that the additional screening of the retaining walls for Block 1 proposed by the Applicant was a great improvement and addressed OP’s condition regarding the design and landscape screening of the Block 1 retaining wall. The OP report concluded and the OP representative testified that the modified PUD will continue to meet the policies and objectives of the Comprehensive Plan. (Ex. 35; 6/13 Tr. at pp. 78-80, 84.)
18. DDOT provided a report and testified at the hearing that it has no objection to the application. DDOT testified that the proposed modifications are not expected to increase trips to the site and that reduction in parking will not impact the site’s ability to contain cars. DDOT found that the proposed modifications to the PUD would reduce the impact on the transportation network as long as three conditions regarding the driveway from Good Hope Road are met: (i) it is designated for truck use only; (ii) turning movements

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 5

- are restricted to right-in and right-out; and (iii) turning movements are restricted to off-peak travel hours and off-peak plaza hours. DDOT testified that these conditions could be resolved at the Public Space Committee. DDOT testified that site designs changes would be improvements to the transportation system. (Ex. 36; 6/13 Tr. at pp. 81-83.)
19. The Applicant provided testimony from Cheryl O'Neill and Gabriel Massa, both admitted as experts in architecture. (6/13 Tr. at pp. 17-18.)
 20. At the public hearing, the Applicant testified that the proposed PUD modifications are not significant changes to the PUD previously approved. The Applicant testified that the proposed changes are primarily design oriented and do not affect the PUD's satisfaction of the PUD requirements, its fulfillment of Comprehensive Plan policies and objectives, or commitment of the proffered benefits and amenities. The Applicant further testified that DDOT's conditions regarding truck use only for the driveway from Good Hope Road and that the turning movements from the driveway off Good Hope Road be restricted to off-peak hours should be handled during the Public Space Committee process as those operational issues will not have any impact on the building layout or site plan approval; otherwise, the Applicant agreed to right-in and right-out turning movements. (Ex. 2; 6/13 Tr. at pp. 18-20.)
 21. The Commission finds that DDOT's conditions regarding truck use only for the driveway from Good Hope Road and that the turning movements from the driveway off Good Hope Road be restricted to off-peak hours are most appropriately considered during the Public Space Committee process and not during this PUD modification as they are operational issues that do not impact the building layout for Block 2 or site plan, and because the PUD, as it is being modified through this application, does not give rise to any potential adverse transportation related impacts that need to be mitigated.
 22. The Applicant testified and the Commission finds that the reduction of the underground parking garage for Block 1 significantly reduced the height of the building at its east elevation to approximately 26 feet. The modification relocated the landscaping closest to the building at the level of the building so it will much more effectively screen the building, and the modification incorporated supplemental landscaping that will screen the retaining walls as they come down the slope. The Applicant further testified that the height reduction and additional landscaping for the retaining wall on the north elevation are also included in the modification. (6/13 Tr. at pp. 24-26.)
 23. The Commission finds that the Applicant's proposal for landscape screening of the Block 1 retaining walls sufficiently addressed OP's concerns. The landscaping will provide an effective screen to obscure the appearance of the retaining walls.
 24. In response to concerns expressed by the Commission, the Applicant further refined the Naylor Road elevation of Block 1 with landscaping. The revised plans included large planting beds separated by strips of hardscape and seating areas along Naylor Road. In

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 6

- addition, large screens will extend along the building's south façade. The Applicant modified the bay sizes behind the screens to minimize the building's appearance behind the screens. The Applicant stated that the landscaping approach was preferable to extending in-line retail along Naylor Road because it would limit commercial uses extending further into an established residential area and would focus the ground-floor retail experience along Naylor Road on Block 2 and on the project's internal Main Street. (Ex. 49, 49A, 52A.)
25. The Commission finds that the Applicant's proposed design for the south elevation of the Block 1 building along Naylor Road effectively addresses concerns about its appearance. The Commission finds that providing in-line retail along Naylor Road would extend commercial uses and impacts into an established residential area, so a landscape alternative is preferable.
 26. The Applicant modified the screening and shading devices on the roof of the building to minimize appearance and the amount of up-lighting and light spill-over. The Applicant selected polycarbonate shading devices and a lighting system to ensure that lighting is distributed in precise directions and amounts and will minimize the light trespass from the building and site. The Applicant presented information that a minimal amount of light from the roof top parking level will be visible from Fort Baker Drive or from W Street. (Ex. 49A.)
 27. The Commission finds that screening, polycarbonate shading system, and lighting system for the roof of the building will minimize appearance of cars, will minimize light-spill over, and the light from the roof will not adversely affect neighboring residential areas.
 28. The Applicant altered the plans for Block 1 to include "Quik-Brik" instead of conventional brick as an exterior material. The Applicant testified that it selected this material because it will continue the high quality of materials on the Block 1 building façade and will provide benefits regarding constructability and sustainability. The Applicant demonstrated that the Quik-Brik will be nearly identical in appearance to that of standard brick when constructed, but the module size will allow for approximately half of the mortar joints than conventional brick. The module size will allow for a faster construction period. Also, Quik-Brik has a smaller carbon footprint than concrete brick, and it is composed of a regional material that is 100% recyclable. (6/13 Tr. at pp. 34-35; Ex. 49, 49A.)
 29. The Commission finds that the "Quik-Brik" material proposed for the exterior of Block 1 will provide the same overall appearance as conventional brick. Its advantages for constructability and sustainability over conventional brick make it an appropriate material selection for building without having to sacrifice the appearance approved in the original PUD.

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 7

30. The Applicant testified and the Commission finds that the modified development proposal for Block 2 maintains the height, scale, and general footprint of the buildings approved in the original PUD. The changes to Block 2, most notable of which is the addition of a central parking garage, allow for more efficient buildings on either side of the parking garage and provide residential uses almost completely lining the perimeter of the Block. Block 2 will include two mixed-use buildings functioning as one large building through connections on the upper levels. The Applicant refined the unit mixes and layouts of these buildings in order to be more responsive to the expected housing market for this area. The modified PUD incorporates a six-level parking garage located in the interior of Block 2, with approximately 241 undesignated parking spaces (as subsequently modified) reserved for the residential units in Block 2 and the remaining 551 parking spaces reserved for the retail uses located in Blocks 2, 3, and 4. No residential units have windows that look out onto the parking garage. Further, the modifications include a very large and expansive green roof on top of the parking garage that will create great new amenities for the residences, a pool, and a large amenity space. (Ex. 2; 6/13 Tr. at pp. 26-28.)
31. Pursuant to its motion to reopen the record, the Applicant made additional minor changes to the below-grade parking level, the proposed above-grade courts, the proposed façades, and the proposed roof structures for Block 2. The proposed number of residential parking spaces for Block 2 is 241 spaces. The proposed changes will reduce the area of the first level below grade that will be excavated for parking spaces; instead, it will create a second level of parking spaces below the footprint of the first parking level. This change will allow for a much more efficient excavation and construction process. Also, having a more compact footprint for the parking levels will significantly reduce the distance that residents of the building will have to walk from their parked car to the elevator. In addition, the proposed changes will result in a slight reduction of residential units to 260 units. This change will allow for enlarged courtyards that will provide better views and more natural light to the interior units. To accommodate this change for enlarged courtyards, the Applicant modified the façades of the building to adjust window patterns and to add balconies to many of the units. Further, the Applicant modified some of the roof structures to coordinate with code and mechanical requirements: several of the penthouse enclosures were reduced in size, one mechanical penthouse enclosure was added, and three roof stair enclosures were eliminated. The Applicant added rooftop pool storage and a bath house to meet code requirements and to increase the usability of the rooftop pool. (Ex. 43, 48, 48A.)
32. The Commission finds that the additional changes to Block 2 submitted after the conclusion of the hearing will improve Block 2 and the PUD, and it will not prejudice any party. The reduction in parking spaces will allow for greater efficiency of construction, the reduction in units will allow for better light and features for the remaining residential units, the alterations to the façade will facilitate the larger

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 8

- courtyards, and the changed roof structures will allow for better compliance with code requirements.
33. The Applicant testified and the Commission finds that the proposed changes to Block 3 are minimal. The only change to the mixed-use building is an increase in the depth of some of the retail spaces along Alabama Avenue and in the residential building above. Also, the modified plan for Block 3 replaces the seven townhouses with six carriage house units. Each carriage house unit will include three parking spaces on the ground level with residential space above. Further, the residential units will be improved by modifying the Block to remove the above-grade parking structure and provide a surface parking lot with 77 spaces. In total, 150 parking spaces will be eliminated from Block 3. (Ex. 2; 6/13 Tr. at p. 29.)
 34. The Applicant testified and the Commission finds that the only change to the proposed development of Block 4 is the removal of the above-grade parking structure and the construction of a surface parking lot with 87 parking spaces. In total, 105 parking spaces will be removed, and the parking lot will include significant landscaping and low-impact development measures, including substantial landscaping and bio-retention rain gardens. The Applicant further testified that the removal of the above-grade parking structure will significantly reduce the potential visual impact of the development of Block 4 on the Fort Baker Drive neighbors. The minimum distance from the property line to the Block 4 mixed-use building will now be approximately 175 feet. (Ex. 2; 6/13 Tr. at pp. 29-30.)
 35. The Applicant testified and the Commission finds that the proposed internal street realignment near Block 5 will result in the reduction of five townhouses. The PUD modification will realign the residential street that bisects Blocks 3 and 5 in order to make the intersection more efficient. This realignment of the residential street necessitates the removal of these townhouses that were previously located to the east of the street and adjacent to single family homes along Akron Place. The removal of these townhouses will provide the Applicant with the opportunity to create an enhanced landscape buffer in their place between the PUD project and the neighboring properties. The seven remaining townhouses in Block 5 will have the same appearance, size, and layout as the previously approved townhouses in this Block. The Applicant testified that these modifications to the residential street and the open space provided in Block 5 are a significant improvement, both operationally and aesthetically, compared to the approved PUD. (Ex. 2; 6/13 Tr. at p. 30.)
 36. The Applicant testified and the Commission finds that the PUD modification will remove the RCN building. RCN no longer requires this building for its infrastructure, so the modified PUD will include a green landscape buffer in its place. (Ex. 2; 6/13 Tr. at pp. 30-31.)
 37. The Applicant testified that Condition Nos. 3 and 17 in Z.C. Order No. 09-03 should be modified to allow the PUD to better accommodate potential and proposed retail tenants.

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 9

Condition No. 3 permits the revocation of a non-residential certificate of occupancy if the Applicant does not make a required financial contribution pursuant to the public amenities. Condition No. 17 does not specify that the right to the approved new PUD-related Zoning Map amendment vests with the completion of a Block. The Applicant proposed modifying these two conditions to give assurance to a retail tenant in a completed Block that its right to use the Block is vested and it will not lose its certificate of occupancy. The Applicant proposed these changes to the conditions because a retail tenant could lose its right to operate through no fault of its own, i.e., if the Applicant fails to satisfy a condition of Z.C. Order No. 09-03. Therefore, potential retail tenants may be deterred from leasing space in the Project. (6/13 Tr. at pp. 36-38.)

38. The Commission finds that Condition Nos. 3 and 17 should be modified as proposed by the Applicant. The Commission still retains the authority to enforce the conditions in Z.C. Order No. 09-03, but finds that the potential to inadvertently penalize a retail tenant for no reason is an unnecessary tool of enforcement. The modified conditions still preserve the intent of having a mechanism to enforce compliance with providing amenities and time limits on development.
39. Advisory Neighborhood Commissions (“ANC”) 7B and 8B were automatically parties in this proceeding. Neither ANC 7B nor ANC 8B submitted reports on this application. Neither ANC appeared at the public hearing. (6/13 Tr. at p. 87.)
40. Joanne Harris, Ronald Mitchell, and Ronald Cole testified in opposition to the application. They raised concerns regarding structural damage to their houses from construction of the PUD, decreased values of their houses, impact on wildlife, and enforcement of the construction management plan. (6/13 Tr. at p. 89-94.)
41. The Commission credits the comments of the opponents but finds that the concerns raised by the opponents are not germane to the PUD modification application because their comments related to issues debated and resolved with the approved PUD. Therefore, the issues raised are not material to the Commission’s decision on this modification application.
42. At a public meeting held on October 21, 2013, the Commission took proposed action to approve the application. The Commission requested additional information from the Applicant regarding the treatment of the street wall of Block 1 along Naylor Road, and regarding its continuing dialogue with the Fort Baker Drive neighbors. The Commission waived the requirements of § 2403.15 -2403.20 that the Applicant submit a list of final proffers and draft conditions because the proffers of the PUD were largely unchanged from what the Commission already approved.
43. The application was referred to the National Capital Planning Commission (“NCPC”) for review of any impacts on the federal interest under the Comprehensive Plan. By delegated action December 5, 2013, the Executive Director of NCPC found that the

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 10

application was not inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

44. At a public meeting on December 9, 2013, the Commission took final action to approve the application in Z.C. Case No. 09-03A.

CONCLUSIONS OF LAW

Pursuant to the Zoning Regulations, the PUD process provides a means for creating a “well-planned development.” The objectives of the PUD process are to promote “sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces-and other amenities.” (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)

Development of the Subject 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 variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development. As was the case for the originally approved PUD, the Commission concludes that the proposed PUD modifications continue to promote the purposes of the PUD process.

The modified PUD, as approved by the Commission, continues to comply with the applicable height, bulk, and density standards of the Zoning Regulations. The designs and uses for this project are appropriate for the Subject Property. The impact of the Project on the surrounding area and the operation of city services continue to be acceptable given the quality of the public benefits in the Project.

The Commission credits the reports and testimony of OP and DDOT. The Commission concludes that the Applicant has adequately addressed OP’s condition regarding the design and landscape screening of the retaining walls for Block 1. The Commission also concludes that the Applicant’s satisfaction of DDOT’s conditions regarding the use of the Block 2 entrance drive from Naylor Road for use by more than truck traffic, and the timing of permitted turning movements into that entrance drive are more appropriately addressed in the Public Space Committee process, since those conditions primarily relate to operational issues and do not impact the building or site plan layout of Block 2. The Commission notes that the Applicant agreed DDOT’s third condition, that turning movements from Naylor Road into Block 2 be limited to right-in and right-out only.

Based on the character of the proposed changes, the Commission finds that the modified PUD is consistent with the intent of and achieves the same goals as the previously approved PUD in Z.C. Order No. 09-03. The Commission concludes that its decision to approve the modified PUD is in the best interests of the District of Columbia and is consistent with the intent, purpose, and

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 11

integrity of the Zoning Regulations and Zoning Map. As was the case for the previously approved PUD, the Commission concludes that the approval of the PUD modification is not inconsistent with the Comprehensive Plan.

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 this application for modification of a PUD approved pursuant to Z.C. Order No. 09-03. The conditions in Z.C. Order No. 09-03 remain unchanged except as follows. The following conditions replace conditions 1, 3, 13, and 17 of Z.C. Order No. 09-03:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 3A, 15A, 49A, and 52A of the record in Z.C. Case No. 09-03A, as modified by the guidelines, conditions, and standards of this Order.
3. The failure of the Applicant to make any contribution or provide any service by the time specified in Condition No. 2 shall result in the denial of any pending application for a building permit or certificate of occupancy and shall be grounds for the revocation of any building permit.
13. The number of parking spaces permitted in the PUD project shall be a total of 1,774.
17. The PUD shall be valid for a period of three years from the effective date of this Order. Within such time, an application must be filed for a building permit for the construction of a building on Block 1, 2, 3, or 4 as specified in 11 DCMR § 2409.1, and construction must start within four years of the effective date of this Order to remain valid. Applications for building permits for all remaining portions of the project must be filed no later than 10 years after the effective date of this Order and construction must start no later than 11 years after the effective date of this Order. Subject to compliance with Condition 16 the applicable map amendment for each block upon shall vest upon the start of construction on the block and shall not revert to the underlying zone district for so long as the PUD improvements on the block remain.

The following condition is added:

19. The Applicant shall provide a 10-foot wide clear sidewalk along the building face of Block 1 and Block 2 on the Naylor/Good Hope Road frontage on public space or through a combination of public and private space.

On October 21, 2013, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0**

Z.C. ORDER NO. 09-03A
Z.C. CASE NO. 09-03A
PAGE 12

(Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On December 9, 2013, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on January 17, 2014.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 09-03B**

Z.C. Case No. 09-03B

Skyland Holdings, LLC

**(Two-Year PUD and Zoning Map Amendment Time Extension @ Squares 5632, 5633,
5641, 5641N and Parcels 213/52, 213/60, 213/61, 214/62, 214/88, 214/104, 214/182, 214/187,
214/189, 214/190, and 214/196)**

December 9, 2013

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on December 9, 2013. At that meeting, the Commission approved the request of Skyland Holdings, LLC (“Applicant”) for a two-year time extension of an approved consolidated planned unit development (“PUD”) and related Zoning Map amendment. At the same time, the Commission approved Z.C. Case No. 09-03A, in which the Applicant requested a modification to the approved PUD. The order granting the modification (Z.C. Order No. 09-03A) was issued concurrently with this Order, consistent with the Commission’s intent that this approved extension applies to the PUD as modified. The time extension request was made pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations

FINDINGS OF FACT

1. The Commission granted approval of the consolidated PUD and Zoning Map amendment on July 12, 2010 pursuant to Z.C. Order No. 09-03 that became effective on September 10, 2010. The approval was valid for a period of three years from the effective date of the order, within which time an application for a building permit for construction of a building on Blocks 1, 2, 3, or 4 was required to be filed. (Z.C. Order No. 09-03.) Applications for building permits for all remaining portions of the project had to be filed no later than 10 years after the effective date of Z.C. Order No. 09-03 and construction had to start no later than 11 years after the effective date of Z.C. Order No. 09-03.
2. On November 8, 2012, the Applicant filed a request to modify the approved PUD in Case No. 09-03A.
3. On November 9, 2012, the Applicant filed a request to extend the time for filing the first building permit for two years until September 10, 2015. The Applicant also requested that the Commission consider this extension request along with the modification request in Z.C. Case No. 09-03A. (Exhibits [“Ex.”] 1, 5.)
4. The extension request was placed on the Commission’s meeting agenda for December 10, 2012, at which time, the Commission voted to defer action on the extension request pending the outcome of the modification request in Z.C. Case No. 09-03A. (12/10/12 Transcript [“Tr.”] at p. 61.)
5. Z.C. Order No. 09-03 approved a town center with mixed-use retail and residential buildings, accompanying parking facilities, and townhouses. The PUD includes approximately 311,000 square feet of retail and service-related uses and approximately

Z.C. ORDER NO. 09-03B
Z.C. CASE NO. 09-03B
PAGE 2

- 450-500 residential units. Z.C. Order No. 09-03 also approved the rezoning of the Property to the C-3-A Zone District.
6. As noted, the PUD approval was modified by Z.C. Case No. 09-03A. Z.C. Order No. 09-03A approved changes to the number of parking spaces, improvements to the site circulation, reconfigurations to residential buildings, changes to architectural details of the free-standing large-format retail building (Block 1), and other modifications.
 7. Since approval of the original PUD, the Applicant has made a good faith effort to proceed with the PUD. Since the Commission's approval of Z.C. Case No. 09-03, the Applicant has proceeded with construction drawings, held pre-development review meetings, and identified the anchor retail tenant. In addition, the District has begun razing some vacant buildings on the Property. (Ex. 1.)
 8. At the time the Applicant filed this request, November 9, 2012, the District of Columbia (who owns the property) was still engaged in litigation with some of the previous owners of the property regarding the financial value of those properties. This continued litigation made it difficult for the Applicant to move forward with the acquisition of the property and to obtain the necessary financing for the significant pre-construction activities. (Ex. 1)
 9. The Applicant demonstrated that there is no change to the material facts on which the original PUD was approved. (Ex. 1.)
 10. The Applicant served its request for an extension on all parties to the PUD, including Advisory Neighborhood Commissions ("ANC") 7B and 8B and the Ft. Baker Drive Party. The parties were given 30 days to respond to the request. (Ex. 1.)
 11. Neither ANC 7B nor ANC 8B submitted a letter into the record to indicate their support or opposition.
 12. The Ft. Baker Drive Party did not submit anything into the record.
 13. The Office of Planning ("OP") submitted a report on December 6, 2013. OP evaluated the Applicant's request and determined that the request fulfilled the standards promulgated in § 2408.10 of the Zoning Regulations. OP noted that there was not any change to the material facts on which the original PUD was approved and that there are not any projects anticipated in the immediate neighborhood that would affect the development plans for the property. OP also noted the pending litigation as an impediment to the Applicant's ability to proceed with the PUD as the good cause justification under § 2408.11. (Ex. 8.)

Z.C. ORDER NO. 09-03B
Z.C. CASE NO. 09-03B
PAGE 3

CONCLUSIONS OF LAW

The Commission may extend the time period of an approved PUD provided the requirements of 11 DCMR §§ 2408.10 and 2408.11 are satisfied. Section 2408.10 gives the Commission the authority to extend the validity of a PUD approval.

The Commission has analyzed such extension requests pursuant to the standard set forth for PUD time extensions in § 2408.10. Section 2408.10(a) requires that the applicant serve the extension request on all parties and that all parties are allowed 30 days to respond. The Applicant served the parties to the original PUD application when it filed this time extension request on November 9, 2012. All parties were given 30 days to respond to the extension request, and none of them responded.

Section 2408.10(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD. Based on the Applicant's and OP's analysis, the Commission concludes that extending the time period of approval is appropriate, as there are no substantial changes in the material facts that the Commission relied on in approving the original PUD application.

Finally, § 2408.10(c) requires that the Applicant demonstrate with substantial evidence that there is a good cause for the proposed extension, as provided in § 2408.11. Pursuant to § 2408.11, an extension of validity of a PUD may be granted if the Applicant has demonstrated with substantial evidence one or more of the following criteria:

- (a) An inability to obtain sufficient project financing for the PUD, following an Applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the Applicant's reasonable control;
- (b) An inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the Applicant's reasonable control; or
- (c) The existence of pending litigation or such other condition, circumstance, or factor beyond the Applicant's reasonable control that renders the applicant unable to comply with the time limits of the PUD order.

Based on the ongoing litigation regarding the value of the Property, the Commission finds that there is good cause shown to extend the period of time of the validity of the approved PUD and

Z.C. ORDER No. 09-03B
Z.C. CASE No. 09-03B
PAGE 4

Zoning Map amendment. The Commission also finds that the Applicant has made good faith efforts to effectuate the PUD and has pursued a significant number of steps to proceed with the construction of the PUD while events beyond the Applicant's control persisted.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (DC Law 8-163, D.C. Official Code § 6-623.04), to give great weight to OP recommendations (as discussed in Paragraph 13 above). OP's analysis demonstrates that the Applicant has satisfied the criteria for a time extension of the Order.

For these reasons, the Commission finds that the Applicant has satisfied the requirements of 11 DCMR § 2408.10 and 2408.11.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of Z.C. Case No. 09-03B for a two-year time extension of Z.C. Order No. 09-03. The validity of the PUD as modified by Z.C. Order 09-03A is extended until September 10, 2015, by which time the Applicant must file for a building permit for the construction of a building on Block 1, 2, 3, or 4 as specified in 11 DCMR § 2409.1, and construction of that building must start by September 10, 2016 for the PUD to remain valid. Condition No. 17 of Z.C. Order No. 09-03, as modified by Z.C. Order No. 09-03A, sets forth the Applicant's remaining obligation to file building permit applications for and commence construction of the remaining portions of the PUD and the timeframe for doing so.

For the reasons stated above, the Commission concludes that the Applicant has met its burden; it is hereby **ORDERED** that the request be **GRANTED**.

On December 9, 2013, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR 3028.8, this Order shall become final and effective upon publication in the *D.C. Register* on January 17, 2014.

District of Columbia REGISTER – January 17, 2014 – Vol. 61 - No. 3 305 – 568