

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council enacts Act 21-7, New Columbia Statehood Initiative, Omnibus Boards and commissions, and Election Transition Reform Congressional Review Emergency Amendment Act of 2015
- Executive Office of the Mayor schedules a public hearing on the Fiscal Year 2016 Budget for the District of Columbia Public Schools
- Metropolitan Police Department establishes guidelines for reimbursable details
- Metropolitan Police Department publishes Second Emergency and Proposed Rulemaking on procedures for licensing persons to carry concealed firearms
- D.C. Taxicab Commission proposes wait time rate increase
- D.C Public Schools proposes new student assignment and attendance zones requirements
- Office of Documents and Administrative Issuances publishes the 2015 D.C. Register Publication Schedule

# DISTRICT OF COLUMBIA REGISTER

## Publication Authority and Policy

D.C. Office of Documents and Administrative Issuances (ODAI) publishes the *District of Columbia Register* (ISSN 0419-439X) 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 *Register* are set forth in the Rules of the Office of Documents (25 DCR 9855). 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 *D.C. Administrative Procedure Act*, D.C. Official Code, §§2-501 *et seq.*, as amended.

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The deadline for receiving documents from D.C. Agencies, Boards, Commissions, and Public Charter schools is TUESDAY, NOON of the week of publication. The deadline for receiving documents from the D.C. 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. To check the deadline for a specific week, refer to the Agency Calendar on the website for the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. ACTS

A21-7 New Columbia Statehood Initiative, Omnibus Boards and commissions, and Election Transition Reform Congressional Review Emergency Amendment Act of 2015 [(B46)] ..... 002646 - 002668

A21-8 Wage Theft Prevention Clarification Emergency Amendment Act of 2015 [B52]..... 002669 - 002672

ADOPTED CEREMONIAL RESOLUTIONS

ACR 20-246 Thomas Hale Boggs, Jr. Recognition Resolution of 2014 ..... 002673 - 002674

ACR 20-247 D.C. Legendary Musicians Recognition Resolution of 2014 ..... 002675 - 002676

ACR 20-248 Avery Gagliano Recognition Resolution of 2014 ..... 002677 - 002678

ACR 20-249 Irma P. Powe Recognition Resolution of 2014 ..... 002679

ACR 20-250 Industrial Bank 80th Anniversary Recognition Resolution of 2014..... 002680 - 002681

ACR 20-251 District of Columbia Board of Medicine Recognition Resolution of 2014..... 002682

ACR 20-252 Florida Avenue Grill 70<sup>th</sup> Anniversary Recognition Resolution of 2014..... 002683 - 002684

ACR 20-253 Shiloh Way Commemoration Recognition Resolution of 2014 ..... 002685

ACR 20-254 Carolyn Cross Posthumous Recognition Resolution of 2014 ..... 002686 - 002687

ACR 20-255 Stuart Kenworthy Recognition Resolution of 2014 ..... 002688

ACR 20-256 Lasana K. Mack Posthumous Recognition Resolution of 2014 ..... 002689

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

**ADOPTED CEREMONIAL RESOLUTIONS CONT'D**

|            |   |                 |
|------------|---|-----------------|
| ACR 20-257 | Immaculate Conception Church 150th Anniversary<br>Recognition Resolution of 2014.....             | 002690 - 002691 |
| ACR 20-258 | Robert Pohlman Recognition Resolution of 2014.....  | 002692 - 002693 |
| ACR 20-259 | James W. Lintott Leadership Recognition<br>Resolution of 2014 .....                               | 002694 - 002695 |
| ACR 20-260 | TIVA-DC Recognition Resolution of 2014 .....  | 002696 - 002697 |
| ACR 20-261 | DC Youth Poetry Slam Team Recognition<br>Resolution of 2014 .....                                 | 002698 - 002699 |
| ACR 20-262 | D.C. Current's National Championship<br>Recognition Resolution of 2014.....                       | 002700          |
| ACR 20-263 | Paul A. Quander, Jr. Service Award<br>Recognition Resolution of 2014.....                         | 002701 - 002702 |
| ACR 20-264 | Trinity Episcopal Church 120th Anniversary<br>Recognition Resolution of 2014.....                 | 002703 - 002704 |
| ACR 20-265 | 40th Anniversary of Home Rule Recognition<br>Resolution of 2014 .....                             | 002705 - 002706 |
| ACR 20-266 | The Year of the Local Recognition Resolution of 2014.....   | 002707 - 002708 |
| ACR 20-267 | Eric H. Holder, Jr., Recognition Resolution of 2014 .....   | 002709 - 002711 |
| ACR 20-268 | Honor Every Responsible Officer's Eternal<br>Sacrifice, Inc., Recognition Resolution of 2014..... | 002712 - 002713 |
| ACR 20-269 | Washington Nationals 2014 Season Celebration<br>Recognition Resolution of 2014.....               | 002714 - 002716 |
| ACR 20-270 | Len Oliver Recognition Resolution of 2014 .....   | 002717          |
| ACR 20-271 | Glenn Morris Clea Posthumous Recognition<br>Resolution of 2014 .....                              | 002718          |
| ACR 20-272 | Gwendolyn Evans-Orange Recognition<br>Resolution of 2014 .....                                    | 002719 - 002721 |
| ACR 20-273 | Myrna Y. Peralta Recognition Resolution of 2014 .....   | 002722          |
| ACR 20-274 | Bonnie R. Cohen Recognition Resolution of 2014 .....  | 002723          |
| ACR 20-275 | John W. Hill, Jr., Recognition Resolution of 2014.....  | 002724          |

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

**BILLS INTRODUCED AND PROPOSED RESOLUTIONS**

**Notice of Intent to Act on New Legislation -**

Bills B21-86 and Proposed Resolutions PR21-65, PR21-66,  
PR21-68, PR21-69, PR21-70, PR21-84, and PR21-85 ..... 002725 - 002726

**COUNCIL HEARINGS**

**Notice of Public Oversight Roundtable -**

The Department of Public Works Trash Collection and  
Recycling Programs.....002727

**Notice of Public Roundtable -**

PR21-65 Agreement between the Not-for-Profit Hospital  
Corporation (United Medical Center) and the  
International Union of Operating Engineers  
Local 99-99A, AFL-CIO Approval Resolution of 2015.....002728

PR21-66 Agreement between the Not-for-Profit Hospital  
Corporation (United Medical Center) and the  
Federation of Special Police and Security Officers,  
Inc. on Behalf of Local 672 Approval Resolution of 2015 .....002728

PR21-68 Friendship Public Charter School, Inc. Revenue  
Bonds Project Approval Resolution of 2015 .....002729

PR21-85 Commission on the Arts and Humanities  
Kay Kendall Confirmation Resolution of 2015.....002730

**OTHER COUNCIL ACTIONS**

**Notice of Intent to Consider Legislation (Abbreviated) -**

PR21-65 Agreement between the Not-for-Profit Hospital  
Corporation (United Medical Center) and the  
International Union of Operating Engineers Local  
99-99A, AFL-CIO Approval Resolution of 2015.....002731

PR21-66 Agreement between the Not-for-Profit Hospital  
Corporation (United Medical Center) and the  
Federation of Special Police and Security  
Officers, Inc. on Behalf of Local 672 Approval  
Resolution of 2015 .....002732

PR21-85 Commission on the Arts and Humanities Kay  
Kendall Confirmation Resolution of 2015.....002733

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

OTHER COUNCIL ACTIONS CONT'D

Reprogramming Requests -

- 21-17 Request to reprogram \$5.00 of Capital funds budget authority and allotment within the District Department of Transportation (DDOT) ..... 002734 - 002736
  
- 21-18 Request to reprogram \$2,304,384 of Fiscal Year 2015 Local funds budget authority within the Department of General Services (DGS) ..... 002734 - 002736
  
- 21-19 Request to reprogram \$575,000 of Capital funds budget authority and allotment from the Office of Planning (OP) to the Reverse Pay-As-You-Go (Paygo) capital project and subsequently to OP's operating budget ..... 002734 - 002736
  
- 21-20 Request to reprogram \$468,688 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-As-You-Go (Paygo) Capital Project and subsequently to the Local funds budget of DGS ..... 002734 - 002736
  
- 21-21 Request to reprogram \$22,130 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-As-You-Go (Paygo) Capital Project and subsequently to the Local funds budget of DGS ..... 002734 - 002736
  
- 21-22 Request to reprogram \$1,200,000 of Fiscal Year 2015 Local funds budget authority within the Department of Employment Services (DOES) ..... 002734 - 002736
  
- 21-23 Request to reprogram \$33,322 of Capital funds budget authority and allotment for the District of Columbia Sentencing and Criminal Code Revision Commission (SCCRC) ..... 002734 - 002736
  
- 21-24 Request to reprogram \$30,293 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-As-You-Go (Paygo) Capital Project and subsequently to the Local funds budget of the Department of Parks and Recreation ..... 002734 - 002736

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

OTHER COUNCIL ACTIONS CONT'D

Reprogramming Requests – cont'd

- 21-26 Request to reprogram \$73,002 of Capital funds budget authority and allotment from the Washington Metropolitan Area Transit Authority (WMATA) to the Office of the Chief Technology Officer (OCTO) ..... 002734 - 002736
- 21-25 Request to reprogram \$30,293 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-As-You-Go (Paygo) Capital Project and subsequently to the Local funds budget of the Department of Parks and Recreation ..... 002734 - 002736

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

Alcoholic Beverage Regulation Administration -

- Bulldog Tavern - ANC 2E - Entertainment Endorsement - RESCIND.....002737
- Bulldog Tavern - ANC 2E - Entertainment Endorsement.....002738
- Capitol View Market - ANC 7C - Renewal.....002739
- Castello Restaurant and Lounge - ANC 4D - New.....002740
- Chez Billy Sud - ANC 2E - Substantial Change - CORRECTION.....002741
- Golden Paradise Restaurant - ANC 4C - New.....002742
- Lyman's - ANC 4C - Substantial Change.....002743
- New Da Hsin Trading, Inc. - ANC 2C - Renewal .....002744
- Noelia - ANC 2C - Change of Hours.....002745
- Thai Pad - ANC 3F - New .....002746
- The Dabney - ANC 2F - New - CORRECTION .....002747
- To Be Determined (Licensee: Two Tails LLC) - ANC 1C - New .....002748
- Towne Wine & Liquor - ANC 2E - Renewal .....002749

Historic Preservation Review Board - Historic district designation hearing

- 14-04 West Heating Plant, 1051/1055 29<sup>th</sup> Street NW - ANC 2E..... 002750 - 002752
- 15-06 Emory United Methodist Church, 6100, 6104 and 6120 Georgia Avenue NW - ANC 4A..... 002750 - 002752
- 15-08 7 Grant Circle NW, Square 3243, Lot 44 - ANC 4C ..... 002750 - 002752
- 15-01 Capitol Hill Historic District amendment/expansion - ANC 6C ..... 002750 - 002752

- Mayor, Executive Office of the and Office of the Deputy Mayor for Education - Fiscal Year 2016 Budget for Public Schools in the District of Columbia ..... 002753

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PUBLIC HEARINGS CONT'D

Zoning Adjustment, Board of - April 21, 2015 Hearings -

|        |   |                 |
|--------|---|-----------------|
| 18013A | Franklin Commons Intergenerational Day Care Center, Inc. - ANC-5C ..... | 002754 - 002756 |
| 18938  | Gina Eppolito - ANC 6B.....   | 002754 - 002756 |
| 18979  | Tiblez Adal - ANC-1A.....   | 002754 - 002756 |
| 18980  | Concerned Citizens of Argonne Place - ANC-1C.....                       | 002754 - 002756 |
| 18981  | Frances Raskin - ANC-6C .....   | 002754 - 002756 |
| 18983  | Carrie and Phong Trieu - ANC-3D .....                                   | 002754 - 002756 |

Zoning Commission - Cases -

|        |   |                 |
|--------|---|-----------------|
| 05-22A | View 14 Investments, LLC .....  | 002757 - 002759 |
| 08-06C | Map Amendment to Implement the Comprehensive Revisions to the Zoning Regulations, including New Zone Names..... | 002760 - 002767 |

FINAL RULEMAKING

Lottery and Charitable Games Control Board, DC - Amend 30 DCMR (Lottery and Charitable Games), Ch. 7 (Instant Games), Sec. 700 (Conduct of Instant Games and Agents) Sec. 701 (Game Procedures), Sec. 702 (Determination of Prize Winner), Sec. 703 (Official End of Instant Games), and Sec. 704 (Pull Tab Lottery Games), to clarify to rules regarding instant game possession.....

002768 - 002774

Police Department, Metropolitan - Amend 6 DCMR (Personnel), Subtitle A (Police Personnel), Ch. 1 (Organization of the Metropolitan Police Department), to provide evening and night shift differential to Metropolitan Police Department Captains and Lieutenants .....

002775

Police Department, Metropolitan - Amend 24 DCMR (Public Space and Safety), to update Ch. 7 (Parades and Public Events), and add Ch. 38 (Metropolitan Police Department Reimbursable Details), to provide guidelines for Reimbursable Details .....

002776 - 002777

PROPOSED RULEMAKING

Health, Department of - Amend 17 DCMR (Business, Occupations, and Professionals), Ch. 75 (Massage Therapy), Secs. 7506, 7512, and 7599, to clarify massage therapy continuing education and CPR requirements .....

002778 - 002779



**ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D**

**PROPOSED RULEMAKING CONT'D**

Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles for Hire), Ch. 8 (Operation of Taxicabs), Sec. 801 (Passenger Rates and Charges), to increase the wait time rate .....002780 - 002782

**EMERGENCY RULEMAKING**

Taxicab Commission, DC - Amend 31 DCMR (Taxicabs and Public Vehicles for Hire), Ch. 8 (Operation of Taxicabs), Sec. 801 (Passenger Rates and Charges), to increase the wait time rate.....002783 - 002785

**EMERGENCY AND PROPOSED RULEMAKING**

Health Care Finance, Department of - Amend 29 DCMR (Public Welfare), Ch. 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities), Sec. 1934 (Supported Living Services ) and Sec. 1999 (Definitions), to establish reimbursement guidelines for supported living services; Second emergency and proposed rulemaking to incorporate review changes from the previous emergency and proposed rulemaking published on October 31, 2014 at 61 DCR 011500 ..... 002786 - 002802

Police Department, Metropolitan - Amend 24 DCMR (Public Space and Safety), Ch. 23 (Guns and Other Weapons), Sec. 2331 (Fees) and add Secs. 2332 through 2348, and Sec. 2399 (Definitions), to establish procedures for licensing persons to carry concealed firearms for self-defense; Second emergency and proposed rulemaking to consolidate review changes from three previous emergency and proposed rulemakings published at 61 DCR 11519 and 61 DCR 11534 on October 31, 2014, and at 62 DCR 1138 on January 23, 2015 .....002803 - 002820

Public Schools, DC - Amend 5 DCMR Subtitle E (Education), Ch. 20 (Admission of Students), to add Sec. 2002 (Admission and Registration Procedures), to implement new student assignment and attendance zones requirements .....002821 - 002826

Public Schools, DC - Amend 5 DCMR Subtitle E (Education), Ch. 20 (Admission of Students), to add Sec. 2004 (Eligibility for Admission), to implement new student assignment and attendance zones requirements .....002827 - 002828

**ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D**

**NOTICES, OPINIONS, AND ORDERS  
BOARDS, COMMISSIONS, AND AGENCIES**

Alcoholic Beverage Regulation Administration -

- ABC Board's Calendar - March 11, 2015 .....002829 - 002830
- ABC Board's Cancellation Agenda - March 11, 2015 ..... 002831
- ABC Board's Investigative Agenda - March 11, 2015..... 002832
- ABC Board's Legal Agenda - March 11, 2015 ..... 002833
- ABC Board's Licensing Agenda - March 11, 2015.....002834 - 002835

Asian and Pacific Islander Affairs, Office on -

- Commission on Asian and Pacific Islander Affairs -  
Meeting - March 3, 2015..... 002836

Child Support Services Division -

- Office of the Attorney General - Child Support  
Guideline - Self-Support Reserve Update ..... 002837

Community College Preparatory Academy Public Charter School -

- Request for Proposals - Help Desk Career Training Services..... 002838

Documents and Administrative Issuances, Office of -

- 2015 DC Register Publication Schedule .....002839 - 002840

Environment, District Department of the - Permits

- #5623-R1 The Architect of the Capitol,  
(The U.S. Capitol Power Plant ),  
25 E Street SE ..... 002841
- #6550-R1 Monumental Concrete LLC,  
3 DC Village Lane SW ..... 002842
- #6971 Georgetown University, (The  
Former Jesuit Residence),  
3700 O Street NW .....002843 - 002844

Environment, District Department of the - Notice of Funding Availability -

- Grants for Trash Free Rivers: Fostering Green Jobs and  
Environmental Education Opportunities by Cleaning  
Up the Anacostia River .....002845 - 002846

Health Benefit Exchange Authority, DC -

- Executive Board Meeting - March 9, 2015 ..... 002847

**ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D**

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

Health, Department of -

DC Board of Dentistry - Change in Meeting  
Time - March 18, 2015 .....002848

Health Regulation Licensing Administration -  
Board of Chiropractic Meeting - March 10, 2015..... 002849

Not-for-Profit Hospital Corporation -

General Board Meeting - February 26, 2015 .....002850 - 002851

Police Complaints, Office of -

Board Meeting - March 19, 2015 ..... 002852

Taxicab Commission, DC -

General Commission Meeting - March 11, 2015 ..... 002853

Washington Latin Public Charter School - Request for Proposals -

Educational Travel Services and Auditing Services ..... 002854

Zoning Adjustment, Board of - Orders -

18865 Kevin Latner - ANC 5E..... 002855 - 002857

18876 Habitat for Humanity of Washington, DC - ANC 7E ..... 002858 - 002860

18890 Rock Creek - 650 LLC - ANC 6C ..... 002861 - 002864

18920 Richard S. Parnell - ANC 6B..... 002865 - 002867

Public Employee Relations Board - Opinions -

1495 PERB Case No. 14-A-11, Fraternal Order of  
Police/Metropolitan Police Department Labor  
Committee (on behalf of Jose' Nieves-Campos,  
Tiffany Wells, and Kim Miller), v. District of  
Columbia Fraternal Order of Police/Metropolitan  
Police Department .....002868 - 002873

1499 PERB Case No. 14-U-14, American Federation  
of Government Employees, Local 2978, v.  
District of Columbia Department of Health .....002874 - 002878

1500 PERB Case No. 13-A-05, Fraternal Order of  
Police/Metropolitan Police Department Labor  
Committee, v. District of Columbia  
Metropolitan Police Department .....002879 - 002883

**ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D**

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

Public Employee Relations Board - Opinions – cont'd

|      |   |                 |
|------|---|-----------------|
| 1501 | PERB Case No. 11-U-38(R), Fraternal Order of Police/Metropolitan Police Department Labor Committee, v. District of Columbia Metropolitan Police Department.....   | 002884 - 002887 |
| 1502 | PERB Case No. 15-A-01, District of Columbia Water and Sewer Authority, v. American Federation of Government Employees, Local 2091 .....   | 002888 - 002892 |
| 1503 | PERB Case No. 14-A-07, District of Columbia Housing Authority, v. AFGE, Local 2725 .....  | 002893 - 002901 |
| 1505 | PERB Case No. 13-U-10, Fraternal Order of Police/Metropolitan Police Department Labor Committee, v. District of Columbia Office of Unified Communications, and District of Columbia Office of Labor Relations and Collective Bargaining ..... | 002902 - 002913 |

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-7**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**FEBRUARY 27, 2015**

To amend, on an emergency basis, due to congressional review, the District of Columbia Statehood Constitutional Convention Initiative of 1979 to repeal the Statehood Commission, repeal the Statehood Compact Commission, to establish the Office of the Statehood Delegation, and to establish the New Columbia Statehood Commission and New Columbia Statehood Fund; to repeal the 51<sup>st</sup> State Commission Establishment Act of 2010; to amend section 47-1812.11c of the District of Columbia Official Code to reflect the establishment of the New Columbia Statehood Fund; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish personnel authority for the Statehood Delegation over the Office of the Statehood Delegation; to amend the District of Columbia Health Occupations Revision Act of 1985 to repeal the Health Occupation Advisory Committees; to amend the Department of Health Functions Clarification Act of 2001 to re-establish the Health Occupation Advisory Committees under the Department of Health; to amend the Retail Service Station Act of 1976 to modify the membership and scope of the Gas Station Advisory Board; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to modify the personnel authority for the District of Columbia Law Revision Commission; to amend the District of Columbia Law Revision Commission Act of 1980 to modify the membership of the commission and provide that members shall not be compensated for service; to amend section 47-355.07 of the District of Columbia Official Code to codify the role and responsibilities of the Board of Review for Anti-Deficiency Violations, and to revise the membership of the board; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to clarify the compensation provisions for various boards and commissions, and to increase the statutory compensation cap for certain boards and commissions; to abolish certain boards and commissions; to amend Chapter 24 of Title 17 of the District of Columbia Municipal Regulations to repeal the authority for the Notary Public Board of Review; to make conforming amendments; and to provide for the orderly transition of duties and responsibilities to the newly elected Mayor and Attorney General.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "New Columbia Statehood Initiative, Omnibus Boards and Commissions, and Election Transition Reform Congressional Review Emergency Amendment Act of 2015".

## ENROLLED ORIGINAL

## TITLE I – THE NEW COLUMBIA STATEHOOD INITIATIVE

Sec. 101. The District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code § 1-121 *et seq.*), is amended as follows:

- (a) Sections 6 and 7 (D.C. Official Code §§ 1-125 and 1-126) are repealed.
- (b) Title II (D.C. Official Code § 1-129.01 *et seq.*) is amended to read as follows:

“TITLE II -- NEW COLUMBIA STATEHOOD INITIATIVE  
“SUBTITLE A. DEFINITIONS.

“Sec. 11. Definitions.

“For the purposes of this title, the term:

“(1) “Commission” means the New Columbia Statehood Commission established pursuant to section 31.

“(2) “Fund” means the New Columbia Statehood Fund established pursuant to section 32.

“(3) “Statehood Delegation” means, collectively, the United States Representative and the 2 United States Senators holding office pursuant to section 4.

“(4) “Statehood Fund” means the fund established by each United States Senator and United States Representative pursuant to section 4(g), and overseen by the Office of Campaign Finance.

“(5) “United States Representative” means the District of Columbia public official elected pursuant to section 4 to the office of Representative.

“(6) “United States Senator” means either of the 2 District of Columbia public officials elected pursuant to section 4 to the office of Senator.

“SUBTITLE B. DISTRICT OF COLUMBIA STATEHOOD DELEGATION

“Sec. 21. Office of the Statehood Delegation.

“(a) The Office of the Statehood Delegation (“Office”) is established as an independent agency within the District of Columbia government, consistent with the meaning of the term independent agency as provided in section 301(13) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(13)).

“(b) The Office shall provide support to the Statehood Delegation in promoting statehood and voting rights for the citizens of the District of Columbia.

“(c) The Office shall be headed by an Executive Director who shall be appointed by the Statehood Delegation. The Executive Director shall support the members of the Statehood Delegation and provide administrative support to the Commission.

“(d) The Executive Director shall devote his or her full time to the duties of the Office. The salary of the Executive Director shall be determined by the Statehood Delegation, but shall not exceed 75% of the compensation for a Member of the Council as determined by section 1109(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.09(b)).

## ENROLLED ORIGINAL

“(e) For Fiscal Year 2015, the compensation for the Executive Director shall be paid from funds budgeted for Statehood Initiatives under section 1112 of the Fiscal Year 2015 Budget Support Act of 2014, enacted on September 23, 2014 (D.C. Act 20-424; 61 DCR 9990). Beginning in Fiscal Year 2016, the salary for the Executive Director shall be paid from the New Columbia Statehood Fund, subject to the availability of funds.

“SUBTITLE C. NEW COLUMBIA STATEHOOD COMMISSION AND  
NEW COLUMBIA STATEHOOD FUND

“Sec. 31. Establishment of the New Columbia Statehood Commission.

“(a) The New Columbia Statehood Commission is established as an independent agency within the District of Columbia government, consistent with the meaning of the term independent agency as provided in section 301(13) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(13)).

“(b) The Commission shall:

“(1) Educate regarding, advocate for, promote, and advance the proposition of statehood and voting rights for the District of Columbia to District residents and citizens of the 50 states;

“(2) Solicit financial and in-kind contributions, grants, allocations, gifts, bequests, and appropriations from public and private sources to be deposited in the New Columbia Statehood Fund established pursuant to section 32 and used for the purposes of promoting statehood and voting rights; and

“(3) Develop an annual budget for, and oversee expenditures from, the New Columbia Statehood Fund.

“(c) The Commission shall be comprised of 5 voting members (“Commissioners”) as follows:

“(1) The Mayor, or his or her alternate;

“(2) The Chairman of the Council, or his or her alternate;

“(3) The United States Representative for the District of Columbia; and

“(4) The 2 United States Senators for the District of Columbia.

“(d) The Mayor and the Chairman of the Council shall serve as co-chairs of the Commission.

“(e) By March 1, 2015, the Commission shall adopt bylaws, and may adopt guidelines, rules, and procedures for the governance of its affairs and the conduct of its business.

“(f) The Commission shall meet, at a minimum, on a semiannual basis. A majority of the Commissioners shall constitute a quorum for the conduct of business.

“(g) The Commission, in carrying out its duties, may utilize pro bono services; provided, that such services are reported pursuant to section 33.

“(h) The Commission may recruit honorary members based on criteria the Commission shall determine. The honorary members shall have no vote on the operation of the Commission.

“Sec. 32. Establishment of the New Columbia Statehood Fund.

## ENROLLED ORIGINAL

“(a) There is established as a special fund the New Columbia Statehood Fund, which shall be administered in accordance with subsections (b), (c), and (d) of this section.

“(b)(1) All revenues from the following sources shall be deposited into the Fund:

“(A) An annual appropriation;

“(B) Any contributions to, and grants for, the benefit of the New Columbia Statehood Fund received from public and private sources;

“(C) Net receipts pursuant to the income tax check-off provided in D.C. Official Code § 47-1812.11c.

“(2) For Fiscal Year 2015, all funds not expended pursuant to section 21(e) from the funds budgeted for Statehood Initiatives under section 1112 of the Fiscal Year 2015 Budget Support Act of 2014, enacted on September 23, 2014 (D.C. Act 20-424; 61 DCR 9990), shall be deposited into the Fund.

“(c) The Fund shall be used to support the Statehood Delegation, each of the members thereof, the Commission, and efforts to promote statehood and voting rights for the citizens of the District of Columbia.

“(d)(1) To the extent that disbursements are to be made to the Statehood Fund of each member of the Statehood Delegation, the disbursements, as decided by the Commission, shall be equal to each member, except as provided in this subsection.

“(2) No disbursement shall be made under this subsection to a member of the District of Columbia Statehood Delegation who is out of compliance with the filing and disclosure requirements of this title and applicable District or federal law, or who has used funds in violation of section 35, until such time as the violation has been corrected. In this instance, the 1/3 disbursement held back shall become part of the corpus from which the next disbursement pursuant to this subsection may be made.

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

“(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

“(f) The Mayor shall submit to the Council, as part of the annual budget, a requested appropriation for expenditures from the Fund. The Mayor’s submission shall be based on a budget prepared by the Commission, and shall include the rationale for any variance from the Commission’s request.

“(g) The Chief Financial Officer shall transmit to the Mayor and the Council, at least annually, a report summarizing the revenues and expenditures of the Fund.

“(h) All revenues and expenses of the Fund shall be audited annually by the Chief Financial Officer, who shall transmit the audit to the Mayor and the Council. The expenses of the annual audit shall be defrayed by the Fund.

“Sec. 33. Annual reporting requirements.

“(a) The Commission shall submit to the Mayor and the Chairman of the Council by September 1, 2015, and on a biannual basis thereafter, a detailed report including:

“(1) The Commission’s activities, revenues, and expenditures;



## ENROLLED ORIGINAL

“(2) The full name, value, and form of each gift, grant, bequest, or appropriation to the New Columbia Statehood Fund; and

“(3) Any other information considered appropriate by the Commission.

“(b) The Commission shall make each report available to the general public upon request.

“Sec. 34. Tax-exempt status.

“Contributions to the New Columbia Statehood Fund shall be tax deductible.

“Sec. 35. Use of funds by Statehood Delegation members.

“(a) Except as provided in subsection (b) of this section, members of the Statehood Delegation shall use New Columbia Statehood Fund monies for any expense closely and directly related to the operation of their offices.

“(b)(1) Fund monies shall not be used by members of the Statehood Delegation for:

“(A) Campaign expenses related to any election, local or national;

“(B) To influence the outcome of any election, local or national;

“(C) Any contributions or loans to any political party or candidate for federal or non-federal office;

“(D) Any personal expenses, or travel expenses not closely and directly related to the office the member holds; or

“(E) Any personal salary or stipend for the member.

“(2) The prohibition in paragraph (1)(E) of this subsection shall not limit the ability of a member of the Statehood Delegation to pay salaries to employees other than the member, or to pay vendors providing services closely and directly related to the office the member holds.

“(c) Upon request, but at least annually, each Statehood Delegation member shall provide the Chief Financial Officer with an accounting of the expenditures made with the money received from the Fund. The date by which the accounting is due shall be set by the Chief Financial Officer. Information submitted by members of the Statehood Delegation shall be included in the report required by section 33.”

Sec. 102. The 51st State Commission Establishment Act of 2010, effective March 23, 2010 (D.C. Law 18-127; D.C. Official Code § 1-136.01 *et seq.*), is repealed.

Sec. 103. Section 47-1812.11c of the District of Columbia Official Code is amended as follows:

(a) Subsection (a) is amended by striking the phrase “the Statehood Delegation Fund (“Fund”)", established by § 1-129.08” and inserting the phrase “the New Columbia Statehood Fund (“Fund”)", established by section 32 of the New Columbia Statehood Initiative, Omnibus Boards and Commissions, and Election Transition Reform Emergency Amendment Act of 2014, passed on emergency basis on October 28, 2014 (Enrolled version of Bill 20-986)” in its place.

(b) Subsection (c) is repealed.

## ENROLLED ORIGINAL

Sec. 104. Section 406(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.06(b)), is amended as follows:

(a) Paragraph (21) is amended by striking the phrase “Administration; and” and inserting the phrase “Administration;” in its place.

(b) Paragraph (22) is amended by striking the phrase “Education.” and inserting the phrase “Education; and” in its place.

(c) A new paragraph (23) is added to read as follows:

“(23) For the Executive Director of the Office of the Statehood Delegation, the personnel authority is the Statehood Delegation as defined in section 11(3) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 16, 2005 (D.C. Law 15-226; D.C. Official Code § 1-209.01(3)).”

Sec. 105. Within 60 days of the effective date of the New Columbia Statehood Initiative and Omnibus Boards and Commissions Reform Amendment Act of 2014, passed on 2nd reading on October 28, 2014 (Enrolled version of Bill 20-71), the Commission shall issue a report with findings as to whether the Statehood Delegation should receive compensation in the form of a salary or stipend and, if so, the appropriate amount of such compensation.

TITLE II -- OMNIBUS BOARDS AND COMMISSIONS REFORM  
SUBTITLE A. STRUCTURAL REVISIONS TO CERTAIN BOARDS AND COMMISSIONS  
PART 1. HEALTH OCCUPATIONS ADVISORY COMMITTEES

Sec. 201. Section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), is amended by repealing subsections (b), (c-1), (c-2), (d), (d-1), (d-2), (d-3), (e), and (f).

Sec. 202. The Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731 *et seq.*), is amended as follows:

(a) Redesignate Part A, Part B, and Part C as Subtitle A, Subtitle B, and Subtitle C, respectively.

(b) A new Subtitle D is added to read as follows:

“Subtitle D. Health Occupation Advisory Committees.

“Sec. 4941. Generally.

“(a) The Department of Health shall oversee the Health Occupation Advisory Committees established under this subtitle.

“(b) All appointments to the Health Occupation Advisory Committees shall be made by the Director of the Department of Health.

“(c) The Department of Health shall provide facilities and other administrative support for the Health Occupation Advisory Committees, as determined by the Director.

“(d) The Health Occupation Advisory Committees shall review applications for licensure to practice upon request of the Board of Medicine. The Health Occupation Advisory Committees shall submit their respective recommendations to the Board of Medicine for action.

## ENROLLED ORIGINAL

“(e) For the purposes of this subtitle, the term:

(1) “Board of Medicine” means the Board of Medicine established pursuant to section 203(a) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03(a)).

(2) “Health Occupation Advisory Committees” means the advisory committees established pursuant to this subtitle.

“Sec. 4942. Advisory Committee on Acupuncture.

“(a) There is established an Advisory Committee on Acupuncture to consist of 5 members as follows:

“(1) The Director of the Department of Health, or his or her designee;

“(2) Three non-physician acupuncturists licensed in the District;

“(3) A consumer member.

“(b) Of the appointees to the Advisory Committee on Acupuncture other than the Director, 2 shall serve an initial term of 2 years and 2 shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

“(c)(1) The Advisory Committee on Acupuncture shall develop and submit to the Board of Medicine guidelines for licensing acupuncturists and regulating the practice of acupuncture in the District.

“(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

“(B) The Advisory Committee on Acupuncture shall submit revised guidelines to the Board of Medicine by June 22, 2015.

“(3) The Advisory Committee on Acupuncture shall meet at least annually to review guidelines and make necessary revisions for submission to the Board of Medicine.

“Sec. 4943. Advisory Committee on Anesthesiologist Assistants.

“(a) There is established an Advisory Committee on Anesthesiologist Assistants to consist of 3 members as follows:

“(1) The Director of the Department of Health, or his or her designee;

“(2) An anesthesiologist licensed in the District with experience working with anesthesiologist assistants; and

“(3) An anesthesiologist assistant licensed in the District.

“(b) Of the appointees to the Advisory Committee on Anesthesiologist Assistants other than the Director, one shall serve an initial term of 2 years and one shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

“(c)(1) The Advisory Committee on Anesthesiologist Assistants shall develop and submit to the Board of Medicine guidelines for licensing and regulating anesthesiologist assistants in the District. The guidelines shall set forth the actions that anesthesiologist assistants may perform under the direct supervision of a licensed anesthesiologist, who shall be responsible for the overall medical direction of the care and treatment of patients.

## ENROLLED ORIGINAL

“(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

“(B) The Advisory Committee on Anesthesiologist Assistants shall submit revised guidelines to the Board of Medicine by June 22, 2015.

“(3) The Advisory Committee on Anesthesiologist Assistants shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.

“Sec. 4944. Advisory Committee on Naturopathic Medicine.

“(a) There is established an Advisory Committee on Naturopathic Medicine to consist of 3 members as follows:

“(1) The Director of the Department of Health, or his or her designee;

“(2) A licensed physician with experience in naturopathic medicine or in working with naturopathic physicians; and

“(3) A licensed naturopathic physician.

“(b) Of the appointees to the Advisory Committee on Naturopathic Medicine other than the Director, one shall serve an initial term of 2 years and one shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

“(c)(1) The Advisory Committee on Naturopathic Medicine shall develop and submit to the Board of Medicine guidelines for licensing naturopathic physicians and regulating the practice of naturopathic medicine in the District.

“(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

“(B) The Advisory Committee on Naturopathic Medicine shall submit revised guidelines to the Board of Medicine by June 22, 2015.

“(3) The Advisory Committee on Naturopathic Medicine shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.

“Sec. 4945. Advisory Committee on Physician Assistants.

“(a) There is established an Advisory Committee on Physician Assistants to consist of 3 members as follows:

“(1) The Director of the Department of Health, or his or her designee;

“(2) A physician or osteopath licensed in the District with experience working with physician assistants; and

“(3) A physician assistant licensed in the District.

“(b) Of the appointees to the Advisory Committee on Physician Assistants other than the Director, one shall serve an initial term of 2 years and one shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

## ENROLLED ORIGINAL

“(c)(1) The Advisory Committee on Physician Assistants shall develop and submit to the Board of Medicine guidelines for licensing and regulating physician assistants in the District. The guidelines shall set forth the actions that physician assistants may perform in collaboration with a licensed physician or osteopath, who shall be responsible for the overall medical direction of the care and treatment of patients and the level of collaboration required for each action.

“(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

“(B) The Advisory Committee on Physician Assistants shall submit revised guidelines to the Board of Medicine by June 22, 2015.

“(3) The Advisory Committee on Physician Assistants shall meet at least annually to review guidelines and make necessary revisions for submission to the Board of Medicine.

“Sec. 4946. Advisory Committee on Polysomnography.

“(a) There is established an Advisory Committee on Polysomnography to consist of 3 members as follows:

“(1) The Director of the Department of Health, or his or her designee; and

“(2) Two polysomnographic technologists licensed in the District.

“(b) Of the appointees to the Advisory Committee on Polysomnography other than the Director, one shall serve an initial term of 2 years and one shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

“(c)(1) The Advisory Committee on Polysomnography shall develop and submit to the Board of Medicine guidelines for licensing, registration, and regulation of polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees in the District. The guidelines shall set forth the education and experience requirements for registration and licensure and the actions that polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees may perform.

“(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

“(B) The Advisory Committee on Polysomnography shall submit revised guidelines to the Board of Medicine by June 22, 2015.

“(3) The Advisory Committee on Polysomnography shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.

“Sec. 4947. Advisory Committee on Surgical Assistants.

“(a) There is established an Advisory Committee on Surgical Assistants to consist of 5 members as follows:

“(1) The Director of the Department of Health, or his or her designee;

“(2) A surgeon licensed in the District with experience working with surgical assistants; and

## ENROLLED ORIGINAL

“(3) Three surgical assistants licensed in the District.

“(b) Of the appointees to the Advisory Committee on Surgical Assistants other than the Director, 2 shall serve an initial term of 2 years and 2 shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

“(c)(1) The Advisory Committee on Surgical Assistants shall develop and submit to the Board of Medicine guidelines for licensing and regulating surgical assistants in the District. The guidelines shall set forth the actions that surgical assistants may perform in collaboration with a licensed surgeon, who shall be responsible for the overall medical direction of the care and treatment of patients.

“(2)(A) Guidelines approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

“(B) The Advisory Committee on Surgical Assistants shall submit revised guidelines to the Board of Medicine by June 22, 2015.

“(3) The Advisory Committee on Surgical Assistants shall meet at least annually to review the guidelines and make necessary revisions for submission to the Board of Medicine.”

## PART 2. GAS STATION ADVISORY BOARD

Sec. 211. Section 5-301 of the Retail Service Station Act of 1976, effective April 19, 1977 (D.C. Law 1-123; D.C. Official Code § 36-304.01), is amended as follows:

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

(1) Strike the phrase “structurally altered” and insert the phrase “discontinued, nor may be structurally altered” in its place.

(2) Strike the phrase “nonfull service facility” and insert the phrase “nonfull service facility or into any other use” in its place.

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

“(d)(1) An exemption may be granted to the prohibitions contained in subsections (b) and (c) of this section if:

“(A) A petition for exemption has been filed with the Gas Station Advisory Board (“Board”), established pursuant to subsection (e) of this section, by both a distributor and a retail dealer (collectively referred to as “petitioners”) that complies with the requirements of paragraph (2) of this subsection;

“(B) The Board makes a determination, pursuant to paragraph (3) of this subsection, that an exemption should be granted and makes a recommendation to the Mayor to grant the exemption; and

“(C) The Mayor, in agreement with the Board, grants the exemption.

“(2) To be considered for an exemption under this subsection, petitioners must file a petition with the Board that includes:

“(A) Plans and a certification by petitioners that the station will be improved in the following ways:

ENROLLED ORIGINAL

reasonable level);

dispensers; and

restroom facilities for men and women, a working air hose for automobile and bicycle tires, and water for windshield cleaning equipment;

“(B) Any existing site market studies that justify the conversion;

“(C) Certification that petitioners have notified the Advisory Neighborhood Commission ("ANC") in which the station is located and any ANC within one-quarter mile of the station, and has met or offered to meet with any affected ANC before submission of the petition for exemption regarding their plans for the station and its impact on the neighborhood; and

“(D) Certification by petitioners that, should the application be granted, any later changes to the building design or lighting will be submitted to any affected ANC before the application for building permits.

“(3)(A) The Board shall only make a recommendation to grant an exemption if the Board finds that:

“(i) The operator of the full service retail service station is experiencing extreme financial hardship; and

“(ii) Another full service retail service station exists within one mile of the station which provides equivalent service facilities.

“(B) In addition to the requirements in subparagraph (A) of this paragraph, the Board shall give due weight to the views of the community and the affected ANC.

“(4) If the Board makes a recommendation to the Mayor that an exemption should be granted under this subsection, the Mayor shall issue a determination on the petition not less than 45 days, nor more than 60 days, after the date the petition is submitted, deemed complete, and notice of thereof has been published in the District of Columbia Register. If the Mayor does not issue a determination within the 60 days, the petition shall be deemed approved.”.

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

“(e)(1) There is established a Gas Station Advisory Board to consider petitions for exemption from the requirements contained in subsections (b) and (c) of this section.

“(2) The Board shall consist of 5 members as follows:

“(A) One member representing the retail service station dealers, appointed by the Mayor;

Mayor;

“(B) One member representing the oil companies, appointed by the

Mayor;

“(C) One member representing the community interest, appointed by the

Council;

“(D) One member representing the community interest, appointed by the

## ENROLLED ORIGINAL

“(E) One member representing the Mayor.

“(3) Members of the Board appointed under this subsection shall continue to serve until their successors are appointed.

“(4) The Board shall establish and publish, for 30 days comment, the rules and procedures which shall govern its conduct. The Board may establish and publish, for 30 days comment, additional criteria which shall be used in reviewing the petitions for exemptions.”.

## PART 3. LAW REVISION COMMISSION

Sec. 221. Section 406(b)(11) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.06(b)(11)), is amended by striking the phrase “the personnel authority is the District of Columbia Law Revision Commission” and inserting the phrase “the personnel authority is the Chairman of the Council” in its place.

Sec. 222. Section 2 of the District of Columbia Law Revision Commission Act of 1980, effective February 26, 1981 (D.C. Law 3-119; D.C. Official Code § 45-301), is amended as follows:

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

“(a) There is established as an advisory body to the Council of the District of Columbia the District of Columbia Law Revision Commission (“Commission”), which shall be composed of 9 members, as follows:

“(1) Four members appointed by the Council of the District of Columbia;

“(2) Two members appointed by the Mayor of the District of Columbia;

“(3) Two members appointed by Joint Committee on Judicial Administration in the District of Columbia; and

“(4) The Attorney General of the District of Columbia, or his or her designee.”.

(b) Subsection (b) is repealed.

(c) Subsection (c) is amended by striking the phrase “Except as provided in subsection (d) of this section, no” and inserting the phrase “No” in its place.

(d) Subsection (d) is repealed.

(e) Subsection (h) is amended to read as follows:

“(h) Each member of the Commission shall serve without compensation; provided, that each member may be reimbursed for actual expenses pursuant to section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08).”.

(f) Subsection (j) is repealed.

## PART 4. BOARD OF REVIEW FOR ANTI-DEFICIENCY VIOLATIONS

Sec. 231. Section 47-355.07 of the District of Columbia Official Code is amended to read as follows:

“Sec. 47-355.07. Board of Review for Anti-Deficiency Violations.



## ENROLLED ORIGINAL

“(a) The Board of Review for Anti-Deficiency Violations (“Review Board”) is established as an independent agency within the District of Columbia government, consistent with the meaning of the term independent agency, as provided in section 301(13) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(13)).

“(b) The Review Board shall:

“(1) Advise and make recommendations to the Mayor, Council, Chief Financial Officer, and Inspector General on issues relative to anti-deficiency law violations in the District of Columbia; and

“(2) Convene within 30 days of learning of an alleged violation of § 47-355.02 to determine whether a violation occurred.

“(c)(1) The Review Board shall be comprised of 5 members of the District of Columbia government appointed as follows:

“(A) Two representatives who serve at the pleasure of the Chief Financial Officer, one of whom shall be appointed by the Chief Financial Officer to serve as Chairperson of the Review Board;

“(B) One representative who serves at the pleasure of the Mayor;

“(C) One representative of the Council, who shall be an employee of the Council and shall be appointed by the Chairman of the Council; and

“(D) One representative who serves at the pleasure of the Inspector General.

“(2) Members shall be appointed to a term of 3 years. Each member may serve beyond the end of their term until reappointed or replaced by the appropriate appointing authority.

“(3) Members shall serve without compensation; provided, that a member may be reimbursed for expenses incurred in the authorized execution of official duties of the Review Board if those expenses are approved in advance by the Chief Financial Officer.

“(d) If the Review Board determines that a violation of § 47-355.02 has occurred, it shall:

“(1) Assess the responsibility of culpable employees;

“(2) Except as provided in subsection (e) of this section, recommend an appropriate disciplinary action; and

“(3) Present a report to the Council within 30 days of the determination of a violation that includes all relevant facts, including:

“(A) The violation;

“(B) The name and title of the employees who were responsible for the violation;

“(C) Any justification; and

“(D) A statement of the action taken or proposed to be taken.

“(e)(1) A finding by the Review Board that a violation of § 47-355.02 has occurred shall not be a prerequisite for adverse personnel action under § 47-355.06.

## ENROLLED ORIGINAL

“(2) In recommending appropriate disciplinary action under subsection (d) of this section, the Review Board may make a recommendation that no action be taken where it finds justification for the violation. Justification may include overspending as a result of court orders, entitlements, or explicit authorization in an appropriations act.

“(f) The Review Board is authorized to establish subcommittees as needed. A subcommittee may include District government employees who are not members of the Review Board; provided, that each subcommittee is chaired by a member of the Review Board.

“(g) The Review Board may establish its own bylaws and rules of procedure, subject to the approval of the Chief Financial Officer or his or her designee.

“(h) The Office of the Chief Financial Officer shall provide administrative and staff support to the Review Board.”.

## PART 5. COMMISSION ON THE ARTS AND HUMANITIES

Sec. 232. Section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), is amended as follows:

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

(1) Paragraph 31 is amended by striking the period and inserting the phrase “; and” in its place.

(2) A new paragraph (32) is added to read as follows:

“(32) Commission on the Arts and Humanities, established by section 4 of the Commission on the Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-203).”.

(b) Subsection (f)(11) is repealed.

## SUBTITLE B. COMPENSATION FOR SERVICE ON CERTAIN BOARDS AND COMMISSIONS

Sec. 241. Section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08), is amended as follows:

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

“(a-1) Except as provided in subsection (a) of this section, members of boards and commissions shall not be compensated for time expended in the performance of official duties except as authorized by subsections (b), (c), (c-1), (c-2), and (c-3) of this section.”.

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

“(c) Members of the following boards and commissions shall be entitled to compensation in the form of a salary as currently authorized by law:

“(1) Public Service Commission;

“(2) Contract Appeals Board;

“(3) Rental Housing Commission;

“(4) The Chairperson of the District of Columbia Taxicab Commission;

“(5) District of Columbia Board of Ethics and Government Accountability; and

“(6) Full-time members of the Real Property Tax Appeals Commission.”.

## ENROLLED ORIGINAL

(c) New subsections (c-1), (c-2), and (c-3) are added to read as follows:

“(c-1) Members of the following boards and commissions shall be entitled to compensation in the form of an hourly rate of pay as follows:

“(1) Board of Zoning Adjustment members shall be entitled to compensation at the hourly rate of \$25 for time spent in performance of duties at meetings, not to exceed \$12,000 for each board member per year;

“(2) Office of Employee Appeals members shall be entitled to compensation at the hourly rate of \$25 for time spent in performance of duties at meetings, not to exceed \$3,000 for each member per year;

“(3) District of Columbia Retirement Board Members shall be entitled to compensation as provided in section 121(c) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-711(c));

“(4) Police and Firefighters Retirement and Relief Board members shall be entitled to compensation at the hourly rate of \$25 for time spent in performance of duties at meetings, not to exceed \$8,000 for each board member per year;

“(5) Public Employee Relations Board members shall be entitled to compensation at the hourly rate of \$25 for time spent in performance of duties at meetings, not to exceed \$3,000 for each board member per year;

“(6) Zoning Commission members shall be entitled to compensation at the hourly rate of \$25 for time spent in performance of duties at meetings, not to exceed \$12,000 for each commission member per year;

“(7) Historic Preservation Review Board members shall be entitled to compensation at the hourly rate of \$25 for time spent in performance of duties at meetings, not to exceed \$3,000 for each board member per year;

“(8) Alcoholic Beverage Control Board members shall be entitled to compensation at the hourly rate of \$40 for time spent in performance of duties at meetings, not to exceed \$18,000 for each board member per year;

“(9) Part-time members of the Real Property Tax Appeals Commission shall be entitled to compensation at the hourly rate of \$50 for time spent in performance of duties at meetings;

“(10) District of Columbia Board of Elections members shall be entitled to compensation at the hourly rate of \$40 while actually in the service of the board, not to exceed the \$12,500 for each member per year and \$26,500 for the Chairman per year.

“(c-2) Members of the following boards and commissions shall be entitled to compensation in the form of stipend as follows:

“(1) Each Commissioner, other than the ex officio Commissioner and the Chairperson, of the Board of Commissioners of the District of Columbia Housing Authority shall be entitled to a stipend of \$3,000 per year for their service on the board; the Chairperson shall be entitled to a stipend of \$5,000 per year. Each Commissioner also shall be entitled to reimbursement of actual travel and other expenses reasonably related to attendance at board meetings and fulfillment of official duties. Stipends and reimbursements shall be made at least quarterly;

## ENROLLED ORIGINAL

“(2) Each member of the Education Licensure Commission shall be entitled to a stipend of \$4,000 per year for their service on the commission. Each member also shall be entitled to reimbursement of actual travel and other expenses reasonably related to the performance of the duties of the commission while away from their homes or regular places of business; and

“(3)(A) Public and industry members of the District of Columbia Taxicab Commission shall be entitled to compensation of \$25 per meeting or work session, not to exceed \$1,350 for each public or industry member per year.

“(B) Total compensation for all Commission members shall not exceed \$10,800, for all meetings and work sessions.

“(c-3) Chairpersons of the boards and commissions specified in subsections (c-1) and (c-2) of this section who are public members shall be entitled to an additional compensation of 20% above the annual maximum.”.

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

“(d) Members of boards and commissions shall not be entitled to reimbursement for expenses unless specifically authorized by law; except, that transportation, parking, or mileage expenses incurred in the performance of official duties may be reimbursed, not to exceed \$15 per meeting or currently authorized amounts, whichever is less.”.

## SUBTITLE C. ABOLISHMENT OF CERTAIN BOARDS AND COMMISSIONS

Sec. 251. The Emerging Technology Opportunity Development Task Force Act of 2006, effective March 2, 2007 (D.C. Law 16-190; D.C. Official Code § 2-1221.31 *et seq.*), is repealed.

Sec. 252. The Litter and Solid Waste Act of 1985, effective February 21, 1986 (D.C. Law 6-84; D.C. Official Code § 3-1001 *et seq.*), is repealed.

Sec. 253. Section 101 of the Enhanced Professional Security Amendment Act of 2006, effective November 16, 2006 (D.C. Law 16-187; D.C. Official Code § 5-129.21), is repealed.

Sec. 254. The District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-201 *et seq.*), is amended as follows:

(a) Section 2(2) (D.C. Official Code § 6-201(2)) is repealed.

(b) Section 12 (D.C. Official Code § 6-211) is amended as follows:

(1) Subsection (b)(1) is amended by striking the phrase “Advisory Committee” and inserting the phrase “Executive Director” in its place.

(2) Subsection (c) is amended by striking the phrase “Advisory Committee” and inserting the phrase “Executive Director” in its place.

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

“(s) Commissioners shall be entitled to compensation as provided in section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08).”.

(c) Section 13 (D.C. Official Code § 6-212) is repealed.

## ENROLLED ORIGINAL

Sec. 255. The Tobacco Settlement Trust Fund Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code § 7-1811.01 *et seq.*), is amended as follows:

(a) Section 2302(b) (D.C. Official Code § 7-1811.01(b)) is amended by striking the phrase “Board of Trustees of the Tobacco Settlement Trust Fund established under section 2302a” and inserting the phrase “Office of the Chief Financial Officer” in its place.

(b) Section 2302a (D.C. Official Code § 7-1811.02) is repealed.

Sec. 256. Section 15 of the Choice in Drug Treatment Act of 2000, effective July 18, 2000 (D.C. Law 13-146; D.C. Official Code § 7-3014), is repealed.

Sec. 257. Section 7 of the District of Columbia Soil and Water Conservation Act of 1982, effective September 14, 1982 (D.C. Law 4-143; D.C. Official Code § 8-1706), is repealed.

Sec. 258. The Make a Difference Selection Committee Establishment Act of 1998, effective April 30, 1998 (D.C. Law 12-98; D.C. Official Code § 9-1215.01 *et seq.*), is repealed.

Sec. 259. The Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-301 *et seq.*), is amended as follows:

(a) Section 4(d) (D.C. Official Code § 10-303(d)) is amended by striking the phrase “with recommendations from the Recreation Assistance Board established by section 7”.

(b) Section 7 (D.C. Official Code § 10-306) is repealed.

Sec. 260. Section 501 of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 22-4251), is repealed.

Sec. 261. Section 802 of the Securities Act of 2000, effective October 26, 2000 (D.C. Law 13-203; D.C. Official Code § 31-5608.02), is repealed.

Sec. 262. The Cable Television Communications Act of 1981, effective August 21, 1982 (D.C. Law 4-142; D.C. Official Code § 34-1251.01 *et seq.*), is amended as follows:

(a) Section 103(1) (D.C. Official Code § 34-1251.03(1)) is amended repealed.

(b) Section 202(17) (D.C. Official Code § 34-1252.02(17)) is repealed.

(c) Section 301 (D.C. Official Code § 34-1253.01) is repealed.

Sec. 263. The District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Official Code § 38-1208.01 *et seq.*), is amended as follows:

(a) Section 801(1) (D.C. Official Code § 38-1208.01(1)) is repealed.

(b) Section 803 (D.C. Official Code § 38-1208.03) is repealed.

## ENROLLED ORIGINAL

(c) Section 804 (D.C. Official Code § 38-1208.04) is repealed.

Sec. 264. The School Modernization Financing Act of 2006, effective June 8, 2006 (D.C. Law 16-123; D.C. Official Code § 38-2973.01 *et seq.*), is amended as follows:

- (a) Section 201 (D.C. Official Code § 38-2973.01) is repealed.
- (b) Section 202 (D.C. Official Code § 38-2973.02) is repealed.

Sec. 265. An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-101 *et seq.*), is amended as follows:

- (a) Section 9 (D.C. Official Code § 39-109) is repealed.
- (b) Section 10 (D.C. Official Code § 39-110) is repealed.
- (c) Section 11 (D.C. Official Code § 39-111) is repealed.

Sec. 266. The Office of the Chief Tenant Advocate Establishment Act of 2005, effective October 20, 2005 (D.C. Law 16-33, D.C. Official Code § 42-3531.01 *et seq.*), is amended as follows:

- (a) Section 2064(3) (D.C. Official Code § 42-3531.04(3)) is repealed.
- (b) Section 2068 (D.C. Official Code § 42-3531.08) is repealed.

Sec. 267. Chapter 45 of Title 47 of the District of Columbia Official Code is amended as follows:

- (a) Section 47-4501(3) is repealed.
- (b) Section 47-4504 is repealed.
- (c) Section 47-4512(b)(1) is amended by striking the phrase “and the Advisory Board”.

Sec. 268. The District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 954; D.C. Official Code § 51-101 *et seq.*), is amended as follows:

- (a) Section 1(10) (D.C. Official Code § 51-101(10)) is repealed.
- (b) Section 3 (D.C. Official Code § 51-103) is amended as follows:
  - (1) Subsection (d) is amended by striking the phrase “in accordance with such regulations as the Board may prescribe”.
  - (2) Subsection (h) is amended as follows:
    - (A) Paragraph (1)(F) is amended by striking the phrase “, in accordance with such regulations as the Board may prescribe,”.
    - (B) Paragraph (4) is amended by striking the word “Board” and inserting the word “Director” in its place.
- (c) Section 7 (D.C. Official Code § 51-107) is amended as follows:
  - (1) Subsection (a) is amended by striking the phrase “, in accordance with such regulations as the Board may prescribe”.
  - (2) Subsection (c)(2) is amended by striking the phrase “, under regulations prescribed by the Board,”.

## ENROLLED ORIGINAL

(3) Subsection (g) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase “as provided in the regulations of the Board,”.

(B) Paragraph (6)(A) is amended by striking the phrase “as provided in the regulations of the Board”.

(d) Section 9 (D.C. Official Code § 51-109) is amended by striking the phrase “in accordance with such regulations as the Board may prescribe”.

(e) Section 10 (D.C. Official Code § 51-110) is amended as follows:

(1) Subsection (b)(3) is repealed.

(2) Subsection (e) is amended by striking the phrase “under regulations prescribed by the Board”.

(f) Section 15 (D.C. Official Code § 51-115) is repealed.

Sec. 269. 17 DCMR § 2411 through 17 DCMR § 2422 are repealed.

TITLE III -- TECHNICAL, CONFORMING, AND OTHER AMENDMENTS  
SUBTITLE A. DEPARTMENT OF PARKS AND RECREATION NAME CLARIFICATION

Sec. 301. An Act To vest in the Commissioners of the District of Columbia control of street parking in said District, approved July 1, 1898 (30 Stat. 570; codified in scattered cites in the D.C. Official Code), is amended as follows:

(a) Section 6a (D.C. Official Code § 10-137.01) is amended by striking the phrase “Department of Recreation and Parks” in the title and inserting the phrase “Department of Parks and Recreation” in its place.

(b) A new section 8 is added to read as follows:

“Sec. 8. Name change to Department of Recreation and Parks.

“The Department of Recreation and Parks, established by Organization Order No. 10, approved June 27, 1968, shall be renamed the Department of Parks and Recreation.”.

Sec. 302. Section 2 of the Division of Park Services Act of 1988, effective March 16, 1989 (D.C. Law 7-209; D.C. Official Code § 10-166), is amended as follows:

(a) Subsection (a) is amended by striking the phrase “Department of Recreation” and inserting the phrase “Department of Parks and Recreation” in its place.

(b) Subsection (c) is amended by striking the phrase “Department of Recreation” and inserting the phrase “Department of Parks and Recreation” in its place.

(c) Subsection (f) is amended by striking the phrase “Department of Recreation and Parks” and inserting the phrase “Department of Parks and Recreation” in its place.

Sec. 303. Section 4a of Article II of An Act to create a Recreation Board for the District of Columbia, to define its duties and for other purposes, effective May 16, 1995 (D.C. Law 10-255; D.C. Official Code § 10-213.01), is amended by striking the phrase “Department of

## ENROLLED ORIGINAL

Recreation and Parks” and inserting the phrase “Department of Parks and Recreation” in its place.

Sec. 304. The Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-301 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 10-302) is amended by striking the phrase “Department of Recreation and Parks” in the section heading and inserting the phrase “Department of Parks and Recreation” in its place.

(b) Section 7(a)(7) (D.C. Official Code § 10-306(a)(7)) is amended by striking the phrase “Department of Recreation and Parks” and inserting the phrase “Department of Parks and Recreation” in its place.

## SUBTITLE B. CONFORMING AMENDMENTS

Sec. 311. Section 2(f)(45) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)(45)), is repealed.

Sec. 312. Section 103(b)(ii)(V)(ee) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.03(b)(ii)(V)(ee)), is amended by striking the phrase “in conjunction with the Environmental Planning Commission”.

Sec. 313. The District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Official Code § 8-1001 *et seq.*), is amended as follows:

(a) Section 5(c) (D.C. Official Code § 8-1004(c)) is amended by striking the phrase “the Environmental Planning Commission established pursuant to section 2 of the Litter and Solid Waste Act of 1985, effective February 21, 1986 (D.C. Law 6-84; D.C. Official Code § 3-1001), and”.

(b) Section 8(b)(3) (D.C. Official Code § 8-1008(b)(3)) is amended by striking the phrase “, in conjunction with the Environmental Planning Commission,”.

Sec. 314. Section 4(f) of the Education Licensure Commission Act of 1976, effective April 6, 1977 (D.C. Law 1-104; D.C. Official Code § 38-1304(f)), is amended to read as follows:

“(f) Members of the Commission shall be entitled to compensation as provided in section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08).”.

Sec. 315. Section 2552 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1805.52), is amended by striking the phrase “representatives of public charter schools, and the Public School Modernization Advisory Committee” and inserting the phrase “and representatives of public charter schools” in its place.



## ENROLLED ORIGINAL

Sec. 316. Section 1104(c) of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803(c)), is amended as follows:

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

(b) Paragraph (5) is repealed.

Sec. 317. Section 6(c) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-305(c)), is amended by striking the phrase “pursuant to section 1108(c)(2)(K) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(c)(2)(K))” and inserting the phrase “pursuant to section 1108(c-2)(3) of the District of Columbia Government Comprehensive Merit Personnel Act of 1974, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(c-2)(3))” in its place.

## TITLE IV – MAYOR AND ATTORNEY GENERAL TRANSITION

## Sec. 401. Definitions.

For the purposes of this title, the term

(1) “Attorney General-elect” means the person who is certified as the successful candidate for the office of Attorney General by the Board of Elections following the 2014 General election held to determine the Attorney General or, for the period of time between the general election and certification, the person announced and published by the Board of Elections as the unofficial winner of the general election for Attorney General with a margin of victory of at least 2% of the votes cast.

(2) “Mayor-elect” means the person who is certified as the successful candidate for the office of Mayor by the Board of Elections following the 2014 General election held to determine the Mayor or, for the period of time between the general election and certification, the person announced and published by the Board of Elections as the unofficial winner of the general election for Mayor with a margin of victory of at least 2% of the votes cast.

## Sec. 402. Purpose.

This title authorizes the Mayor to take appropriate action to assure continuity in the execution of the laws and in the conduct of the executive affairs of the District of Columbia government. The purposes of this title are to provide for the orderly transfer of the:

(1) Executive duties and responsibilities of the Executive Office of the Mayor with the expiration of the term of office of a Mayor and the assumption of those duties and responsibilities by a new Mayor; and

(2) Legal duties and responsibilities of the Attorney General with the transition from an appointed Attorney General and the assumption of those duties and responsibilities by an elected Attorney General.

## ENROLLED ORIGINAL

## Sec. 403. Transition transfers.

The Mayor, in the discharge of his duties pursuant to section 422 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790; D.C. Official Code § 1-204.22), may make available to the Mayor-elect and the Attorney General-elect the following:

(1) Office space, furniture, furnishings, office machines, and supplies, at whatever place or places within the District as the Mayor shall designate, at no cost to the Mayor-elect and Attorney General-elect and his or her transition staff;

(2) Compensation for the transition staff of the Mayor-elect and Attorney General-elect at a rate that does not exceed the rate prescribed pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.1 *et seq.*); provided, that any person who receives compensation as a member of the transition staff under this section does not hold a position in, nor is considered to be an employee of, the District government.

(3) Expenses for the procurement by the Mayor-elect and Attorney General-elect of services of any expert or consultant, or organization thereof;

(4) Expenses incurred by the Mayor-elect and Attorney General-elect for printing, binding, and duplicating;

(5) Postage or mailing expenses incurred by the Mayor-elect and Attorney General-elect consistent with the Official Correspondence Regulations, effective April 7, 1977 (D.C. Law 1-118; D.C. Official Code § 2-701 *et seq.*); and

(6) Expenses for communications equipment or service.

## Sec. 404. Transition costs.

Upon certification by the Chief Financial Officer that appropriated funds are available and that the reprogramming of those funds has been approved by Council, there is hereby authorized the following amounts to be made available for transition costs:

(1) Up to \$300,000 for the transition of the Mayor-elect; and

(2) Up to \$150,000 for the transition of the Attorney General-elect.

## Sec. 405. Reporting requirements.

(a) The Mayor-elect and Attorney General-elect shall each file a report, to be prepared with appropriate supporting documentation, accounting for the expenditure of funds pursuant to this title.

(b) Reports prepared pursuant to subsection (a) of this section shall be submitted to the Council and Chief Financial Officer by March 31, 2015.

## TITLE V – APPLICABILITY; FISCAL IMPACT; EFFECTIVE DATE

## Sec. 501. Applicability.

This act shall apply as of February 16, 2015.

ENROLLED ORIGINAL

Sec. 502. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the New Columbia Statehood Initiative and Omnibus Boards and Commissions Reform Amendment Act of 2014, passed on 2nd reading on October 28, 2014 (Enrolled version of Bill 20-71), 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. 503. 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

UNSIGNED

\_\_\_\_\_  
Mayor  
District of Columbia  
February 26, 2015

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-8**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**FEBRUARY 26, 2015**

To amend, on an emergency basis, the Wage Theft Prevention Amendment Act of 2014 to exempt an employer from keeping precise time records for bona fide executive, administrative, and professional, as well as certain other, employees; to require an employer or a temporary staffing firm to provide notice regarding payment to an employee in a second language if the Mayor has made available a translation of the sample notice template in that second language and the employer knows that second language to be the employee's primary language or the employee requests notice in that second language; and to require the Mayor to make available, in any language required for a vital document under the Language Access Act of 2004, a translation of the sample template to be used by an employer or a temporary staffing firm when providing notice to an employee regarding payment; and to amend section 2 of An Act To provide for the payment and collection of wages in the District of Columbia to continue to exempt an employer from paying wages to bona fide executive, administrative, and professional employees at least twice during each calendar month; provided, that the employer pays wages to such employees at least once per month.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Wage Theft Prevention Clarification Emergency Amendment Act of 2015".

Sec. 2. Section 3 of the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157), is amended as follows:

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

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

“(B) Subparagraph (D) is amended to read as follows:

“(D) The precise time worked each day and each workweek by each employee, except for employees who are exempt from the minimum wage and overtime requirements under section 5(a); and”.”.

(2) Paragraph (2) is amended as follows:

(A) The new subsection (c) is amended by striking the phrase “shall furnish to each employee at the time of hiring a written notice, both in English and in the employee's primary language, containing the following information:” and inserting the phrase “shall furnish to each employee at the time of hiring a written notice in English in the form made

## ENROLLED ORIGINAL

available by the Mayor pursuant to subsection (e) of this section. If, pursuant to subsection (e) of this section, the Mayor has made available a translation of the sample template in a second language that is known by the employer to be the employee's primary language or that the employee requests, the employer also shall furnish written notice to the employee in that second language. The notice shall contain the following information:" in its place.

(B) The new subsection (e) is amended to read as follows:

"(e) The Mayor shall make available for employers a sample template of the notice required by subsection (c) of this section within 60 days of the effective date of the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157). The Mayor also shall make available for employers a translation of the sample template in any language required for vital documents pursuant to section 4 of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933)."

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

(1) The new section 9a(a)(1) is amended by striking the phrase "containing the information required by section 9(c)" and inserting the phrase "containing the information required by section 9(c) and in the form of the sample template made available by the Mayor pursuant to section 9(e). The notice shall be provided in English and if, pursuant to section 9(e), the Mayor has made available a translation of the sample template in a second language that is known by the employer to be the employee's primary language or that the employee requests, the employer also shall furnish written notice to that employee in that second language." in its place.

(2) The new section 9a(b) is amended to read as follows:

"(b)(1) When a temporary staffing firm assigns an employee to perform work at, or provide services for another organization, the temporary staffing firm shall furnish the employee a written notice in English, in the form of the sample template made available by the Mayor pursuant to subsection (c) of this section, of:

"(A) The specific designated payday for the particular assignment;

"(B) The actual rate of pay for the assignment and the benefits, if any, to be provided;

"(C) The overtime rate of pay the employee will receive or, if applicable, inform the employee that the position is exempt from additional overtime compensation and the basis for the overtime exemption;

"(D) The location and name of the client employer and the temporary staffing firm;

"(E) The anticipated length of the assignment;

"(F) Whether training or safety equipment is required and who is obligated to provide and pay for the equipment;

"(G) The legal entity responsible for workers' compensation, should the employee be injured on the job; and

"(H) Information about how to contact the designated enforcement agency for concerns about safety, wage and hour, or discrimination.

"(2) If, pursuant to subsection (c) of this section, the Mayor has made available a translation of the sample template in a second language that is known by the employer to be the

## ENROLLED ORIGINAL

employee's primary language or that the employee requests, the employer also shall furnish written notice to that employee in the second language.”.

(3) The new section 9a(c) is amended to read as follows:

“(c) The Mayor shall make available for temporary staffing firms a sample template of the notice required by subsection (b) of this section within 60 days of the effective date of the Wage Theft Prevention Amendment Act of 2014, enacted on September 19, 2014 (D.C. Act 20-426; 61 DCR 10157). The Mayor also shall make available for employers a translation of the sample template in any language required for vital documents pursuant to section 4 of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933).”.

Sec. 3. Section 2 of An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat 976; D.C. Official Code § 32-1302), is amended by striking the phrase “Every employer shall pay all wages earned to his employees at least twice during each calendar month, on regular paydays designated in advance by the employer;” and inserting the phrase “Every employer shall pay all wages earned to his employees on regular paydays designated in advance by the employer and at least twice during each calendar month, except that all bona fide administrative, executive, and professional employees (those employees employed in a bona fide administrative, executive, or professional capacity, as defined in 7 DCMR § 999.1) shall be paid at least once per month;” in its place.

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

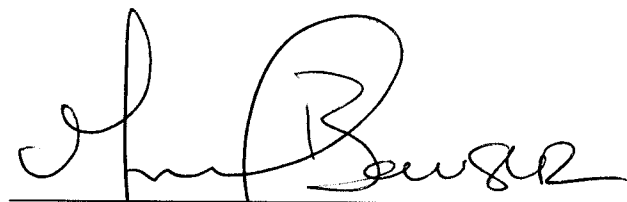
**ENROLLED ORIGINAL**

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)).



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
February 26, 2015

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-246

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To recognize, honor, and express our overwhelming gratitude to Thomas Hale Boggs, Jr., for his commitment to excellence and for his numerous contributions to the District of Columbia and her residents.

WHEREAS, Thomas Hale Boggs, Jr., known as Tommy Boggs, was born September 18, 1940, in New Orleans, Louisiana;

WHEREAS, Thomas Hale Boggs, Jr., was the son of Thomas Hale Boggs, a United States Representative from Louisiana's 2<sup>nd</sup> Congressional District, and Lindy Boggs, her husband's successor in the 2<sup>nd</sup> Congressional District;

WHEREAS, Thomas Hale Boggs, Jr., graduated from Georgetown University Law Center and began his legal practice in his native New Orleans, Louisiana, later moving to Washington, DC to become a lawyer and lobbyist in the nation's capital;

WHEREAS, he joined the law/lobbyist firm of James R. Patton, Jr., which today is known as Squire Patton Boggs;

WHEREAS, Thomas Hale Boggs, Jr., was the firm's senior partner and known for lobbying on major issues including The American Bankers Association to repeal of the Glass-Steagall Act, litigation against Chevron for environmental issues in Ecuador, and the \$1.5 billion federal bailout of Chrysler in 1979;

WHEREAS, Thomas Hale Boggs, Jr., represented dozens of corporations, trade associations, and state and foreign governments, and in 2013, was named one of the "top 50 Innovators in Big Law in the Last 50 years" by *The American Lawyer* magazine; and

WHEREAS, Thomas Hale Boggs, Jr., was named to *The National Law Journal's* list of the top 100 lawyers in the United States every year since the list's inception.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia is proud to recognize, honor and express our overwhelming gratitude to Thomas Hale Boggs, Jr., a veteran lobbyist, and



**ENROLLED ORIGINAL**

Democratic insider who helped create the modern world of Washington lobbying and fundraising. He was a power broker with an unparalleled reputation, influence and style and a legal giant that dominated K Street.

Sec. 2. This resolution may be cited as the “Thomas Hale Boggs, Jr. Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-247

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To recognize and honor District of Columbia legendary musicians who have significantly contributed to the artistic and historical legacy of Washington, D.C.'s, professional music scene.

WHEREAS, for over a century, Washington, D.C., has been a seminal center in the development of American popular music, and legendary figures such as John Philip Sousa, James Reese Europe, and Duke Ellington made Washington their home;

WHEREAS, for over a century, Washington, D.C., has been a community that has continued to produce important musical innovators, ranging from Bluesman Bobby Parker to singers Shirley Horne and Roberta Flack, jazz masters Buck Hill and Butch Warren, R&B guitarists Charles "Skip" Pitts, Gregory Gaskins, and Leron Young, drummer Robert "Mousey" Thompson, Vocalists Jimi Smooth & HitTime; trumpeter and vocalist David Akers, and Go-Go inventor Chuck Brown;

WHEREAS, professional musicians Jackie Hairston, Herbert Drake, Thomas "TNT" Tribble, Maurice Lyles, and Joe "Sir Joe" Quarterman created and continue to contribute to a thriving professional musician scene in D.C.;

WHEREAS, Jackie Hairston, a renowned keyboardist and Hammond organist, achieved great acclaim in Washington, D.C., and nationwide during the 1960s after joining the Otis Redding band, and Otis Redding produced Jackie Hairstons's 1966 record "Hi-Jack;"

WHEREAS, master drummer Herbert Drake lived in Washington, D.C., and played with the Howard Theatre house band under the director Rick Henderson and with many greats such as Ben E. King, Little Richard, The Five Royals, Little Willie John, George Kirby, Louis Jordan, and D.C.'s own Marvin Gaye;

WHEREAS, Thomas "TNT" Tribble has been a master drummer, band leader, arranger, songwriter and professional musician for over 70 years in Washington, D.C., and accompanied such greats as Phil Flowers;

ENROLLED ORIGINAL

WHEREAS, TNT then played with United Service Organization Bands while serving his country;

WHEREAS, Maurice Lyles, called “Brother Maurice,” has a long history as one of Washington, D.C.’s finest drummers;

WHEREAS, a student of the renowned Philly Joe Jones, Brother Maurice played his first job in a show starring Stepin’ Fetchit, and went on to play with the likes of Cat Anderson, Chuck Berry, Clifford Brown, Doug Carn, John Coltrane, Johnny Coles, Roy Eldrige, Benny Godson, Jimmy Heath, Buck Hill, Earl Hines, Shirley Horn, Billie Holiday, Clifford Jordan, Leo Parker, Sonny Stitt, Sarah Vaughn, Paul Williams, Webster Young, and countless others;

WHEREAS, Joe “Sir Joe” Quarterman, a trumpeter and vocalist, performed with 4 Washington, D.C., based bands including the El Corols, The Knights, Sir Joe & The Maidens, and Sir Joe & Free Soul, and played trumpet as backup for stars like Stevie Wonder, Otis Redding, and The Temptations; and

WHEREAS, Sir Joe’s band hit tune “I Got So Much Trouble in My Mind” provided his band the opportunity to share the stage with James Brown, Ray Charles, Earth, Wind & Fire, Sly Stone, The O’Jays, and many other world renowned stars.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia hereby recognizes Jackie Hairston, Herbert Drake, Thomas “TNT” Tribble, Maurice Lyles, and Joe “Sir Joe” Quarterman, and honors them for their contributions and accomplishments as professional musicians.

Sec. 2. This resolution may be cited as the “D.C. Legendary Musicians Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first day of publication in the District of Columbia Register.

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-248

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To recognize and celebrate the accomplishments of Avery Gagliano, a talented 13-year-old pianist and resident of Ward 1.

WHEREAS, Avery Gagliano is 13 years old and a former student at Alice Deal Middle School;

WHEREAS, Avery is the daughter of Drew Gagliano and Ying Lam, and resides in Mount Pleasant;

WHEREAS, Avery attended District of Columbia Public Schools from kindergarten through seventh grade, where she maintained a straight-A academic record;

WHEREAS, Avery is an accomplished pianist who commenced piano lessons at the age of 5;

WHEREAS, Avery is also a talented violinist who commenced violin lessons at the age of 8;

WHEREAS, Avery is a Jack Kent Cook Honors Scholarship recipient at the Levine School of Music and regularly performs at local, national, and international venues;

WHEREAS, at the age of 9, Avery performed at the Weill Recital Hall at Carnegie Hall and had her orchestral debut at the Strathmore Concert Hall with the Maryland Classic Youth Orchestra;

WHEREAS, Avery has been featured on National Public Radio's broadcast program, "From the Top," as well as a 2-hour PBS documentary, "Arts and Mind;"

WHEREAS, Avery has won first prize in many competitions, including 3 divisions of the Marlin-Engle Piano Solo Competition, the Cogen Piano Concerto Competition Junior and Intermediate Divisions, and the Cogen Instrumental Competition Junior Division;

WHEREAS, Avery has performed as a soloist with the Capital City Symphony at the Atlas Performing Arts Center in Washington, D.C.;

## ENROLLED ORIGINAL

WHEREAS, Avery has performed in master classes led by the Emerson Quartet, Benedetto Lupo, Dmitri Shteinberg, Mikhail Volchok, and Larissa Dedova;

WHEREAS, in November 2013, Avery was selected as one of 12 young international pianists to participate in the Inaugural Lang Lang Junior Music Camp in Munich, Germany, where she performed and worked with Chinese pianist Lang Lang in concert and master classes;

WHEREAS, Avery was a guest artist with the National Chamber Ensemble performing on both the piano and violin;

WHEREAS, Avery won the Junior Category at the V Chopin International Piano Competition in Hartford, Connecticut, where she also won the competition's Grand Prix honor;

WHEREAS, Avery performed as a soloist with the Midwest Young Artists Symphony Orchestra, under the direction of Doctor Allan Dennis, at the renowned Ravinia Festival; and

WHEREAS, in her free time, Avery has studied at the Washington School of Ballet and relishes in reading, math, swimming, and watching movies.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia commends and recognizes Avery Gagliano for her distinguished accomplishments as a pianist and student, and role model for all those wanting to become involved in the performing arts.

Sec. 2. This resolution may be cited as the "Avery Gagliano Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-249

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To recognize the contributions of Irma P. Powe.

WHEREAS, Irma P. Powe was born January 4, 1925, in Macon, Georgia;

WHEREAS, Irma P. Powe came to live in the District in 1947 to begin her nursing career;

WHEREAS, Irma P. Powe began working as a RN at the historic D.C. General Hospital in 1949, and proudly served there for 32 years until her retirement;

WHEREAS, Irma P. Powe has lived in the District of Columbia for 68 years and has been a resident of Ward 7 for all of those years;

WHEREAS, Irma P. Powe has 4 sons who were born and educated in the District, and her 2 living sons and are military veterans residing in Hampton, Georgia;

WHEREAS, Irma P. Powe is one of the oldest and more active members of her church and community groups, having served on the Nursing Board and participated in the Willing Workers Club of Ward Memorial AME Church in Northeast, where she attends service weekly, and also having served as the Treasurer of the J.W. King Senior Citizen Tenant Association;

WHEREAS, Irma P. Powe is approaching her 90th birthday; and

WHEREAS, Irma P. Powe will be relocating to Hampton, Georgia, to be closer to her 2 sons.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That the Council of the District of Columbia recognizes and thanks Irma P. Powe for her contributions and commitment to Ward 7 and the District of Columbia.

Sec. 2. This resolution may be cited as the "Irma P. Powe Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-250

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To honor Industrial Bank on the occasion of its 80th anniversary of serving the community.

WHEREAS, Industrial Bank was founded by Jesse H. Mitchell, opening at the 11th Street and U Street location in Northwest Washington, D.C., on August 20, 1934;

WHEREAS, Industrial Bank has operated under 3 generations of Mitchell family leadership, including Jesse H. Mitchell’s son B. Doyle Mitchell, Sr., who served as president, Jesse H. Mitchell’s grandson, B. Doyle Mitchell, Jr., who is the current president and CEO, and Jesse H. Mitchell’s granddaughter Patricia A. Mitchell, who is the Bank’s executive vice president;

WHEREAS, Industrial Bank was established to serve the city’s minorities during the Great Depression, when the banking system failed;

WHEREAS, Industrial Bank has demonstrated its resiliency during difficult times;

WHEREAS, Industrial Bank is one of the largest African-American-owned and operated commercial banks in the United States, the largest minority-owned commercial bank in the Washington Metropolitan area, the nation’s oldest minority-owned bank and the last remaining African-American-owned bank in the Washington area;

WHEREAS, Industrial Bank has been a strong partner for small and large businesses, home owners, and personal banking account customers in the Washington, D.C., community;

WHEREAS, Industrial Bank operates 8 banking centers in the Washington area;

WHEREAS, Industrial Bank has persisted in its mission to promote the financial and economic empowerment of a diverse community, its vision to always surpass customer expectations as a recognized financial resource partner, and its core values of integrity, customer service, teamwork, and respect; and

**ENROLLED ORIGINAL**

WHEREAS, Industrial Bank now celebrates its 80th year of existence.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia celebrates and thanks Industrial Bank for its 80 years of proud service to the Washington community.

Sec. 2. This resolution may be cited as the “Industrial Bank 80th Anniversary Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.



ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-251

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To recognize September 24, 2014, as Board of Medicine Recognition Day in the District of Columbia.

WHEREAS, the District of Columbia Board of Medicine, founded in 1879, is recognized as a premier regulatory board in the District of Columbia;

WHEREAS, the Board of Medicine regulates physicians, physician assistants, acupuncturists, anesthesiologist assistants, naturopathic physicians, surgical assistants, and polysomnographers;

WHEREAS, the Board of Medicine, through its mission, protects and enhances the health, safety, and well-being of District of Columbia residents;

WHEREAS, the Board of Medicine is committed to promoting evidence-based best practices in health regulation and high standards of quality care;

WHEREAS, the esteemed members of the Board of Medicine, its Executive Director, and staff work to develop and implement policies that serve to prevent adverse events; and

WHEREAS, the Board of Medicine upholds the laws and monitors and enforces the rules that govern the conduct of the licensed providers they regulate to ensure the safety and protection of the residents of the District of Columbia.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that The Council of the District of Columbia recognizes the importance of the significant contribution of the Board of Medicine in ensuring the well-being of the residents of the District of Columbia and declares September 24, 2014, as Board of Medicine Recognition Day in the District of Columbia.

Sec. 2. This resolution may be cited as “District of Columbia Board of Medicine Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-252

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To recognize and honor the Florida Avenue Grill on the occasion of the 70<sup>th</sup> anniversary of its founding.

WHEREAS, the Florida Avenue Grill was founded in 1944 by Bertha and Lacey C. Wilson, Sr.;

WHEREAS, Lacey C. Wilson, Sr., a shoe-shine man, saved his tips to open a 2-stool eatery with his wife, starting each day with just 2 chickens;

WHEREAS, Bertha Wilson took the earnings from selling those 2 chickens as meals and bought 2 more chickens;

WHEREAS, Bertha and Lacey C. Wilson, Sr., continued this process during the early days of the restaurant that would become the legendary Florida Avenue Grill;

WHEREAS, Bertha and Lacey C. Wilson, Sr., owned and operated the Florida Avenue Grill (affectionately nicknamed “The Grill”) until they sold it to their son, Lacey C. Wilson, Jr., in 1970;

WHEREAS, Lacey C. Wilson, Jr., owned and operated the Florida Avenue Grill from 1970 to 2005;

WHEREAS, the Florida Avenue Grill is currently owned by Imar L. Hutchins;

WHEREAS, the Florida Avenue Grill is located in Ward 1 at 1100 Florida Avenue, N.W.;

WHEREAS, the Florida Avenue Grill is the oldest soul food restaurant in Washington and is known to be the oldest continuously operating soul food restaurant in the world;

## ENROLLED ORIGINAL

WHEREAS, the Florida Avenue Grill caters to District residents from all across the city, promoting friendship and social exchange among patrons of all ages;

WHEREAS, the Florida Avenue Grill has a rich diversity of clientele that reflects the surrounding community and the District as a whole;

WHEREAS, the Florida Avenue Grill has served such notables as Rev. Martin Luther King, Jr., Vice President Joe Biden, Congressman Adam Clayton Powell, Jr., Denzel Washington, Rev. Al Sharpton, Lena Horne, and Supreme Court Justice Clarence Thomas;

WHEREAS, the Florida Avenue Grill was featured as a set of the 1983 comedy *D.C. Cab* starring Adam Baldwin, Gary Busey, and Mr. T;

WHEREAS, the Florida Avenue Grill was featured on the 7th season opener of the Travel Channel show “Bizarre Foods America” that highlighted the Grill’s traditional Southern, soul food menu; and

WHEREAS, the Florida Avenue Grill has helped change the community and is an exemplary reminder of the rich history of the U Street, N.W., area and surrounding neighborhoods.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia honors and commends the Florida Avenue Grill for its invaluable contributions to the quality of life, communities, and bellies of the District’s residents for over 70 years.

Sec. 2. This resolution may be cited as the “Florida Avenue Grill 70<sup>th</sup> Anniversary Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-253

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To commemorate the symbolic designation of Shiloh Way in Ward 6.

WHEREAS, on May 6, 2014, the Council of the District of Columbia passed Bill 20-577, the Shiloh Way Designation Act of 2014, which would symbolically designate the alley adjacent to Shiloh Baptist as Shiloh Way;

WHEREAS, that legislation became effective after a period of congressional review on July 16, 2014, as Law 20-125; and

WHEREAS, the Shiloh Baptist Church is a landmark of the Shaw community.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia commemorates the symbolic designation of Shiloh Way.

Sec. 2. This resolution may be cited as the “Shiloh Way Commemoration Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon first date in the publication of the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-254

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 23, 2014

To posthumously recognize and honor Ms. Carolyn Cross for her 35 dedicated years of service to the D.C. Department of Corrections.

WHEREAS, Carolyn Cross is a native Washingtonian;

WHEREAS, Carolyn Cross was educated by the District school system, graduating from Coolidge High School and attending Strayer College and the University of the District of Columbia;

WHEREAS, in 1979, Carolyn Cross began her career in corrections with the D.C. Department of Corrections (“DOC”);

WHEREAS, Carolyn Cross served in a number of management positions at the DOC, including Correctional Sergeant, Correctional Lieutenant, Compliance Monitor, Special Assistant, Deputy Warden, Warden, and Deputy Director;

WHEREAS, Carolyn Cross was the first female assigned to the function of Correctional Lieutenant at the Lorton Youth Center II;

WHEREAS, Carolyn Cross’ keen sense of protocol allowed her to safely and efficiently operate correctional facilities in compliance with American Correctional Association (“ACA”) standards;

WHEREAS, Carolyn Cross spearheaded efforts that resulted in ACA accreditation of the Maximum Security Facility at Lorton, the first DOC facility to achieve full accreditation;

WHEREAS, Carolyn Cross was a member of the American Correctional Association, American Jail Association, Women in Corrections, Juvenile Justice Executive Women in Corrections, the Correctional Education Association, Correctional Training Association, and Blacks in Criminal Justice;

**ENROLLED ORIGINAL**

WHEREAS, up to the time of her passing, Carolyn Cross continued to help others and contributed her time, love, and home to ensure those who were in need were helped; and

WHEREAS, on September 7, 2014, Carolyn Cross was tragically taken from us, her family, and her friends, as a victim of homicide in Northern Virginia.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia extends condolences to the family of Carolyn Cross, and, further, thanks her posthumously for her many years of service – distinguished service – and accomplishments at the Department of Corrections. We recognize and honor the dedication and good work of Carolyn Cross.

Sec. 2. This resolution may be cited as the “Carolyn Cross Posthumous Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication of the District of Columbia Register.

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-255

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize, honor, and express the District's overwhelming gratitude to Reverend Stuart Kenworthy, rector of Christ Church, Georgetown on the occasion of his retirement.

WHEREAS, Stuart Kenworthy has been the rector of Christ Church, Georgetown since 1991;

WHEREAS, Stuart Kenworthy was raised in the Methodist Church and entered the Holy Orders in the Episcopal Church in 1984 from the Diocese of Pennsylvania;

WHEREAS, Stuart Kenworthy, before taking the leadership of Christ Church Georgetown, was an assistant at St. Thomas Church Fifth Avenue in New York City for 5 years;

WHEREAS, Stuart Kenworthy served as an Army chaplain (reserve component) for 14 years which was concluded in 2007;

WHEREAS, Stuart Kenworthy spent several months last year as a military chaplain in Baghdad, and Bishop John Bryson Chane presented him with the Bishop's Award, an honor bestowed upon someone in the diocese who has done extraordinary work; and

WHEREAS, Stuart Kenworthy and his wife Fran have 3 children, Alison, Stuart, and Margaret Grace.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes, honors, and salutes Stuart Kenworthy for his 23 year tenure, congratulates him on his illustrious ministerial service, extends sincerest best wishes and declares November 2, 2014, as "Stuart Kenworthy Day" in the District of Columbia.

Sec. 2. This resolution may be cited as the "Stuart Kenworthy Recognition Resolution of 2014."

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-256

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To posthumously recognize, honor, and express the District's overwhelming gratitude to Lasana K. Mack for his commitment to excellence as a public servant and for his numerous contributions to the government of the District of Columbia and her citizens.

WHEREAS, Lasana K. Mack served as Treasurer of the District of Columbia from 2005-2012;

WHEREAS, as Treasurer, Lasana K. Mack managed the District's financial assets and liabilities associated with its annual multibillion dollar operating and capital budgets as well as managed the District's cash, check, and electronic receipts and disbursements, its banking and investment activities, and its debt issuance and repayment activities;

WHEREAS, during the 25 years in which Lasana K. Mack served the District of Columbia, he worked extensively in the District's cash management and debt management operations, first as a debt manager;

WHEREAS, through positions of increasing responsibility during the Control Board era and afterward, Lasana K. Mack successfully managed the District's debt, resulting in numerous increases in the District's bond ratings from junk-bond status to its current AA- general obligation bond ratings and AAA income tax revenue bond rating; and

WHEREAS, Lasana K. Mack, upon retirement from the District government in 2012, served as the founder and executive director of Appeal, Inc., a non-profit financial company;

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia honors Lasana K. Mack for his commitment to excellence in public service. He served as a model of what a responsible and dedicated community and civic leader truly should be, and will be sorely missed.

Sec. 2. This resolution may be cited as the "Lasana K. Mack Posthumous Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.



ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-257

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize and honor Immaculate Conception Church for its many contributions to the citizens of the city of Washington, D.C., and congratulate Immaculate Conception Church on 150 years of service.

WHEREAS, Immaculate Conception Church is located in center of the city in the historic Shaw community;

WHEREAS, Immaculate Conception Church was built in 1864 during the Civil War, when President Lincoln allowed churches to be built as a gesture for prayers for peace between the States, despite a general suspension of construction of public buildings due to the war effort;

WHEREAS, after the 1968 riots, Reverend Monsignor J. Joshua Mundell led the way for maintaining the parish community through the construction of Immaculate Conception Apartments at 7<sup>th</sup> & O Streets, N.W., and the Washington Apartments along 7<sup>th</sup> Street.

WHEREAS, Reverend Mundell was named “Shepherd of Shaw” for his bold efforts of maintaining the parish community, and in 2001, was succeeded by Reverend Monsignor James D. Watkins as the 12<sup>th</sup> pastor who, working with the Council, named N Street directly in front of the church at 8<sup>th</sup> & N “Msgr J. Mundell Way”;

WHEREAS, in 2003, the church properties—church, rectory, convent, and school—were placed on the National Register of Historic Places by the U.S. Department of the Interior;

WHEREAS, although the Catholic school was closed in 2008, having served the needs of education since 1864, Immaculate Conception Church continues to offer education services to the children of the neighborhood through the public charter school system; and

WHEREAS, Immaculate Conception Church’s interior and exterior has been newly restored and the church features an outstanding choir.

**ENROLLED ORIGINAL**

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes Immaculate Conception Church's 150 years serving the citizens of the District of Columbia and honors Immaculate Conception Church as it continues to be a beacon of hope and a house of prayer for all worshipers.

Sec. 2. This resolution may be cited as the "Immaculate Conception Church 150<sup>th</sup> Anniversary Recognition Resolution of 2014".

Sec. 3. This resolution shall be effective immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-258

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize, honor, and express our overwhelming gratitude to Robert Pohlman for his untiring dedication to creating affordable housing for all and building a solid foundation for livable neighborhoods in the nation's capital.

WHEREAS, Robert Pohlman grew up on a farm in Nebraska and attended a one-room country school from kindergarten through 8<sup>th</sup> grade, and later earned a degree in accounting at the University of Nebraska;

WHEREAS, from 1969 –1971 Robert Pohlman joined VISTA serving in a poor minority community in Jacksonville, Texas, where he worked with residents to form a co-op grocery business, develop a youth center, and create a new neighborhood park and gave voice to community concerns;

WHEREAS, Robert Pohlman moved to Washington, D.C., in 1972 and earned an MBA from The George Washington University and for the next 23 years held a variety of housing and finance positions in D.C. government;

WHEREAS, Robert Pohlman served as the D.C. Comptroller, Deputy Director and Director of the D.C. Department of Housing and Community Development, Deputy Mayor for Finance, and Chief Financial Officer of the District of Columbia;

WHEREAS, Robert Pohlman served as a member of the D.C. Tax Revision Commission and Comprehensive Housing Strategy Task Force and as Chairman of the Housing and Community Development Reform Advisory Commission;

WHEREAS, more recently, Robert Pohlman co-chaired Mayor Gray's Sustainable Housing and Community Development Transition Working Group and was appointed by the Mayor to serve on a newly constituted Comprehensive Housing Strategy Task Force;

WHEREAS, Robert Pohlman is a member of the Board of Directors of Manna, Inc., and serves on the District of Columbia Housing Production Trust Fund Advisory Board, the District

ENROLLED ORIGINAL

of Columbia Housing Authority Advisory Committee, and other notable steering and advisory committees; and

WHEREAS, Robert Pohlman has been the Executive Director of the Coalition for Nonprofit Housing and Economic Development (“CNHED”) in the District of Columbia since its formation in 2000, and through CNHED’s advocacy and assistance, 130 member organizations have improved the quality of life in neighborhoods across Washington, D.C.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia is proud to recognize, honor and express our overwhelming gratitude to Robert Pohlman for his foundational advocacy, his influential support of the Housing Production Trust Fund and the leadership he has provided for the construction, rehabilitation, and acquisition of affordable housing units in Washington, D.C.

Sec. 2. This resolution may be cited as the “Robert Pohlman Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-259

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize and honor James W. Lintott for his leadership and commitment to District of Columbia children and his dedication to the Children’s National Medical Center.

WHEREAS, James W. Lintott served as a faithful member and chairman of both the Children’s National Medical Center Board of Directors and the Children’s Hospital Foundation;

WHEREAS, the Children’s National Medical Center is located in Ward 5 of the District of Columbia;

WHEREAS, James W. Lintott has generously supported the Children’s National Medical Center since 2002;

WHEREAS, James W. Lintott, during his tenure, advocated for District children, led philanthropic initiatives, and raised awareness of the mission and goals of the Children’s National Medical Center;

WHEREAS, James W. Lintott secured funding for the Children’s National Medical Center from Abu Dhabi, United Arab Emirates, to establish the Sheikh Zayed Institute for Pediatric Surgical Innovation during his tenure as Chairman of the Board of Children’s Hospital Foundation;

WHEREAS, James W. Lintott provided excellent leadership to the Children’s National Medical Center and has skillfully and successfully guided the organization through a period of transition; and

WHEREAS, James W. Lintott concluded his tenure as Chairman of the Board of Children’s National Medical Center on June 30, 2014.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors James W. Lintott for more than 12 years of leadership and service to the Children’s National Medical

**ENROLLED ORIGINAL**

Center, 4 years as Chairman of the Board of Children’s National, and for the invaluable contributions he has made to the health and welfare of children and families.

Sec. 2. This resolution may be cited as the “James W. Lintott Leadership Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-260

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize and honor the Television, Internet and Video Association for its outstanding commitment, dedication, and service to the needs of the television, film and multimedia community in Washington, D.C.

WHEREAS, the Television, Internet and Video Association of DC (“TIVA-DC”), is a local not-for profit (501(c)(3)) organization which first came together in 1970, and was formed under its current name in 2007;

WHEREAS, TIVA-DC’s mission is to serve the needs of the growing Washington/Baltimore media production community by connecting the media production community to jobs, resources, and educational opportunities in the National Capital region;

WHEREAS, TIVA-DC is composed of over 426 active members, and is focused on strengthening, educating, and providing networking activities among the burgeoning local media market by nurturing individuals' skills and careers in the Washington, D.C., area media community;

WHEREAS, the membership of TIVA-DC draws from a diverse community of talented professionals;

WHEREAS, TIVA-DC’s primary initiatives to support its mission are to provide leadership, educational and networking opportunities for metro D.C. area media makers through its active Listserv, representation at government and industry hearings, expos, and other events, and its quarterly newsletter which prints educational articles, announces members' industry accomplishments, and publishes business advertisements;

WHEREAS, TIVA-DC promotes professionalism in our media community and enhances the community’s status and public recognition by convening twice monthly expert panel presentations including product reviews, technical discussions, and business and legal matters;

**ENROLLED ORIGINAL**

WHEREAS, TIVA-DC presents the prestigious annual TIVA-DC Peer Awards, the most comprehensive film, video, and Internet competition for professionals and media students in the mid-Atlantic region, which continues to celebrate local excellence in media and offers one of the most sought-after awards in the production community;

WHEREAS, the TIVA-DC Peer Awards began in 1997 as part of the former Washington Film and Video Council and later merged with the existing, popular “ITVA-DC Video Festival”;

WHEREAS, TIVA-DC mentors students in high school programs as well as those in accredited undergraduate and graduate media programs; and

WHEREAS, TIVA-DC continues to be a leader in the District’s television, film, and multimedia production community.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia honors the Television, Internet and Video Association of DC for their extraordinary dedication and service to the television, film, and multimedia community of Washington, D.C.

Sec. 2. This resolution may be cited as the “TIVA-DC Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.



## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-261

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize the DC Youth Poetry Slam Team for placing second at the Brave New Voices International Youth Poetry Slam Festival.

WHEREAS, the DC Youth Poetry Slam Team uses poetry to teach and empower teens from the D.C. metropolitan area to speak up about issues of social justice;

WHEREAS, the DC Youth Poetry Slam Team has competed in the International Youth Poetry Slam Festival since 1998;

WHEREAS, in August 2013, the DC Youth Poetry Slam Team, composed of 12 students from the D.C. metropolitan area, placed second out of 50 teams at the International Youth Poetry Slam Festival in Chicago, IL;

WHEREAS, this year, the DC Youth Poetry Slam Team also traveled and performed in Baltimore, New York City, and Philadelphia for several dignitaries and celebrities including former Secretary of State Colin Powell and actor and producer LeVar Burton;

WHEREAS, the DC Youth Poetry Slam Team traveled to South Africa this summer for 2 weeks to share poetry, teach classes, work with students there, and learn about social justice struggles and how the arts play a role in people's movements for justice and peace; and

WHEREAS, Split This Rock, the current coordinator for the DC Youth Poetry Slam Team, has been operating their after school program since 2010 working with hundreds of students in 20 different local schools.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia acknowledges and honors the DC

**ENROLLED ORIGINAL**

Youth Poetry Slam Team for its outstanding contributions to poetry and empowering young people in the D.C. metro area.

Sec. 2. This resolution may be cited as the “DC Youth Poetry Slam Team Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-262

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize the District of Columbia-based men's Ultimate team, D.C. Current, for winning the 2014 Major League Ultimate National Championship.

WHEREAS, D.C. Current is an elite District of Columbia men's Ultimate team founded in 2012 and composed of skilled and driven athletes;

WHEREAS, D.C. Current advanced in conference play and the Major League Ultimate ("MLU") playoffs to play for the 2014 Major League Ultimate's Championships in Philadelphia, Pennsylvania;

WHEREAS, on Saturday, July 19, 2014, Current defeated the Vancouver Nighthawks, 23-17, to win the National Championship;

WHEREAS, D.C. Current player Markham Shofner was named the Championship MVP, becoming the MLU's all-time career playoff points leader; and

WHEREAS, D.C. Current finished the season 11-1 and as the highest scoring squad in the entire Major League Ultimate.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia acknowledges and honors Current for its outstanding contributions on and off the field to the D.C. metro area.

Sec. 2. This resolution may be cited as the "D.C. Current's National Championship Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-263

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To honor Paul A. Quander, Jr., as the recipient of the Outstanding Service Award for Career Accomplishments Promoting Excellence in Study, Practice and Judicial Processes of Law from the Sigma Delta Tau Legal Fraternity.

WHEREAS, Paul A. Quander, Jr., is a native Washingtonian and a Ward 7 resident;

WHEREAS, Paul A. Quander, Jr., is an honors graduate of both Virginia State University and Howard University School of Law;

WHEREAS, Paul A. Quander, Jr., has provided more than 25 years of service to the citizens of the District of Columbia in a variety of capacities, most of which were in the criminal justice sector;

WHEREAS, Paul A. Quander, Jr., started his public service career as a Staff Attorney for the Neighborhood Legal Services Program;

WHEREAS, Paul A. Quander, Jr., also worked as Assistant Attorney General for the District of Columbia in what was then known as the Office of the Corporation Counsel, where he prosecuted juvenile offenders and represented District of Columbia agencies and personnel in civil actions in the Juvenile Section, Civil Division, and as Section Chief of the Correctional Litigation Section;

WHEREAS, Paul A. Quander, Jr., became the Deputy Director of the D.C. Department of Corrections, where he was responsible for the day-to-day operations of 8 prisons, 2 detention facilities, and several community correctional centers;

WHEREAS, Paul A. Quander, Jr., continued in his legal career in service for more than 7 years as Assistant U.S. Attorney for the District of Columbia, investigating and trying the most serious and violent criminal offenders and organizations;

WHEREAS, Paul A. Quander, Jr., was appointed Executive Director of the District of Columbia Criminal Justice Coordinating Council, an organization that serves as the forum for

**ENROLLED ORIGINAL**

identifying issues and their solutions, proposing actions and facilitating cooperation that will improve public safety in the District of Columbia for its residents, visitors, victims, and offenders;

WHEREAS, Paul A. Quander, Jr., served as the presidentially appointed Director of the Court Services and Offender Supervision Agency, responsible for approximately 15,000 men and women who were being supervised on probation, parole, or supervised release;

WHEREAS, Paul A. Quander, Jr., is presently the Deputy Mayor for Public Safety and Justice, where he is responsible for the coordination and supervision of all District of Columbia public safety agencies; and

WHEREAS, Paul A. Quander, Jr., is a 2014 recipient of the Outstanding Service Award for Career Accomplishments Promoting Excellence in the Study, Practice and Judicial Processes of the Law, an honor bestowed by the Sigma Delta Tau Legal Fraternity.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia congratulates Paul A. Quander, Jr. on his legal career and his award from Sigma Delta Tau Legal Fraternity.

Sec. 2. This resolution may be cited as the “Paul A. Quander, Jr., Service Award Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-264

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize and honor the Trinity Episcopal Church for its distinguished service to the people of the District, on the occasion of its 120<sup>th</sup> anniversary.

WHEREAS, in 1887, the Reverend James C. Dorsey, a former Episcopal missionary, moved from the Dakota Territory to Takoma Park, outside of the District of Columbia, and invited his neighbors to his home for the community's first Episcopal Church service;

WHEREAS, service attendance increases necessitated the purchase of land for a church in the District;

WHEREAS, Takoma Parish was erected at the present-day location of 7005 Piney Branch Road, N.W., with opening services held November 26, 1893;

WHEREAS, in 1895, the Diocese of Washington was established with the Takoma area given independent status the following year as Takoma Parish, with the Reverend George H. Johnson as Trinity's first rector;

WHEREAS, on March 7, 1937, a new church building opened for services after a year-long replacement campaign, followed by a new rectory in March of 1941 and the enlargement of the Parish Hall in September of 1950;

WHEREAS, in 1941, the Diocese of Washington changed the name of the Takoma Parish to the Trinity Parish;

WHEREAS, Trinity Episcopal Church has a diverse cross-culture population, with more than 20 countries and nationalities represented in their community;

WHEREAS, the Trinity Parish is involved in community-building and outreach activities including programs such as House Church, Advent Circle, the Trinity Education Arts Music Ministry, the Ministry to Homeless Women, an annual Christmas dinner for HIV/AIDS victims and the homeless, and the Trinity Volunteer Corps, which is a community for young adults seeking to transform society through service and social justice;

## ENROLLED ORIGINAL

WHEREAS, in 2006, Trinity Episcopal Church organized the first Clergy Leadership Summit on HIV/AIDS in the nation's capital, with more than 300 churches participating;

WHEREAS, in keeping with their international congregation, the Trinity Episcopal Church recently hosted a Town Hall meeting of African leaders during the recent African Leaders Conference; and

WHEREAS, the Trinity Episcopal Church has been a spiritual landmark in the community and continues to expand its outreach and social service activities to benefit the District.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors the Trinity Episcopal Church for its service to the District on its 120<sup>th</sup> anniversary.

Sec. 2. This resolution shall be cited as the "Trinity Episcopal Church 120<sup>th</sup> Anniversary Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-265

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize the 40th anniversary of Public Law 93-198, the “District of Columbia Self-Government and Governmental Reorganization Act,” providing for limited Home Rule in the District of Columbia.

WHEREAS, Public Law 93-198, the “District of Columbia Self-Government and Governmental Reorganization Act” (“Home Rule Act”) reversed a century of appointed commissioner rule in the District of Columbia following Congress’ removal of all elected positions in 1874;

WHEREAS, the Home Rule Act signifies that over the course of the 20th century, because of the dissent, protest, hard work, and lobbying by District residents and their national allies, Congress came to recognize that the citizens of the District of Columbia could run their own government;

WHEREAS, the Home Rule Act represented the ultimate achievement in a 13-year epic of District government reforms, starting with the ratification the 23rd amendment to the Constitution allowing District residents for the first time to vote for president in 1960, President Lyndon Johnson’s reorganization plan of 1967 creating separate executive and legislative functions for an appointed Mayor-Commissioner and an appointed 9-member City Council, an elected Board of Education in 1968, a new, elected position of Delegate to the House of Representatives for the District of Columbia in 1970, and finally the Home Rule Act in 1973, creating a record of reform that, regrettably, has not since been matched;

WHEREAS, on December 23, 1973, Public Law 93-198, the “District of Columbia Self-Government and Governmental Reorganization Act,” also known as the Home Rule Act, became effective, allowing the citizens of the District of Columbia to vote for a mayor and 13 councilmembers;



**ENROLLED ORIGINAL**

WHEREAS, on November 5, 1974, the citizens of the District of Columbia elected Walter Washington as Mayor; Sterling Tucker as Council Chairman; Marion Barry, Julius Hobson, Douglas Moore, and Jerry Moore as Councilmembers At-Large; and 8 ward councilmembers: David Clarke (Ward 1), John Wilson (Ward 2) Polly Shackleton (Ward 3), Arrington Dixon (Ward 4), William Spaulding (Ward 5), Nadine Winter (Ward 6), Willie Hardy (Ward 7), and James Coates (Ward 8);

WHEREAS, the Constitution of the United States is predicated on the right and necessity of self-determination, yet the citizens of the District of Columbia have been denied the right to self-determination in both local and national concerns, even with the Home Rule Act;

WHEREAS, the Home Rule Act must be celebrated nevertheless as an important step toward full self-determination, as a landmark event, and as a complete reversal of the Congressional takeover 100 years earlier;

WHEREAS, our predecessor elected officials - the Mayor and councilmembers of Council Period 1 – must be celebrated and thanked for placing the District government and Home Rule on a successful path – an achievement that was far more difficult than appears; and

WHEREAS, the anniversary of the Home Rule Act must also remind us that there is so much more to do as the struggle for voting representation for District of Columbia residents continues with the call for full voting representation and statehood.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia salutes and recognizes the efforts that led to passage and enactment of limited Home Rule in the District of Columbia, honors the leaders who fought for Home Rule, and encourages efforts to secure full governmental autonomy and voting representation for the District of Columbia in the United States Congress.

Sec. 2. This resolution may be cited as the “40th Anniversary of Home Rule Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-266

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize the economic significance of the mission of Think Local First and to declare the year of 2015 as “The Year of the Local” in the District of Columbia.

WHEREAS, the majority of local business owners live in the District of Columbia, tend to be proactively involved in our community, and keep more of the profits circulating in the local economy;

WHEREAS, local businesses revitalize vacant warehouses, historic properties, and freestanding buildings from decades past, bringing new life to neighborhoods where large corporations oftentimes do not want to take risks;

WHEREAS, through adaptive reuse of existing buildings, a community’s charm and sense of history are kept intact for future generations to enjoy;

WHEREAS, studies have shown that money spent at a locally owned businesses stays in the local economy and continues to strengthen the economic base of the District;

WHEREAS, events like Eat Local First, the Do Good Summit, and Made in DC Marketplaces serve to promote entrepreneurialism, connect community leaders, spread shared prosperity, and preserve the District’s historic and culturally diverse communities;

WHEREAS, local independent businesses are better positioned to respond to the special needs of the District, and are more tied to its future;

WHEREAS, the Think Local First mission encourages the entrepreneurial spirit that drives lively business, boosts tourism, and preserves cultural diversity; and

WHEREAS, Think Local First is dedicated to educating the government, private organizations, and the public about the importance of buying and sourcing locally.

**ENROLLED ORIGINAL**

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes the economic significance of the mission of Think Local First and declares the year of 2015 as “The Year of the Local” in the District of Columbia.

Sec. 2. This resolution may be cited as “The Year of the Local Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-267

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 7, 2014

To recognize the contributions of Eric H. Holder, Jr., to the District of Columbia and the United States of America, his over thirty years of services to upholding justice, and his role as a trailblazer in the field of law, becoming the first African-American to attain the positions of United States Attorney for Washington, D.C., and Deputy Attorney General and Attorney General of the United States of America.

WHEREAS, Eric H. Holder, Jr., was born on January 21, 1951, to Eric and Miriam Holder in the Bronx borough of New York City;

WHEREAS, Eric H. Holder, Jr., graduated from Stuyvesant High School in Manhattan;

WHEREAS, Eric H. Holder, Jr., graduated from Columbia College in 1973 with a B.A. in American history;

WHEREAS, Eric H. Holder, Jr., graduated from Columbia Law School in 1976;

WHEREAS, from 1976 to 1988, Eric H. Holder, Jr., worked for the Public Integrity Section of the U.S. Department of Justice;

WHEREAS, from 1988 to 1993, Eric H. Holder, Jr., served as a Judge of the Superior Court of the District of Columbia through an appointment by President Ronald Reagan;

WHEREAS, in 1993, Eric H. Holder, Jr., accepted an appointment by President Bill Clinton as a U.S. Attorney for the District of Columbia, a position he served in until 1997;

WHEREAS, during his 4-year term as the U.S. Attorney for the District of Columbia, he created a domestic violence unit, a community prosecution project, and a program for restricting gun laws;

WHEREAS, in 1997, President Clinton promoted Eric H. Holder, Jr., to the position of Deputy Attorney General of the United States, becoming the first African-American to hold this position;

## ENROLLED ORIGINAL

WHEREAS, from 2001 to 2008, Eric H. Holder, Jr., held the position of litigation partner with Covington & Burling LLP in Washington, D.C.;

WHEREAS, from 2007 to 2008, Eric H. Holder, Jr., served as senior legal advisor for Barack Obama's presidential campaign;

WHEREAS, on December 1, 2008, President Barack Obama announced his intention to nominate Eric H. Holder, Jr., for the position of Attorney General of the United States;

WHEREAS, Eric H. Holder, Jr., was formally nominated on January 20, 2009;

WHEREAS, Eric H. Holder, Jr., was officially confirmed by the Senate on February 2, 2009, by a vote of 75 to 21, becoming the nation's first African-American Attorney General;

WHEREAS, on February 3, 2009, Eric H. Holder, Jr., was sworn in as the 82nd Attorney General of the United States by Vice President Joe Biden;

WHEREAS, on September 25, 2014, Eric H. Holder, Jr., announced that he would be resigning from his position as the United States Attorney General;

WHEREAS, under Eric H. Holder, Jr., the Justice Department has thwarted multiple terrorist plots against the United States, convicted and incarcerated numerous individuals on terrorism-related charges, and collected critical intelligence from and about terrorists through the criminal justice system;

WHEREAS, under Eric H. Holder, Jr., the Justice Department established the Access to Justice Initiative in March 2010 to address the access-to-justice crisis in the criminal and civil justice system and increase research and funding support to improve the delivery of indigent defense services;

WHEREAS, under Eric H. Holder, Jr., the Justice Department has aggressively enforced the Voting Rights Act ("VRA"), and in 2012, the Justice Department successfully challenged Texas's voter ID law, South Carolina's voter ID law, and Florida's cutbacks to early voting under the VRA;

WHEREAS, under Eric H. Holder, Jr., the Justice Department in June 2014 revived the Domestic Terrorism Executive Committee to address domestic terrorism in the United States;

WHEREAS, under Eric H. Holder, Jr., the Justice Department took an active approach to eliminating racial profiling as well as tracking hate crimes committed against Arabs, Hindus, Mormons, and Sikhs;

## ENROLLED ORIGINAL

WHEREAS, Eric H. Holder, Jr., and his wife of 24 years, Dr. Sharon Malone, have 3 children, Maya, Brooke, and Eric, and are District residents and voters;

WHEREAS, Eric H. Holder, Jr., a resident and voter in the District of Columbia, supports full voting rights and statehood for District residents, and publicly stated, “When I talk about all who want to be heard in the halls of the federal government, I am talking about the more than 600,000 taxpayers who, like me — like me — live in the District of Columbia and still have no voting representation in Congress”;

WHEREAS, Eric H. Holder, Jr., is the only Attorney General, out of the 82 who have served, who does not enjoy taxation with representation, full voting rights, budget autonomy, a District of Columbia Representative in Congress with full voting rights or 2 District of Columbia Senators in Congress, nor may he, his spouse, or his children at this point in history dream of becoming a District of Columbia Representative or District of Columbia Senator in Congress simply because they are citizens of the District of Columbia in the United States of America;

WHEREAS, Eric H. Holder, Jr., the 82nd Attorney General of the United States of America, supports District of Columbia Statehood which comes with a Representative and 2 Senators in Congress, full voting rights, and budget autonomy for the citizens of the District of Columbia of the United States of America; and

WHEREAS, Eric H. Holder, Jr., committed his time and talents in service to the betterment of the United States, working with 6 American presidents of different parties, breaking down racial barriers in the legal community, addressing civil rights issues, and engaging in philanthropic efforts with such organizations as Save the Children Foundation and Concerned Black Men.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Eric H. Holder, Jr., for his commitment and dedication to the United States of America.

Sec. 2. This resolution may be cited as the “Eric H. Holder, Jr., Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-268

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 28, 2014

To recognize and express our overwhelming gratitude to HEROES, Inc., for its numerous contributions to the community and to the District of Columbia and congratulate HEROES, Inc., on 50 years of service.

WHEREAS, HEROES, Inc., which stands for Honor Every Responsible Officer’s Eternal Sacrifice, is a non-profit organization that provides emotional support and financial aid to families of metropolitan Washington law enforcement officers and firefighters killed in the line of duty;

WHEREAS, HEROES, Inc., was founded in 1964 by a group of metropolitan Washington businessmen, and consists of 100 members representing the business, professional, and spiritual leadership of the greater Metropolitan Washington area;

WHEREAS, the entire program is conducted by the HEROES, Inc. membership on a volunteer basis;

WHEREAS, HEROES, INC.’s, only fundraising activity is the annual HEROES, Inc., Golf Tournament carried on by the HEROES Golf Committee which consists of primarily retired law enforcement officers and firefighters who volunteer their time;

WHEREAS, the HEROES, Inc., tournament is one of the most successful of its kind on the East Coast with benefits going directly to the parent organization’s Scholarship Program, and scholarship recipients attend colleges and universities throughout the United States with assistance made in the form of full scholarships, which include tuition, room and board, books, supplies, and many other incidental costs;

WHEREAS, the founder and former Chairman of the Board of HEROES, Inc., was the late Leonard B. “Bud” Doggett, whose legacy of a personal standard of commitment, participation, and love for the organization will go forever unchallenged;

WHEREAS, Bud Doggett daily honored the sacrifice of each law enforcement officer and firefighter whose names appear on the HEROES, Inc.’s Roll of Honor, and his dedication to

**ENROLLED ORIGINAL**

the welfare of the survivors of the fallen HEROES set an example unequaled; and

WHEREAS, there are 182 HEROES whose names appear on the honor roll, and 130 left behind spouses and 224 children left behind by these officers who made the ultimate sacrifice.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors HEROES, Inc., for 50 years of compassion, and salutes HEROES, Inc., as it continues to provide services and scholarships to families whose lives have been devastated by tragedy. The Council declares November 6, 2014, "HEROES, Inc., Day" in the District of Columbia.

Sec. 2. This resolution may be cited as the "Honor Every Responsible Officer's Eternal Sacrifice, Inc., Recognition Resolution of 2014".

Sec.3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.



## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-269

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 28, 2014

To recognize the Washington Nationals baseball organization for winning the 2014 National League East Division Title for the second time in 3 seasons, and advancing to the Major League Baseball playoffs.

WHEREAS, on September 29, 2004, Major League Baseball (“MLB”) announced the Montreal Expos would move to Washington, D.C., and would begin playing in 2005, the first time baseball was to be played in the nation’s capital since 1971;

WHEREAS, on November 22, 2004, the team officially changed its name to the Washington Nationals (“Nationals”);

WHEREAS, on December 21, 2004, the Council of the District of Columbia in a 7-6 vote passed the “Ballpark Omnibus Financing Revenue Act of 2004” (“the Act”);

WHEREAS, the Act authorized the construction of Nationals Park and finalized a deal with MLB to make the Nationals the official baseball team of the District of Columbia;

WHEREAS, the members of the Council who voted in the affirmative to bring baseball back to the District are current members Vincent B. Orange Sr. and Jack Evans and former members Harold Brazil, Sharon Ambrose, Kevin P. Chavous, Sandy Allen, and former Council Chairman Linda Cropp;

WHEREAS, a great deal of hard work to bring baseball to the District must also be attributed to former Mayor Anthony Williams, to former Deputy Chief of Staff to Mayor Williams and now Vice President for the Nationals baseball organization, Greg McCarthy, to former Chairman of the D.C. Sports and Entertainment Commission, Mark Tuohey, and to former member of the D.C. Sports and Entertainment Commission, Bill Hall;

WHEREAS, on April 4, 2005, the Nationals played their inaugural game against the Philadelphia Phillies;

## ENROLLED ORIGINAL

WHEREAS, on April 14, 2005, the Nationals played their first game in the District of Columbia at Robert F. Kennedy Stadium in front of a sell-out crowd against the Arizona Diamondbacks, with former President George W. Bush throwing out the first pitch;

WHEREAS, the Nationals cemented the return of major league baseball to the District with a 5-3 win over the Arizona Diamondbacks on April 14, 2005;

WHEREAS, construction broke ground on Nationals Park on May 4, 2006;

WHEREAS, on March 30, 2008, the Nationals played their first game at Nationals Park in front of a sell-out crowd and a nationally televised audience on ESPN's Sunday Night Baseball broadcast;

WHEREAS, All-Star and Gold Glove third baseman, Ryan Zimmerman, hit a walk-off home run against the Atlanta Braves that night to give the Nationals their first win at Nationals Park;

WHEREAS, Nationals Park has been an important part of the revitalization of the Southwest/Anacostia Riverfront area;

WHEREAS, the Nationals baseball organization has quickly become a pillar of the community with philanthropic efforts such as the Washington Nationals Dream Foundation and the sponsorship of the D.C. Public Library's Summer Reading program;

WHEREAS, on September 16, 2014, the Nationals clinched the National League East Division Title with a 3-0 win over the Atlanta Braves;

WHEREAS, the Nationals became the first team in the National League to achieve 90 wins during the 2013-2014 season;

WHEREAS, on September 28, 2014, in a 1-0 victory over the Miami Marlins, Jordan Zimmermann pitched the first no-hitter in the history of the Washington Nationals, the Nationals finished the regular season with the best record in the National League, and outfielder Denard Span broke Cristian Guzman's franchise record for the most hits in a season with 184;

WHEREAS, the Washington Nationals finished the regular season with a 96-66 record, the best record in the National League;

WHEREAS, the Washington Nationals, despite valiant play, were defeated by the San Francisco Giants in the National League Division Series in 4 games; and

**ENROLLED ORIGINAL**

WHEREAS, a great deal of gratitude and appreciation goes to Mr. Theodore Lerner and the Lerner family, Nationals General Manager & President of Baseball Operations Mike Rizzo, first-year manager Matt Williams, the Nationals staff and administrators, and the 40 players that make up the Washington Nationals, the 2014 National League East Division Champions.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors the Washington Nationals baseball organization for its outstanding contributions both on and off the field to the District of Columbia.

Sec. 2. This resolution may be cited as the “Washington Nationals 2014 Season Celebration Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

## ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-270

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 28, 2014

To recognize and celebrate the exceptional achievements and long-time dedicated service of District resident and soccer enthusiast Len Oliver.

WHEREAS, Len Oliver represented the United States in the 1963 Pan American Games and on the 1964 U.S. Olympic team;

WHEREAS, Len Oliver was elected to the National Soccer Hall of Fame in 1996 as a player, making him the only District resident ever elected to the National Soccer Hall of Fame;

WHEREAS, Len Oliver has been inducted into 5 other Halls of Fame, including Virginia-DC Soccer Hall of Fame, which he founded in 2000;

WHEREAS, Len Oliver spent 35 years as a youth coach for DC Stoddert Soccer, 30 years on the DC Stoddert Soccer Board of Directors, and 15 years as DC Stoddert Soccer's Director of Coaching;

WHEREAS, at the Jelleff Club, Len Oliver has trained over 5,000 licensed US Soccer coaches, representing 91 countries, in the Washington, D.C., area; and

WHEREAS, Len Oliver continues to coach, train coaches, write, and lecture about the game of soccer, now serving as a member on the National Soccer Hall of Fame Board.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the District of Columbia is grateful for Len Oliver's commitment to the District and his dedication to community service through the game of soccer.

Sec. 2. This resolution may be cited as the "Len Oliver Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-271

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 28, 2014

To posthumously recognize Glenn Morris Clea and his over 15 years as a barber, stylist, and staple of the Mount Pleasant and Adams Morgan communities.

WHEREAS, Glenn Morris Clea attended the Duke Ellington School for the Performing Arts, where he graduated in 1980 with a focus on theater and dance;

WHEREAS, Mr. Clea performed on both the local and national level in theater and dancing shows;

WHEREAS, he later attended the Bennett Career Institute, where he graduated as a Master Barber in 2003 with high honors;

WHEREAS, he used his vocation for many years as a barber in the Mount Pleasant and Adams Morgan neighborhoods to not only cut hair, but to use his loving spirit for humanity to help bring out the best in everyone;

WHEREAS, Mr. Clea will always be remembered for his beautiful smile, festive spirit, and the joy he felt from serving his community;

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Glenn Morris Clea for his commitment to his community and the District of Columbia and declares October 18, 2014, as “Glenn Morris Clea Day” in the District of Columbia.

Sec. 2. This resolution may be cited as the “Glenn Morris Clea Posthumous Recognition Resolution of 2014”.

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

20-272

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 28, 2014

To recognize and honor the contributions of Gwendolyn Evans-Orange to the District of Columbia Public Schools, the University of the District of Columbia, and Howard University, and on her retirement from the District of Columbia Public Schools after 31 years of dedicated service and work.

WHEREAS, Gwendolyn Evans-Orange was born on October 21, 1956, in Pitt County, North Carolina, to Paul Evans Jr. and Alice Louise Barnes-Evans and 3 months later the Evans family moved to New York City;

WHEREAS, Gwendolyn Evans-Orange graduated from Andrew Jackson Senior High School, Public School 192, and Public School 136 in New York, New York;

WHEREAS, Gwendolyn Evans-Orange earned a Bachelor of Arts in Education, with a concentration in early childhood and elementary education, from Queens College located in New York, New York, in 1978, completed a year and a half study in psychology at Queens College, and earned a Masters of Education in Special Education from Howard University located in Washington, D.C., in 1982;

WHEREAS, Gwendolyn Evans-Orange, in September 1982, began her teaching career in the District of Columbia Public Schools (“DCPS”) at Hardy Middle School;

WHEREAS, Gwendolyn Evans-Orange is licensed and certified in Early Childhood Education, Elementary Education, Special Education & Specific Learning Disabilities, and Non-Categorical Special Education;

WHEREAS, Gwendolyn Evans-Orange, a reading specialist, trained in the America’s Choice reading program, has enhanced her students reading levels significantly including by as much as 3 grade levels in one year;

WHEREAS, Gwendolyn Evans-Orange, in 2002, earned a trip to Copenhagen, Denmark, to evaluate global reading programs of excellence in over 24 countries;

## ENROLLED ORIGINAL

WHEREAS, Gwendolyn Evans-Orange served as an adjunct professor at the University of the District of Columbia in 2006, 2007, 2010, 2011, 2012, 2013, and 2014;

WHEREAS, Gwendolyn Evans-Orange, in June 2007, was inducted into the District of Columbia Area Writing Project (“DCAWP”) at Howard University, and became a member of its Board of Directors in 2010;

WHEREAS, under the DCAWP, Gwendolyn Evans-Orange is a professional development presenter and consultant of writing and reading instruction including digital writing on all instructional levels;

WHEREAS, Gwendolyn Evans-Orange is a member of the International Reading Association, the Council for Exceptional Children, and the Delta Kappa Gamma International Society for Key Women Educators-Alpha Chapter;

WHEREAS, Gwendolyn Evans-Orange, in 2001, received the Ward 7 Community Service Award for reading achievement and community service and leadership with homeless students and families during her tenure as a reading teacher at H.D. Woodson Senior High School in the District of Columbia;

WHEREAS, Gwendolyn Evans-Orange, serving as a literacy coach, received the Team Award for Reading Excellence in 2006 – 2007 at Noyes Elementary School, and as a visiting instructor received the Team Award for Reading Excellence in 2008-2009 at Sharpe Health School;

WHEREAS, Gwendolyn Evans-Orange achieved yearly ratings as an “Outstanding” teacher on the elementary, middle, and senior high school level;

WHEREAS, Gwendolyn Evans-Orange has been rated Highly Effective under the DCPS IMPACT Evaluation Ratings for school years 2011, 2012, and 2013;

WHEREAS, Gwendolyn Evans-Orange, in 2013, achieved a perfect rating of 4.00 as a reading teacher;

WHEREAS, Gwendolyn Evans-Orange has advanced to the Expert Teacher LIFT stage for the 2014-2015 school year along with Distinguished - Highly Effective IMPACT II evaluation ratings from DCPS;

WHEREAS, Gwendolyn Evans-Orange is married to the Honorable Vincent Bernard Orange, Sr., At-Large Member of the Council of the District of Columbia, and they have 3

**ENROLLED ORIGINAL**

children and a daughter in-law, son Vincent Bernard Orange, Jr., and spouse Emily Lawson-Orange, son Paul Wesley Orange, and daughter Jannie Elizabeth Orange;

WHEREAS, the Orange family are long-time residents of Ward 5 and faithful members of Metropolitan African Methodist Episcopal Church in Washington, D.C., where Gwendolyn Evans-Orange has served as a Sunday school teacher for 23 years; and

WHEREAS, Gwendolyn Evans-Orange committed her time, effort, and talents to the betterment of the District of Columbia through her faithful service as a dedicated and appreciated employee of the District of Columbia Public Schools' education system for more than 31 years and has taught every grade level, from Pre-K to Grade 12, as well as taught and trained teachers at the University of the District of Columbia and Howard University.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Gwendolyn Evans-Orange for her outstanding contribution and invaluable service to the District of Columbia, the District of Columbia Public Schools, the University of the District of Columbia, Howard University, and the education of students in the nation's capital, Washington, D.C.

Sec. 2. This resolution may be cited as the "Gwendolyn Evans-Orange Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.



ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-273

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 28, 2014

To recognize and honor Myrna Y. Peralta for her dedicated and valuable service provided to the D.C. Public Library and the citizens of the District of Columbia.

WHEREAS, Myrna Y. Peralta was nominated and confirmed to serve on the D.C. Public Library Board of Library Trustees by Mayor Anthony A. Williams in March 2004;

WHEREAS, Myrna Y. Peralta has served with the National Resource Center on Diversity in End-of-Life Care, the American Red Cross, DC Children and Youth Investment Trust Corporation, and ALTA Consulting Group, Inc.; and

WHEREAS, Myrna Y. Peralta's tenure as a member of the D.C. Public Library Board of Library Trustees greatly contributed to the growing success and recognition of the District of Columbia's library system as it becomes a world class 21<sup>st</sup> century library system.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Myrna Y. Peralta for the valuable and dedicated service she has provided to the D.C. Public Library and to the residents of the District of Columbia.

Sec. 2. This resolution may be cited as the "Myrna Y. Peralta Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-274

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 28, 2014

To recognize and honor Bonnie R. Cohen for her dedicated and valuable service provided to the D.C. Public Library and the citizens of the District of Columbia.

WHEREAS, Bonnie R. Cohen was nominated and confirmed to serve on the D.C. Public Library Board of Library Trustees by Mayor Anthony A. Williams in March 2004;

WHEREAS, Bonnie R. Cohen has served as the Assistant Secretary of the Interior for Policy, Management and Budget and the Under Secretary of State for Management, and serves on a number of boards and non-profits, including the Washington National Opera and the Posse Foundation;

WHEREAS, Bonnie R. Cohen's tenure as the Vice President of the D.C. Public Library Board of Library Trustees greatly contributed to the growing success and recognition of the District of Columbia's library system as it becomes a world class 21st century library system.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Bonnie R. Cohen for the valuable and dedicated service she has provided to the DC Public Library and to the residents of the District of Columbia.

Sec. 2. This resolution may be cited as the "Bonnie R. Cohen Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A CEREMONIAL RESOLUTION

20-275

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 28, 2014

To recognize and honor John W. Hill, Jr., for his dedicated and valuable service provided to the D.C. Public Library and the citizens of the District of Columbia.

WHEREAS, John W. Hill, Jr., was nominated and confirmed to serve on the D.C. Public Library Board of Library Trustees by Mayor Anthony A. Williams in March 2004;

WHEREAS, John W. Hill, Jr., came to the Library with more than 3 decades of experience, leadership, and service in financial management, organizational design and development, and strategic business planning on the federal, state, and local level as well as in the private sector;

WHEREAS, John W. Hill, Jr., served as the first Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority and as the CEO of the Federal City Council, National Minority AIDS Council, Shakespeare Theatre Company, and the DC Children and Youth Investment Trust Corporation; and

WHEREAS, John W. Hill, Jr.'s tenure as the President of D.C. Public Library Board of Library Trustees greatly contributed to the growing success and recognition of the District of Columbia's library system as it becomes a world class 21st century library system.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors John W. Hill, Jr., for the valuable and dedicated service he has provided to the D.C. Public Library and to the residents of the District of Columbia.

Sec. 2. This resolution may be cited as the "John W. Hill, Jr., Recognition Resolution of 2014".

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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

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

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C.

20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004 Telephone: 724-8050 or online at [www.dccouncil.us](http://www.dccouncil.us).

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**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**LEGISLATION**

**PROPOSED**

**BILL**

B21-86            Naval Lodge Building, Inc., Real Property Tax Exemption Act of 2015  
  
Intro. 2-24-15 by Councilmember Allen and referred to the Committee on Finance and Revenue

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**PROPOSED RESOLUTIONS**

PR21-65            Agreement between the Not-For-Profit Hospital Corporation (United Medical Center) and the International Union of Operating Engineers Local 99-99A, AFL-CIO Approval Resolution of 2015  
  
Intro. 2-20-15 by Chairman Mendelson at the request of the Not-For-Profit Hospital and referred to the Committee of the Whole

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PR21-66            Agreement between the Not-For-Profit Hospital Corporation (United Medical Center) and the Federation of Special Police and Security Officers, Inc. on behalf of Local 672 Approval Resolution of 2015  
  
Intro. 2-20-15 by Chairman Mendelson at the request of the Not-For-Profit Hospital and referred to the Committee of the Whole

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PR21-68      Friendship Public Charter School, Inc. Revenue Bonds Project  
Approval Resolution of 2015

Intro. 2-25-15 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Finance and Revenue

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PR21-69      Eligibility for Admission Regulations Approval Resolution of 2015

Intro. 2-25-15 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Education

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PR21-70      Director of the Office on Asian and Pacific Islander Affairs  
David Do Confirmation Resolution of 2015

Intro. 2-25-15 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Housing and Community Development

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PR21-84      Foster Youth Statement of Rights Rules II Approval Resolution of 2015

Intro. 2-26-15 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Health and Human Services

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PR21-85      Commission on the Arts and Humanities Kay F. Kendall  
Confirmation Resolution of 2015

Intro. 2-26-15 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Finance and Revenue

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

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**NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON**  
**The Department of Public Works Trash Collection and Recycling Programs**

Friday, March 20, 2015  
at 1:00 p.m.  
in Room 500 of the  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

On Friday, March 20, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on the Transportation and the Environment, will hold a public oversight roundtable on the trash collection and recycling programs of the Department of Public Works (DPW). The roundtable will begin at 1:00 p.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The purpose of the roundtable is to discuss the management of DPW's trash and recycling collections in general, as well collection back-up and issues that have arisen due to recent winter weather. Topics discussed at the roundtable will include the frequency of collections and how collection cancellations and back-ups are handled in various parts of the District, and what policies and procedures may need to be changed in the future. The roundtable will also consider the District's recycling collection program and waste diversion rates, as well as DPW's enforcement of the District's mandatory recycling laws for all District residents and businesses.

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 Michele Blackwell, Legislative Counsel for Councilmember Mary Cheh, at (202) 724-8062 or via e-mail at [mblackwell@dccouncil.us](mailto:mblackwell@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 [mblackwell@dccouncil.us](mailto:mblackwell@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 Michele Blackwell, Legislative Counsel for Councilmember Mary Cheh, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to [mblackwell@dccouncil.us](mailto:mblackwell@dccouncil.us) or faxed to (202) 724-8118. The record will close at the end of the business day on March 27, 2015.

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

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

on

**PR 21-65, Agreement between the Not-for-Profit Hospital Corporation (United Medical Center) and the International Union of Operating Engineers Local 99-99A, AFL-CIO Approval Resolution of 2015**

and

**PR 21-66, Agreement between the Not-for-Profit Hospital Corporation (United Medical Center) and the Federation of Special Police and Security Officers, Inc. on Behalf of Local 672 Approval Resolution of 2015**

on

**Monday, March 9, 2015  
2:00 p.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 roundtable of the Committee of the Whole on PR 21-65, Agreement between the Not-for-Profit Hospital Corporation (United Medical Center) and the International Union of Operating Engineers Local 99-99A, AFL-CIO Approval Resolution of 2015 and PR 21-66, Agreement between the Not-for-Profit Hospital Corporation (United Medical Center) and the Federation of Special Police and Security Officers, Inc. on Behalf of Local 672 Approval Resolution of 2015. The roundtable will be held at 2:00 p.m. on Monday, March 9, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PR 21-65 is to approve the compensation provisions under the terms of a collective bargaining agreement for certain Not-for-Profit Corporation employees in Local 672 of the Federation of Special Police and Security Officers, Inc. This would be effective as of October 1, 2014. The stated purpose of PR 21-66 is to approve the compensation provisions under the terms of a collective bargaining agreement for certain Not-for-Profit Hospital Corporation employees in Local 99-99A, AFL-CIO of the International Union of Operating Engineers as set forth in the attached pay schedules. This would be effective as of effective as of October 1, 2013. The purpose of this roundtable is to receive testimony from government and public witnesses on PRs 21-65 and 21-66.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Taneka Miller, Legislative Counsel, at [tmiller@dccouncil.us](mailto:tmiller@dccouncil.us), and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Thursday, March 5, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Thursday, March 6, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of PRs 20-65 and 20-66 can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. 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 March 16, 2015.

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

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

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

**ANNOUNCES A PUBLIC ROUNDTABLE ON:**

**PR 21-68, the “Friendship Public Charter School, Inc. Revenue Bonds Project Approval Resolution of 2015”**

**Monday, March 16, 2015**

**10:10 a.m.**

**Room 120 - John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Monday, March 16, 2015 at 10:10 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 21-68, the “Friendship Public Charter School, Inc. Revenue Bonds Project Approval Resolution of 2015” would authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$70 million of District of Columbia revenue bonds in one or more series and would authorize and provide for the loan of the proceeds of the bonds to assist Friendship Public Charter School, Inc. in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act. The project is located at 645 Milwaukee Place, SE, in Ward 8.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or [sloy@dccouncil.us](mailto:sloy@dccouncil.us), and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Friday, March 13, 2015. Witnesses should bring 15 copies of their written testimony to the roundtable. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to [sloy@dccouncil.us](mailto:sloy@dccouncil.us) or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004. This notice is being revised to reflect the time change from 10:00 am to 10:10 am.



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

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

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

**ANNOUNCES A PUBLIC ROUNDTABLE ON:**

**PR 21-85, the “Commission on the Arts and Humanities Kay Kendall Confirmation  
Resolution of 2015”**

**Friday, March 6, 2015**

**10:00 a.m.**

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

**1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Friday, March 6, 2015 at 10:00 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 21-85, the “Commission on the Arts and Humanities Kay Kendall Confirmation Resolution of 2015” would confirm the appointment of Kay Kendall as a member of the Commission on the Arts and Humanities.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or [sloy@dccouncil.us](mailto:sloy@dccouncil.us), and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Thursday, March 5, 2015. Witnesses should bring 10 copies of their written testimony to the roundtable. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to [sloy@dccouncil.us](mailto:sloy@dccouncil.us) or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
1350 Pennsylvania Avenue, NW, Suite 410  
Washington, DC 20004**

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**ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION**

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR21-65, the “Agreement between the Not-for-Profit Hospital Corporation (United Medical Center) and the International Union of Operating Engineers Local 99-99A, AFL-CIO Approval Resolution of 2015” to allow for the proposed resolution to be considered at the March 17, 2015 meeting of the Council. The abbreviated notice is necessary to allow the Council to act on the agreement before it is deemed approved on March 27, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
1350 Pennsylvania Avenue, NW, Suite 410  
Washington, DC 20004

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ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR21-66, the “Agreement between the Not-for-Profit Hospital Corporation (United Medical Center) and the Federation of Special Police and Security Officers, Inc. on Behalf of Local 672 Approval Resolution of 2015” to allow for the proposed resolution to be considered at the March 17, 2015 meeting of the Council. The abbreviated notice is necessary to allow the Council to act on the agreement before it is deemed approved on March 27, 2015.

Council of the District of Columbia  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

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**ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION**

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen (15) days on PR 21-85, the “Commission on the Arts and Humanities Kay Kendall Confirmation Resolution of 2015” in order to consider the proposed resolution at the March 17, 2015 Committee of the Whole.

**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, NW, Room 5 Washington, D.C. 20004. Copies of reprogramming requests are available in Legislative Services, Room 10.  
Telephone: 724-8050

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**Reprog. 21-17:** Request to reprogram \$5.00 of Capital funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of the Secretary on February 23, 2015. This reprogramming is needed to properly align certain master projects to correspond to DDOT's planned obligations for this fiscal year and for future planned spending.

RECEIVED: 14 day review begins February 24, 2015

**Reprog. 21-18:** Request to reprogram \$2,304,384 of Fiscal Year 2015 Local funds budget authority within the Department of General Services (DGS) was filed in the Office of the Secretary on February 27, 2015. This reprogramming ensures that DGS will be able to support personal services pending across agency activities, including salaries and fringe benefits.

RECEIVED: 14 day review begins March 2, 2015

**Reprog. 21-19:** Request to reprogram \$575,000 of Capital funds budget authority and allotment from the Office of Planning (OP) to the Reverse Pay-As-You-Go (Paygo) capital project and subsequently to OP's operating budget was filed in the Office of the Secretary on March 2, 2015. This reprogramming will ensure that the budget is expended from the appropriate funding source.

RECEIVED: 14 day review begins March 3, 2015

**Reprog. 21-20:** Request to reprogram \$468,688 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-As-You-Go (Paygo) Capital Project and subsequently to the Local funds budget of DGS was filed in the Office of the Secretary on March 2, 2015. This reprogramming will ensure that the budget is disbursed from the appropriate funding source.

RECEIVED: 14 day review begins March 3, 2015

**Reprog. 21-21:** Request to reprogram \$22,130 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-As-You-Go (Paygo) Capital Project and subsequently to the Local funds budget of DGS was filed in the Office of the Secretary on March 2, 2015. This reprogramming is necessary to enable the agency to purchase security cameras for the Barry Farm Recreation Center capital project.

RECEIVED: 14 day review begins March 3, 2015

**Reprog. 21-22:** Request to reprogram \$1,200,000 of Fiscal Year 2015 Local funds budget authority within the Department of Employment Services (DOES) was filed in the Office of the Secretary on March 2, 2015. This reprogramming ensures there is funding to cover current and projected spending in the Year Round Youth Program for grants and participant payments.

RECEIVED: 14 day review begins March 3, 2015

**Reprog. 21-23:** Request to reprogram \$33,322 of Capital funds budget authority and allotment for the District of Columbia Sentencing and Criminal Code Revision Commission (SCCRC) was filed in the Office of the Secretary on March 2, 2015. This reprogramming of capital budget will replenish previously approved budget that was reprogrammed for the soccer stadium.

RECEIVED: 14 day review begins March 3, 2015

**Reprog. 21-24:** Request to reprogram \$30,293 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-As-You-Go (Paygo) Capital Project and subsequently to the Local funds budget of the Department of Parks and Recreation was filed in the Office of the Secretary on March 2, 2015. This reprogramming will support the Local funds to enable the agency to purchase the required maintenance fixtures, furniture, and equipment for the Southeast Tennis and Learning Center.

RECEIVED: 14 day review begins March 3, 2015

**Reprog. 21-25:** Request to reprogram \$30,293 of Capital funds budget authority and allotment from the Department of General Services (DGS) to the Reverse Pay-As-You-Go (Paygo) Capital Project and subsequently to the Local funds budget of the Department of Parks and Recreation was filed in the Office of the Secretary on March 2, 2015. This reprogramming will support the Local funds to enable the agency to purchase the required maintenance fixtures, furniture, and equipment for the Southeast Tennis and Learning Center.

RECEIVED: 14 day review begins March 3, 2015

**Reprog. 21-26:** Request to reprogram \$73,002 of Capital funds budget authority and allotment from the Washington Metropolitan Area Transit Authority (WMATA) to the Office of the Chief Technology Officer (OCTO) was filed in the Office of the Secretary on March 2, 2015. This reprogramming is needed to complete the match requirement of a grant award for the DC First Net project.

RECEIVED: 14 day review begins March 3, 2015

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

**\*\* RESCIND\*\***

\*\*Posting Date: February 20, 2015  
\*\*Petition Date: April 6, 2015  
\*\*Hearing Date: April 20, 2015

License No.: ABRA-096001  
Licensee: Bon Appetit Management Co.  
Trade Name: Bulldog Tavern  
License Class: Retailer's Class "C" Restaurant  
Address: 3700 O Street, N.W.  
Contact: Derek Nottingham: 202-687-6302

WARD 2

ANC 2E

SMD 2E08

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

**NATURE OF SUBSTANTIAL CHANGE**

Applicant requests an Entertainment Endorsement to allow live music performance, trivia, karaoke, poetry readings, comedy, and vocal performances.

**CURRENT HOURS OF OPERATION**

Sunday through Wednesday 11 am – 1 am, Thursday 11 am – 2am and Friday & Saturday 11 am - 3 am

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

Sunday 12 pm – 1 am, Monday through Wednesday 11 am – 1 am, Thursday 11 am – 2 am and Friday & Saturday 11 am – 3 am

**CURRENT HOURS OF OPERATION FOR SUMMER GARDEN**

Sunday through Wednesday 11 am – 11 pm, Thursday through Saturday 11 am – 12 am

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN**

Sunday 12 pm – 11 pm, Monday through Wednesday 11 am – 11 pm, Thursday through Saturday 11 am – 12 pm

**HOURS OF LIVE ENTERTAINMENT BEGINNING AFTER 6:00 PM**

Sunday through Saturday 8 pm – 12:30 am



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

Posting Date: March 6, 2015  
Petition Date: April 20, 2015  
Hearing Date: May 4, 2015

License No.: ABRA-096001  
Licensee: Bon Appetit Management Co.  
Trade Name: Bulldog Tavern  
License Class: Retailer's Class "C" Restaurant  
Address: 3700 O Street, N.W.  
Contact: Derek Nottingham: 202-687-6302

WARD 2

ANC 2E

SMD 2E08

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

**NATURE OF SUBSTANTIAL CHANGE**

Applicant requests an Entertainment Endorsement to allow live music performance, trivia, karaoke, poetry readings, comedy, and vocal performances.

**CURRENT HOURS OF OPERATION**

Sunday through Wednesday 11 am – 1 am, Thursday 11 am – 2am and Friday & Saturday 11 am - 3 am

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

Sunday 12 pm – 1 am, Monday through Wednesday 11 am – 1 am, Thursday 11 am – 2 am and Friday & Saturday 11 am – 3 am

**CURRENT HOURS OF OPERATION FOR SUMMER GARDEN**

Sunday through Wednesday 11 am – 11 pm, Thursday through Saturday 11 am – 12 am

**CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN**

Sunday 12 pm – 11 pm, Monday through Wednesday 11 am – 11 pm, Thursday through Saturday 11 am – 12 pm

**HOURS OF LIVE ENTERTAINMENT BEGINNING AFTER 6:00 PM**

Sunday through Saturday 8 pm – 12:30 am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

ON

**3/6/2015**

Notice is hereby given that:

License Number: ABRA-076250

License Class/Type: A Retail - Liquor Store

Applicant: Fikre Market, Inc.

Trade Name: Capitol View Market

ANC: 7C03

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

**4920 CENTRAL AVE NE**

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

**4/20/2015**

***A HEARING WILL BE HELD ON:***

**5/4/2015**

***AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009***

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 6 am - 12 am              | 7 am -12 am                   |
| Monday:     | 6 am - 12 am              | 7 am - 12 am                  |
| Tuesday:    | 6 am - 12 am              | 7 am - 12 am                  |
| Wednesday:  | 6 am - 12 am              | 7 am - 12 am                  |
| Thursday:   | 6 am - 12 am              | 7 am - 12 am                  |
| Friday:     | 6 am - 12 am              | 7 am - 12 am                  |
| Saturday:   | 6 am - 12 am              | 7 am - 12 am                  |

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 6, 2015
Petition Date: April 20, 2015
Roll Call Hearing Date: May 4, 2015
Protest Hearing Date: July 15, 2015

License No.: ABRA-097302
Licensee: Omar LLC
Trade Name: Castello Restaurant and Lounge
License Class: Retailer's Class "C" Tavern
Address: 931 Hamilton Street, N.W.
Contact: Dee Hunter: 202-321-4529

WARD 4 ANC 4D SMD 4D04

Notice is hereby given that this applicant has applied for a new 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 July 15, 2015 at 4:30 pm.

NATURE OF OPERATION

Restaurant serving International and American cuisine. Entertainment to include a DJ and a live jazz band. Sidewalk Café with seating for 46 patrons and a total occupancy load of 159.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT

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

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

Sunday through Saturday: 10am – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

\*\*CORRECTION

Posting Date: January 30, 2015
Petition Date: March 16, 2015
Roll Call Hearing Date: March 30, 2015

License No.: ABRA-096103
Licensee: HBGT, LLC
Trade Name: Chez Billy Sud
License Class: Retailer's Class "C" Restaurant
Address: 1039 31st Street, N.W.
Contact: Candace M. Fitch: 202-258-8634\*\*

WARD 2

ANC 2E

SMD 2E05

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

NATURE OF SUBSTANTIAL CHANGE:

Request is for an expansion from 1039 31st Street, N.W. to 1035 31st Street, N.W. The seating capacity in this expanded space is 60 with a total occupancy load of 90.

APPROVED HOURS OF OPERATION INSIDE PREMISES

Sunday through Thursday 7 am - 1 am, Friday & Saturday 7 am - 2 am

APPROVED HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION INSIDE PREMISES

Sunday 10 am - 12 am, Monday through Thursday 11:30 am - 12 am, Friday 11:30 am - 2 am, Saturday 10 am - 2 am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE

Sunday 9 am - 12 am, Monday through Thursday 8 am - 12 am, Friday 8 am - 1 am, Saturday 9 am - 1 am

HOURS OF LIVE ENTERTAINMENT\*\*

Monday, Tuesday and Thursday 7 pm - 10 pm

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

Posting Date: March 6, 2015  
Petition Date: April 20, 2015  
Hearing Date: May 4, 2015  
Protest Hearing: July 15, 2015

License No.: ABRA-098205  
Licensee: Only Paradise Restaurant, Inc.  
Trade Name: Golden Paradise Restaurant  
License Class: Retailer's Class "C" Restaurant  
Address: 3903 14<sup>th</sup> Street, N.W.  
Contact: Ana De Leon: 202-246-7601

WARD 4

ANC 4C

SMD 4C05

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14<sup>th</sup> Street, N.W., 400 South, Washington, DC 20009. 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 4:30 PM on July 15, 2015.

**NATURE OF OPERATION**

New family-oriented restaurant serving Mexican, Salvadorian and American food. Total occupancy load of 73.

**HOURS OF OPERATON**

Sunday through Thursday 6 am – 2am, Friday and Saturday 6 am – 3 am

**HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 6, 2015
Petition Date: April 20, 2015
Hearing Date: May 4, 2015

License No.: ABRA-090509
Licensee: JKM Incorporated
Trade Name: Lyman's
License Class: Retailer's Class "C" Tavern
Address: 3720 14th Street, N.W.
Contact: Michael Fonseca: 202-625-7700

WARD 4

ANC 4C

SMD 4C04

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a sidewalk café with 45 seats.

CURRENT HOURS OF OPERATION, ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION AND LIVE ENTERTAINMENT

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

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

Sunday through Saturday 10 am – 12 am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE

Sunday through Saturday 11 am – 12 am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

ON

**3/6/2015**

Notice is hereby given that:

License Number: ABRA-023501 License Class/Type: A Retail - Liquor Store  
Applicant: New Da Hsin Trading Inc. Trade Name: New Da Hsin Trading, Inc  
ANC: 2C01

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

**811 7TH ST NW**

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

**4/20/2015**

***A HEARING WILL BE HELD ON:***

**5/4/2015**

***AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009***

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | -                         | -                             |
| Monday:     | 10 am - 7:30 pm           | 10 am - 7:30 pm               |
| Tuesday:    | 10 am - 7:30 pm           | 10 am - 7:30 pm               |
| Wednesday:  | 10 am - 7:30 pm           | 10 am - 7:30 pm               |
| Thursday:   | 10 am - 7:30 pm           | 10 am - 7:30 pm               |
| Friday:     | 10 am - 7:30 pm           | 10 am - 7:30 pm               |
| Saturday:   | 10 am - 7:30 pm           | 10 am - 7:30 pm               |

**FOR FURTHER INFORMATION CALL: (202) 442-4423**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 6, 2015
Petition Date: April 20, 2015
Hearing Date: May 4, 2015

License No.: ABRA-094777
Licensee: Gill Investment Group
Trade Name: Noelia
License Class: Retailer's Class "C" Restaurant
Address: 1319 F Street, N.W.
Contact: Kaiser Gill: 202-737-3100

WARD 2

ANC 2C

SMD 2C01

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Change of Hours.

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

Monday through Thursday 11:30 am - 11:30 pm and Friday & Saturday 11:30 - 3 am

CURRENT HOURS OF LIVE ENTERTAINMENT

Friday and Saturday 6 pm - 3 am

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

Sunday through Thursday 11:30 am - 3 am and Friday & Saturday 10 am - 3 am

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Saturday 6 pm - 3 am



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

Posting Date: March 6, 2015  
Petition Date: April 20, 2015  
Hearing Date: May 4, 2015  
Protest Date: July 15, 2015

License No.: ABRA-097573  
Licensee: Ameri Thai Group, Inc.  
Trade Name: Thai Pad  
License Class: Retailer's Class "C" Restaurant  
Address: 4481-B Connecticut Avenue, N.W.  
Contact: Steven Imus: 202-244-0379

WARD 3

ANC 3F

SMD 3F04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on May 13, 2015.

**NATURE OF OPERATION**

New restaurant serving exclusively Thai food. Seating for 28 and total occupancy load of 33.

**HOURS OF OPERATION INSIDE PREMISES AND OUTSIDE IN SUMMER GARDEN**

Sunday through Thursday 11 am – 10:30 pm and Friday & Saturday 11 am – 11 pm

**HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

Sunday through Thursday 11 am – 11:30 pm and Friday & Saturday 11 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*CORRECTION**

Posting Date: February 20, 2015  
Petition Date: April 6, 2015  
Hearing Date: April 20, 2015  
Protest Hearing: July 1, 2015

License No.: ABRA-097803  
Licensee: States & Letters Restaurant, LLC  
Trade Name: The Dabney  
License Class: Retailer’s Class “C” Restaurant  
Address: 1216-1226 9<sup>th</sup> Street, N.W.  
Contact: Stephen O’Brien: 202 625-7700

WARD 2

ANC 2F

SMD 2F06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14<sup>th</sup> Street, N.W., 400 South, Washington, DC 20009. 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 4:30pm on July 1, 2015.

**NATURE OF OPERATION**

New full-service restaurant serving American food. Recorded music. Occasional live entertainment for private events only. Total occupancy load of 180. Summer Garden with 18 seats.

**HOURS OF OPERATON AND ALCOHOLIC BEVERAGE**

**SALES/SERVICE/CONSUMPTION**

Sunday through Saturday 8am – 1 am

**HOURS OF OPERATON AND ALCOHOLIC BEVERAGE**

**SALES/SERVICE/CONSUMPTION FOR SUMMER GARDEN**

Sunday through Saturday 8am – 12 am

**HOURS OF LIVE ENTERTAINMENT BEGINNING AFTER 6:00 PM\*\***

Sunday through Saturday 8am – 1 am

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

Posting Date: March 6, 2015  
Petition Date: April 20, 2015  
Roll Call Hearing Date: May 4, 2015  
Protest Hearing Date: July 15, 2015

License No.: ABRA-098033  
Licensee: Two Tails LLC  
Trade Name: To Be Determined  
License Class: Retailer's Class "C" Restaurant  
Address: 1827 Adams Mill Road, N.W.  
Contact: Stephen J. O'Brien: 202-625-7700

WARD 1

ANC 1C

SMD 1C07

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for July 15, 2015 at 4:30 pm.

**NATURE OF OPERATION**

A casual, a la carte restaurant serving Mediterranean-influenced cuisine. Seating inside premises for 90 patrons and a total occupancy load inside of 99. Sidewalk Café with seating for 16 patrons.

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

Sunday through Thursday 8am-1am, Friday and Saturday 8am-1:30am

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE  
SALES/SERVICE/CONSUMPTION FOR THE SIDEWALK CAFE**

Sunday through Thursday 8am-11pm, Friday and Saturday 8am-12am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

ON

**3/6/2015**

Notice is hereby given that:

License Number: ABRA-093813

License Class/Type: A Retail - Liquor Store

Applicant: JLC INC

Trade Name: Towne Wine & Liquor

ANC: 2E03

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

**1326 WISCONSIN AVE NW**

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

**4/20/2015**

*A HEARING WILL BE HELD ON:*

**5/4/2015**

*AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009*

| <b>Days</b> | <b>Hours of Operation</b> | <b>Hours of Sales/Service</b> |
|-------------|---------------------------|-------------------------------|
| Sunday:     | 10 am - 12 am             | 10 am -12 am                  |
| Monday:     | 10 am - 12 am             | 10 am - 12 am                 |
| Tuesday:    | 10 am - 12 am             | 10 am - 12 am                 |
| Wednesday:  | 10 am - 12 am             | 10 am - 12 am                 |
| Thursday:   | 10 am - 12 am             | 10 am - 12 am                 |
| Friday:     | 10 am - 12 am             | 10 am - 12 am                 |
| Saturday:   | 10 am - 12 am             | 10 am - 12 am                 |

**ENDORSEMENTS: Tasting**

FOR FURTHER INFORMATION CALL: (202) 442-4423

**HISTORIC PRESERVATION REVIEW BOARD****NOTICE OF PUBLIC HEARING**

The D.C. Historic Preservation Review Board will hold a public hearing to consider applications to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the properties to the National Register of Historic Places:

**Case No. 14-04: West Heating Plant**  
**1051/1055 29<sup>th</sup> Street NW**  
**Square 1193**  
**Applicant: D.C. Preservation League**  
**Affected Advisory Neighborhood Commission: 2E**

**Case No. 15-06: Emory United Methodist Church**  
**6100 (and 6104 and 6120) Georgia Avenue NW**  
**Square 2940, Lot 17 (including Assessment and Taxation Lots 801,**  
**802, 808 and 813)**  
**Applicant: D.C. Preservation League**  
**Affected Advisory Neighborhood Commission: 4A**

**Case No. 15-08: 7 Grant Circle NW**  
**Square 3243, Lot 44**  
**Applicant: The Off Boundary Preservation Brigade**  
**Affected Advisory Neighborhood Commission: 4C**

**Case No. 15-01: Capitol Hill Historic District amendment/expansion**  
**Applicant: Advisory Neighborhood Commission 6C**  
**Affected Advisory Neighborhood Commission: ANC 6C**

The proposed designation would apply to all properties Squares 753 and 778 and those properties in the parts of Squares 752 and 777 that presently include:

Lots 22-30, 33, 35, 36, 46, 47, 49, 832-834, 836, 840-842, 844-847 and 855 in Square 752 and Lots 34-40, 43-47, 54-82 and 816 in Square 777, known as the 600 block of 2<sup>nd</sup> Street NE, odd addresses; the 200 and 300 blocks of F Street NE, even addresses; the 200 and 300 blocks of G Street NE, odd addresses; 222-338 G Street NE, even addresses; the 600 block of 3<sup>rd</sup> Street NE; 610-732 4<sup>th</sup> Street NE, even addresses; 701-723 3<sup>rd</sup> Street NE, odd addresses; and 706-734 3<sup>rd</sup> Street NE, even addresses.

The hearing will take place at **9:00 a.m. on Thursday, April 23, 2015**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4<sup>th</sup> Street SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the Historic Preservation Office.

For each property, a copy of the historic landmark or historic district application is currently on file and available for inspection. A copy of the staff report and recommendation for each will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates the property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District of Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

**EXECUTIVE OFFICE OF THE MAYOR  
OFFICE OF THE DEPUTY MAYOR FOR EDUCATION  
NOTICE OF PUBLIC HEARING**

**Fiscal Year 2016 Budget for Public Schools in the District of Columbia**

**Monday March 16, 2016  
6:00 pm – 7:30pm  
Columbia Heights Education Campus  
3101 16<sup>th</sup> St., NW  
Washington, DC 20010**

Mayor Muriel Bowser, Deputy Mayor for Education, Jennifer Nile, and Acting State Superintendent of Education, Amy Maisterra, will hold a public hearing on the Fiscal Year 2016 budget for public schools. **The hearing will be held on Monday, March 16, 2015 from 6:00 pm to 7:30pm at Columbia Heights Education Campus, 3103 16<sup>th</sup> St., NW, Washington, DC 20010.**

The purpose of the hearing is to solicit the views of the public on levels of public funding to be sought in the FY 2016 operating budget for public schools in the District of Columbia, pursuant to the District of Columbia Official Code § 38-917.

Members of the public are invited to testify. Testimony is limited to three minutes per witness and five minutes per organization or group. **Those wishing to testify should contact Tara Lynch in the Office of the Deputy Mayor for Education via email at [tara.lynch@dc.gov](mailto:tara.lynch@dc.gov) or by telephone at (202) 727-3636 by 4 pm on Thursday, March 12, 2015.** Witnesses should bring three (3) copies of their written testimony to the hearing.

Members of the public may submit written testimony, which will be made part of the official record. Copies of written statements should be submitted to the contact listed above no later than **4 pm on Thursday, March 12, 2015.**

If members of the public need interpretation services, please contact Mrs. Lynch to arrange services for the hearing.



**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
TUESDAY, APRIL 21, 2015  
441 4<sup>TH</sup> STREET, N.W.  
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH  
WASHINGTON, D.C. 20001**

**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.

**TIME: 9:30 A.M.**

**WARD ONE**

18979            **Application of Tiblez Adal**, pursuant to 11 DCMR § 3103.2, for a variance  
ANC-1A           from the nonconforming structure requirements under § 2001.3, to allow a  
                         substantially-completed two-story carriage house to be adaptively restored as an  
                         artist studio in the R-4 District at premises 400 K Street N.E. (Square 806, Lot  
                         44).

**WARD FIVE**

18013A           **Application of Franklin Commons Intergenerational Day Care**  
ANC-5C           **Center, Inc.**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from  
                         the off-street parking requirements under § 2101.1, and a special exception from  
                         the child development center provisions under § 205, for the continued operation  
                         of a child development center consisting of 50 children and 14 staff in the R-3  
                         District at premises 119 Franklin Street, N.E. (Square 3505, Lot 802).

**WARD ONE**

18980            **Appeal of Concerned Citizens of Argonne Place**, pursuant to 11 DCMR  
ANC-1C           §§ 3100 and 3101, from December 18, 2014 and January 8, 2015 decisions by  
                         the Zoning Administrator, Department of Consumer and Regulatory Affairs, to  
                         issue Building Permit Nos. B1502210 and B1404813 to convert a one-family  
                         dwelling to a four-unit apartment house in the R-5-B District at premises 1636  
                         Argonne Place, N.W. (Square 2589, Lot 460).

**WARD SIX**

18981            **Application of Frances Raskin**, pursuant to 11 DCMR § 3104.1 for a special  
ANC-6C           exception under § 223, not meeting the lot occupancy requirements under §  
                         403.2, to allow the construction of a two-story rear addition to an existing one-  
                         family dwelling in the CAP/R-4 District at premises 333 F Street, N.E. (Square  
                         779, Lot 161).

## BZA PUBLIC HEARING NOTICE

APRIL 21, 2015

PAGE NO. 2

**WARD THREE**

18983            **Application of Carrie and Phong Trieu**, pursuant to 11 DCMR §§ 3103.2  
ANC-3D           and 3104.1, for variances from the off-street parking requirements under §  
2101.1, and the use requirements under § 3103.6, and special exceptions from the  
building lot control requirements under §§ 2516.1 and 2516.4, to construct a  
second principal structure in the R-1-B District at premises 5236 Sherrier Place,  
N.W. (Square 1415, Lot 85).

**WARD SIX**

18938            **Application of Gina Eppolito**, pursuant to 11 DCMR § 3104.1 for a special  
ANC-6B           exception under § 223, not meeting the lot occupancy requirements under §  
403.2, the open court requirements under § 406.1, and the non-conforming  
structure under § 2001.3, to allow the construction of a two-story rear addition to  
an existing single-family dwelling in the CAP/R-4 District at premises 325 5th  
Street S.E. (Square 820, Lot 17).

**PLEASE NOTE:**

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](http://www.dcoz.dc.gov). All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4<sup>th</sup> Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

BZA PUBLIC HEARING NOTICE

APRIL 21, 2015

PAGE NO. 3

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

**LLOYD J. JORDAN, CHAIRMAN, MARNIQUE Y. HEATH, VICE CHAIRPERSON, S.  
KATHRYN ALLEN, JEFFREY L. HINKLE AND A MEMBER OF THE ZONING  
COMMISSION, 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, April 20, 2015 @ 6:30 p.m.**  
  **Jerrily R. Kress Memorial Hearing Room**  
  **441 4<sup>th</sup> Street, N.W., Suite 220-South**  
  **Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**Case No. 05-22A (View 14 Investments, LLC – PUD Modification @ Square 2868, Lot 155)**

**THIS CASE IS OF INTEREST TO ANC 1B**

On March 24, 2014, the Office of Zoning received an application from View 14 Investments, LLC (the “Applicant”) for approval of a modification to a previously approved planned unit development (“PUD”) located at 2303 14<sup>th</sup> Street, N.W. (Square 2868, Lot 55) (the “Subject Property”) and is mapped within the C-2-B Zone District.. The Zoning Commission originally granted approval of the PUD for the Subject Property pursuant to Z.C. Order No. 05-22, dated January 9, 2006, and effective on February 3, 2006.

The Applicant seeks to modify the PUD to permit an animal boarding use, specifically a dog day care center in the retail space on the ground floor of the building. The proposed dog day care center would consist of approximately 4,300 square feet and would include pet grooming and overnight animal boarding. The entrance to the facility would be at the corner of Florida Avenue, N.W. and 14<sup>th</sup> Street, N.W., with frontage along 14<sup>th</sup> Street.

An animal boarding use that is not located in a basement or cellar space is permitted by special exception in the C-2-B Zone District. (11 DCMR § 735.) The PUD regulations provide that the Commission, as part of a PUD approval may also approve any use that is permitted as a special exception and, in doing so, is not required to apply the special exception standards normally applied by the Board of Zoning Adjustment. (11 DCMR §§ 2405.7 and 2405.8.)

The Office of Planning provided its report on June 20, 2014. At its public meeting on June 30, 2014, the Zoning Commission decided to hold in abeyance the set down of the application. On December 5, 2014, the Applicant submitted a revised PUD modification application. At its public meeting on February 9, 2015, the Zoning Commission voted to set down the application for a public hearing. The Applicant provided its prehearing statement on February 13, 2015.

The Subject Property consists of approximately 31,279 square feet of land area and is located on the east side of 14<sup>th</sup> Street, N.W., between Belmont Street, N.W. to the north and Florida Avenue, N.W. to the south. The Subject Property is improved with a mixed-use building that consists of approximately 32,000 square feet of commercial and service uses at or below grade and 185 apartment units on the upper nine floors. The Subject Property is located in Ward 1 and is within the boundaries of Advisory Neighborhood Commission (“ANC”) 1B.

Z.C. NOTICE OF PUBLIC HEARING  
Z.C. CASE NO. 05-22A  
PAGE 2

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 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 § 3106.2.

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](mailto: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), pursuant to 11 DCMR 3012.5, intends to participate at the hearing, the ANC shall also submit the information cited in § 3012.5 (a) through (i). The written report of the ANC shall be filed no later than seven (7) days before the date of the hearing.**

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](mailto: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:

**Z.C. NOTICE OF PUBLIC HEARING  
Z.C. CASE NO. 05-22A  
PAGE 3**

- |    |                                  |                         |
|----|----------------------------------|-------------------------|
| 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.

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 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto: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.**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
CORRECTED<sup>1</sup> NOTICE OF PUBLIC HEARING**

**TIME AND PLACE:**            **Monday, April 6, 2015, @ 6:30 p.m. – 2<sup>nd</sup> Case  
Jerrily R. Kress Memorial Hearing Room  
441 4<sup>th</sup> Street, N.W., Suite 220-South  
Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 08-06C (Map Amendment to Implement the Comprehensive Revisions to the Zoning Regulations, including New Zone Names)**

**THIS CASE IS OF INTEREST TO ALL ANCs**

On February 9, 2015, the Office of Planning filed a report that served as a petition requesting amendments to the Zoning Map. The proposed map amendments would implement the new zones and zone names created through the text for the Comprehensive revisions to the zoning regulations, also referred to as ZRR, in Case No. 08-06A, through the remapping of the existing zone district names to the new zone district names. The boundaries of the new zone district names are the same as the existing zone districts except as proposed for the R-19 and R-20 zones and parts of the new proposed D zone districts as described herein.

No name changes are proposed to the R-1-A, R-1-B, R-2, R-3, USN, HE-1 through HE-4, or the StE-1 through StE-19 zones.

The provisions of 11 DCMR § 3202.5, known as the “set down rule” do not apply to this proposed map amendment because there is no current text that relates to the proposed zone designations. Applications for building permits will continue to be processed in accordance with existing zone designations until such time as the text and map amendments proposed as part of the ZRR process become final, and subject to such vesting provisions as the Commission may ultimately adopt.

The Zoning Commission set down this case for a public hearing on February 9, 2015. The Office of Planning report served as its supplemental filing required by 11 DCMR § 3014.

**PROPOSED MAP AMENDMENT**

1. Amend the Zoning Map to change all existing references to the Current Zone Names to the Proposed Zone Names as listed in the following table:

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<sup>1</sup> This notice corrects the day of the week for the hearing to Monday, April 6, 2015; the original notice incorrectly listed Thursday, April 6, 2015. No other changes have been made.

Z.C. CORRECTED NOTICE OF PUBLIC HEARING  
 Z.C. CASE NO. 08-06C  
 PAGE 2

| Current Zone Name               | Proposed Zone Name |
|---------------------------------|--------------------|
| R-1-A/D                         | R-1-A              |
| R-1-B/D                         | R-1-B              |
| R-2/D                           | R-2                |
| R-3/D                           | R-3                |
| R-1-A/TSP                       | R-6                |
| R-1-B/TSP                       | R-7                |
| R-1-A/FH-TSP                    | R-8                |
| R-1-B/FH-TSP                    | R-9                |
| R-2/FH-TSP                      | R-10               |
| R-1-A/NO/TSP and R-1-A/NO/TSP/D | R-11               |
| R-1-B/NO and R-1-B/NO/D         | R-12               |
| R-3/NO                          | R-13               |
| R-1-A/WH                        | R-14               |
| R-1-B/WH                        | R-15               |
| R-3/FB                          | R-17               |
| R-1-B/SSH1                      | R-16               |
| R-1-B/SSH2                      |                    |
| R-1-A/CBUT                      | R-21               |
| R-4                             | RF-1               |
| R-4/D                           | RF-1               |
| R-4/DC                          | RF-2               |
| R-4/CAP                         | RF-3               |
| R-5-A                           | RA-1               |
| R-5-B                           | RA-2               |
| R-5-C                           | RA-3               |
| R-5-D                           | RA-4               |
| R-5-E                           | RA-5               |
| R-5-A/NO                        | RA-6               |
| R-5-B/CAP                       | RA-7               |
| R-5-B/DC                        | RA-8               |
| R-5-D/DC                        | RA-9               |
| R-5-E/DC                        | RA-10              |
| SP-1                            | MU-1               |
| SP-2                            | MU-2               |
| C-1                             | MU-3               |



Z.C. CORRECTED NOTICE OF PUBLIC HEARING  
 Z.C. CASE NO. 08-06C  
 PAGE 3

| Current Zone Name | Proposed Zone Name |
|-------------------|--------------------|
| C-2-A             | MU-4               |
| C-2-B             | MU-5               |
| C-2-C             | MU-6               |
| C-3-A             | MU-7               |
| C-3-B             | MU-8               |
| C-3-C             | MU-9               |
| CR                | MU-10              |
|                   |                    |
| W-0               | MU-11              |
| W-1               | MU-12              |
| W-2               | MU-13              |
| W-3               | MU-14              |
|                   |                    |
| SP-1/DC           | MU-15              |
| SP-2/DC           | MU-16              |
| C-2-A/DC          | MU-17              |
| C-2-B/DC          | MU-18              |
| C-2-C/DC          | MU-19              |
| C-3-B/DC          | MU-20              |
| C-3-C/DC          | MU-21              |
| CR/DC             | MU-22              |
|                   |                    |
| SP-2/CAP          | MU-23              |
| C-2-A/CAP         | MU-24              |
| C-2-A/CHC         | MU-25              |
| C-2-A/CAP/CHC     | MU-26              |
|                   |                    |
| C-2-A/NO          | MU-27              |
|                   |                    |
| C-3-A/FT          | MU-28              |
| CR/FT             | MU-29              |
|                   |                    |
| C-1/MW            | NC-1               |
| C-2-A/TK          | NC-2               |
| C-2-A/CP          | NC-3               |
| C-2-A/WP          | NC-4               |
| C-2-B/WP          | NC-5               |
|                   |                    |
| C-3-A/ES          | NC-6               |
|                   |                    |
| C-2-A/GA          | NC-7               |
| C-3-A/GA          | NC-8               |
|                   |                    |
| C-2-A/HS-H        | NC-9               |
| C-2-B/HS-H        | NC-10              |
| C-2-C/HS-H        | NC-11              |
| C-3-A/HS-H        | NC-12              |
| C-3-B/HS-H        | NC-13              |

Z.C. CORRECTED NOTICE OF PUBLIC HEARING  
 Z.C. CASE NO. 08-06C  
 PAGE 4

| Current Zone Name | Proposed Zone Name |
|-------------------|--------------------|
| C-2-A/HS-A        | NC-14              |
| C-3-A/HS-A        | NC-15              |
| C-2-A/HS-R        | NC-16              |
| C-2-B/HS-R        | NC-17              |
| CM-1              | PDR-1              |
| CM-1/LO           | PDR-1              |
| CM-2              | PDR-2              |
| CM-3              | PDR-3              |
| M                 | PDR-4              |
| CM-1/CAP          | PDR-5              |
| CM-1/FT           | PDR-6              |
| M/FT              | PDR-7              |
| SEFC/CR           | SEFC-1             |
| SEFC/R-5-E        | SEFC-2             |
| SEFC/R-5-D        | SEFC-3             |
| SEFC/W-0          | SEFC-4             |
| CG/R-5-E          | CG-1               |
| CG/C-2-C          | CG-2               |
| CG/C-3-C          | CG-3               |
| CG/CR             | CG-4               |
| CG/W-2            | CG-5               |
| CG/W-1            | CG-6               |
| CG/W-3            | CG-7               |
| C-2-A/ARTS        | ARTS-1             |
| C-2-B/ARTS        | ARTS-2             |
| C-3-A/ARTS        | ARTS-3             |
| CR/ARTS           | ARTS-4             |
| R-5-B/RC          | RC-1               |
| C-2-A/RC          | RC-2               |
| C-2-B/RC          | RC-3               |
| HR/SP-2           | D-2                |

2. Amend the Zoning Map to change the following squares, or portions of squares currently in the R-1-B Zone District to the R-19 Zone District:

| <u>Squares East side of Wisconsin Ave. NW</u> | <u>Squares West side of Wisconsin Ave. NW</u> |
|---|---|
| 1312, 1312S                                   | 1280 through 1282                             |
| 1313  | 1254 through 1256                             |
| 1320  | 1285  |

Z.C. CORRECTED NOTICE OF PUBLIC HEARING  
 Z.C. CASE NO. 08-06C  
 PAGE 5

3. Amend the Zoning Map to change the following squares or portions of squares currently in the R-3 Zone District to the R-20 Zone District:

| Squares East side of Wisconsin Ave. NW | Squares West side of Wisconsin Ave. NW |
|--|--|
| 1201 through 1206                      | 1208 through 1215                      |
| 1218 through 1223                      | 1232 through 1243                      |
| 1226 through 1231                      | 1256 through 1262                      |
| 1244 through 1248                      | 1266 through 1271                      |
| 1253 through 1255                      | 1280                                   |
| 1272 through 1274                      | 1282 through 1284                      |
| 1277 through 1279                      |  |
| 1290, 1291                             |  |
| 1293 through 1298                      |  |
| 1296E, 1296S, 1296SS                   |  |
| 1302 through 1311                      |  |
| 1308S, 1311S,                          |  |

4. Amend the Zoning Map to change Squares 646 and 648 in the C-3-A Zone District to the D-5 Zone District.
5. Amend the Zoning Map to change Square 649 from the C-3-A and CG/C-3-C Zone Districts to the D-5 Zone District.
6. Amend the Zoning Map to change squares or portions of Squares 695 NW, 695W, 695, 696, 697, 697N, 699, 699N, 698, 737N, 737, 738, 739, 740, 741, 742, 743N, and 766 in the CG/C-3-C Zone District to the D-5 Zone District;
7. Amend the Zoning Map to change squares or portions of Squares 624, 563, 564, 566, and 568 in the HR/C-3-C and C-3-C Zone Districts to the D-4 Zone District;
8. Amend the Zoning Map to change Square 482 and those portions of Squares 449, 514, and 524 in the DD/R-5-B Zone District to the RA-2 Zone District; and
9. Amend the Zoning Map to change squares or portions of Squares 449, 514, and 524 in the DD/C-2-C Zone District to the MU-6 Zone District.
10. Amend the Zoning Map to change squares or portions of Squares 449, 482, 514, and 524 from the DD/R-5-B Zone District to the RA-2 Zone District.
11. Amend the Zoning Map to change squares or portions of Squares 246 and 282 from the DD/R-5-E Zone District to the D-1-R Zone District.

Z.C. CORRECTED NOTICE OF PUBLIC HEARING  
Z.C. CASE NO. 08-06C  
PAGE 6

12. Amend the Zoning Map to change squares or portions of Squares 247, 283, 453, 485, and 517 from the DD/R-5-E Zone District to the D-1-R Zone District.
13. Amend the Zoning Map to change portions of Square 369 from the DD/C-2-A Zone District to the MU-4 Zone District.
14. Amend the Zoning Map to change squares or portions of Squares 247, 283, 284, 316, 342, 369, 370, 401, 425, 449, 450, 451, 482S, 484, 485, 486, 514, 515N, 515, 516, 516S, 517, 518, 524, 525, 526, 527m 528, 529, 556, and 558 from the DD/C-2-C Zone District to the D-4-R Zone District.
15. Amend the Zoning Map to change portions of Square 450 from the DD/C-3-A Zone District to the MU-7 Zone District.
16. Amend the Zoning Map to change squares or portions of Squares 315, 317, 342, 343, 344, 371, 372, 373, 374, 402, 426, 428, 452, 453, 483, and 484W from the DD/C-3-C Zone District to the D-5-R Zone District.
17. Amend the Zoning Map to change squares or portions of Squares 377, 406, 407, 408, 431, 432S, 454, 455, 456, 457, 458, 459, 460, and 491 from the DD/C-4 Zone District to the D-6-R Zone District.
18. Amend the Zoning Map to change squares or portions of squares 223, 224, 252, 253, 288, 289, 290, 319, 320, 321, 345, 346, 347, 375, 376, 378, 405, 429, 429S, and 430 from the DD/C-4 Zone District to the D-7 Zone District.
19. Amend the Zoning Map to change squares or portions of Squares 225, 254, 254S, 291, 322, and 348 from the DD/C-5 Zone District to the D-7 Zone District.
20. Amend the Zoning Map to change squares or portions of Squares 565, 567, 569, 570, 571, 572, 572S, 573, 574, 625, 626, 627, 628, 629, 630, the HR/C-3-C Zone District to the D-3 Zone District.
21. Amend the Zoning Map to change squares or portions of Squares 563, 564, 565, 566, 567, 568, 624 and 624W from the HR/C-3-C Zone District to the D-4 Zone District.
22. Amend the Zoning Map to change squares or portions of squares 170, 171, 172, 173, 183, 184, 185, 186, 197, 198, 199, 200, 487, 488, 489, 487E, 488E, 489E, 530, and 531 from the SP-2 zone district to the D-2 zone district.
23. Amend the Zoning Map to change squares or portions of squares 353, 354, 412, 426, 435, 492S, 492, 534, 535, 577, 579, 581, 583N, 580N, 582, 638, 640, 641, 3584 from the C-3-C Zone District to the D-4 Zone District.

Z.C. CORRECTED NOTICE OF PUBLIC HEARING  
Z.C. CASE NO. 08-06C  
PAGE 7

24. Amend the Zoning Map to change squares or portions of Squares 72, 73, 74, 76, 78, 85, 86, 99, 100, 117, 118, 141, 168, 169, 267, 268, 285, 299, 327, 386, 387, 403, 404, 463, 463S, 464, 465, 466, 493, 494, 495, 536, 537, 538, 646, 648, 649, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 694, 695, 695, W, 695NW, 696, 697N, 697, 699, 699N, 709, 710, 710E, 711, 712, 713, 715, 738, 740, 737N, 737, 739, 741, 743N, 766, and 836 from the C-3-C Zone District to the D-5 Zone District.
25. Amend the Zoning Map to change squares or portions of Squares 105, 106, 107, 126, 127, 140, 141, 142, 161, 162, 163, 164, 165, 166, 168, 183, 184, 185, 185W, 186, 197, 198, 200, 213, 214, 215, 216, 217, 218, 218W, 219, 220, 222, 247, 248, 249, 250, 251, 284, 285, 286, 287, 318, and 323 from the C-4 Zone District to the D-6 Zone District
26. Amend the Zoning Map to change Square 160 from DC/C-4 Zone District to D-6 Zone District.
27. Amend the Zoning Map to change squares or portions of Squares 325, 326, 351N, 351, 352, 383, 384, 385, 409, 410, 433, 434, and 462 from unzoned to the D-8 Zone District.

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended, D.C. Official Code § 6-641.01, et seq.

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021.

**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 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.

**Time limits.**

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning of 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.

**Z.C. CORRECTED NOTICE OF PUBLIC HEARING  
Z.C. CASE NO. 08-06C  
PAGE 8**

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

- 1. Organizations 5 minutes each
- 2. 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.

Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record. Written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto: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.**

**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 in the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (Pub. L. No. 109-356, § 201, 120 Stat. 2019; D.C. Official Code §§ 1-204.24a(c)(6) (2014 Repl.)); Section 4 of the Law to Legalize Lotteries, Daily Numbers Games, 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(a), 3-1313, 1314, 1315, and 3-1321 (2012 Repl.)); District of Columbia Financial Responsibility and Management Assistance Authority Order, issued September 21, 1996; Office of the Chief Financial Officer Financial Management Control Order No. 96-22, issued November 18, 1996; and Office of the Chief Financial Officer Management & Control Order No. 98-10, issued January 1998; hereby gives notice of amendments to Chapter 7 (Instant Games) of Title 30 (Lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR).

The Agency is repealing and replacing Chapter 7 with new regulations to provide clarity to the roles of the Agency and agents regarding instant game possession, responsibility, type, style, sale, activation, settlement, integrity, security, and conduct.

A Notice of Proposed Rulemaking was published in *D.C. Register* on January 23, 2015 at 62 DCR 1131. Final action to adopt these rules took place on February 26, 2015. No comments were received, and no substantive changes were made to the rulemaking. These rules will become effective upon publication of this notice in the *D.C. Register*.

**Title 30 DCMR, LOTTERY AND CHARITABLE GAMES, is amended as follows:**

**Chapter 7, INSTANT GAMES, is repealed in its entirety and replaced with the following:**

**700 CONDUCT OF INSTANT GAMES AND AGENTS**

700.1 The Agency may operate instant games. Instant games may consist of individual instant tickets. Only the Agency or sales agents who have been licensed by the agency are authorized to sell instant tickets, and a licensed sales agent may only sell instant tickets at the licensed location.

700.2 Each instant ticket shall state the overall estimated odds of winning a prize of any kind.

700.3 Each instant ticket shall sell for the retail sales price authorized by the Executive Director and stated in the individual game procedures.

700.4 Instant games may continue to be sold even when all of the top prizes have been sold.

- 700.5 The number of actual prizes available in a game may vary based on the number of tickets manufactured, tested, distributed, and sold, and on the number of prizes claimed.
- 700.6 Once instant tickets are invoiced, packaged, and shipped to an agent's address or picked up by an agent or agent's representative, the instant tickets are assigned to that agent.
- 700.7 Instant tickets are assigned to a specific licensed sales agent location and shall not be sold, confirmed, or activated from another location.
- 700.8 Once the agent or agent's representative picks up or signs for delivery of instant tickets and until a valid sale of the instant tickets occurs, the agent assumes all legal and financial liability and responsibility for the instant tickets.
- 700.9 Once the agent or agent's representative picks up or signs for delivery of instant tickets and until a valid sale of the instant tickets occurs, the agent is responsible for ensuring the integrity and security of the instant tickets.
- 700.10 It is the agent's responsibility to ensure all signed for or picked up instant tickets are received, accounted for, paid for, organized, secured, confirmed, held, activated, validated, and treated in accordance with the D.C. Official Code and Title 30 of the D.C. Municipal Regulations.
- 700.11 The agent is responsible for ensuring that all instant tickets the agent or agent's representative sign for or pick up are kept in a way that meets the standards of a reasonably prudent business person.
- 700.12 Agents shall report complications or issues with instant ticket deliveries to the Agency within twenty-four (24) hours of signing for delivery of the instant tickets.
- 700.13 Agents shall confirm receipt of instant tickets by scanning the ticket invoice at the agent's retailer terminal within twenty-four (24) hours of signing for delivery or pickup of the instant tickets.
- 700.14 Agents shall activate instant tickets by scanning the instant ticket pack at the agent's retailer terminal within thirty (30) days of signing for delivery or picking up instant tickets. The time by which instant tickets shall be activated may be modified at the Executive Director's discretion.
- 700.15 Agents are responsible for ensuring that instant ticket packs are not activated before receipt is confirmed in accordance with § 700.13 of this chapter.



- 700.16 The agent is responsible for ensuring that all instant tickets the agent or agent's representative sign for or pick up are not lost, stolen, tampered with, compromised, defaced or validated before activation and valid sale.
- 700.17 Agents shall ensure that instant tickets are not scratched or validated until the instant tickets are activated and validly sold.
- 700.18 Agents shall ensure a pack of instant tickets is not opened until the pack of instant tickets is activated.
- 700.19 The Agency has the right to activate instant tickets automatically.
- 700.20 An agent or agent's representative's failure to confirm receipt or activate instant tickets in accordance with this chapter shall not relieve the agent's liabilities or payment obligations under this title, chapter, or any current or future Agency guidelines, or any other law, rule, or regulation of the United States or District of Columbia.
- 700.21 The Agency has the right to collect confirmed or activated instant tickets and redistribute the instant tickets to other agents. Agents may not be charged for tickets that are collected from that agent for redistribution purposes.
- 700.22 A pack of instant tickets shall settle, and payment for tickets shall be due, forty-five (45) days from the date of activation or when eighty percent (80%) of low-tier tickets are claimed, whichever comes first. This settlement scheme may be altered at the Executive Director's discretion with seven (7) days advanced written notice to agents.
- 700.23 The Agency has the right to force settle instant tickets before the settlement date or time described in § 700.20 of this chapter.
- 700.24 Instant tickets shall not be sold after the official end of instant game date.
- 700.25 The Agency reserves the right to seize instant tickets in any status, at any time, and for any reason. If instant tickets are seized to protect the integrity and security of the lottery or due to an actual or perceived violation or transgression of a law or D.C. Municipal Regulation, the agent remains responsible for payment of the instant tickets.
- 700.26 The Agency may allow returns of instant ticket packs if the instant ticket packs are unopened and the instant ticket game has not passed the end of game date. Returns of instant tickets in any other circumstance shall take place at the discretion and with the advanced written approval of the Executive Director.

**701 GAME PROCEDURES**

- 701.1 Before the commencement of a particular instant game, the Executive Director shall approve and issue game procedures. Game procedures shall be made available upon request to the public and may be published on the Agency's web site.
- 701.2 At a minimum, the game procedures for each game shall contain the following information:
- (a) Confirming captions;
  - (b) Game name;
  - (c) Game number;
  - (d) Prize structure;
  - (e) Play style;
  - (f) Play symbols;
  - (g) Ticket order quantity;
  - (h) Retail sales price; and
  - (i) Eligibility requirements for a prize drawing, if any.
- 701.3 The play style for an individual game shall be fully described in the game procedures and may take the form of one of the following methods of play:
- (a) Match up;
  - (b) Add up;
  - (c) Three in a line;
  - (d) Key number/symbol match;
  - (e) Yours beats theirs;
  - (f) Prize legend;
  - (g) Cards;
  - (h) Bingo;
  - (i) Directional arrows through maze;

- (j) Bonus game features; or
- (k) Any other approved play style or bonus game feature developed by the Agency.

**702 DETERMINATION OF PRIZE WINNER.**

702.1 The play symbols shall be used by a player to determine eligibility for instant prizes. Qualifying play symbols are stated in the game procedures.

702.2 A player's eligibility to win a prize is subject to the ticket validation requirements provided in Chapter 600 of this title.

702.3 For each individual game, the player shall rub off the latex covering on the front of the ticket to reveal the play symbols. Eligibility to win a prize is based on the approved play style as follows:

- (a) Match up. If the designated number of identical play symbols is revealed on the ticket, the player shall win the prize indicated.
- (b) Add up. If the player adds up all of the play symbols printed on the ticket and the amount is greater than or equal to the required total amount printed on the ticket, the player shall win the prize indicated.
- (c) Three in a line. If the player reveals three identical play symbols, either diagonally, vertically, or horizontally, on the same ticket, the player shall win the prize indicated.
- (d) Key number/symbol match. If the player reveals a play symbol that matches the designated key play symbol, the player shall win the prize indicated.
- (e) Yours beats theirs. If the player reveals a play symbol designated as yours that is greater than the play symbol(s) designated as theirs, the player shall win the prize indicated.
- (f) Prize legend. If the player reveals the designated number of play symbols, the player wins the prize amount that corresponds to the legend.
- (g) Cards. If the player reveals the play symbol needed for that particular card game in a winning combination, the player shall win the prize indicated.
- (h) Bingo. If the player matches their Bingo card numbers with all of the Caller's Card numbers and reveals certain patterns as specified on the

ticket, the player shall win the prize indicated for that Bingo card and pattern.

- (i) Directional arrows through maze. If the player follows the directional arrows to make a path or paths through a maze and the path(s) leads to a prize amount, the player shall win that prize.
- (j) Bonus game features. These features are added to the game for extra play value and entertainment. The specific variants, as described below, are used for a particular game and are described in the individual game procedures:
  - (1) Doubler. If the player reveals the designated play symbol as part of the winning combination of the game, the player doubles their prize. The player may also reveal the "doubler" play symbol in a prize box, in which case the prize amount that the player won is doubled.
  - (2) Wild card. The player may use this designated play symbol as part of the winning combination of the game.
  - (3) Double and Double Doubler. If the player reveals one of these designated play symbols as part of the winning combination of the game, the player either doubles or quadruples their prize respectfully, as stated in the game card itself. The player may also reveal the "double" or "double doubler" play symbols in a prize box, in which case the prize amount that the player won is either doubled or quadrupled respectfully, as stated in the game card itself.
  - (4) Tripler. If the player reveals the designated play symbol as part of the winning combination of the game, the player triples their prize. The player may also reveal the "tripler" play symbol in a prize box, in which case the prize amount that the player won is tripled.
  - (5) Auto win. If the player reveals the designated play symbol, the player wins the corresponding prize automatically.
  - (6) Entry ticket. If the player reveals the designated play symbol, the player may use the ticket as a means of entering a drawing, subject to the game procedures for each game.
- (k) Any other approved play style or bonus game feature developed by the Agency. If the player reveals the designated play symbols or bonus play features, the player shall win the prize or prizes as indicated.

**703 OFFICIAL END OF INSTANT GAMES**

- 703.1 The official end of game date for any instant game shall be the date announced by the Executive Director.
- 703.2 Instant games may be ended upon the occurrence of any one of the following events:
- (a) The instant game has been available to the public for a minimum of thirteen (13) weeks;
  - (b) Less than fifteen percent (15%) of the instant ticket game remains in the Agency's inventory or warehouse;
  - (c) All of the top prizes have been claimed; or
  - (d) The Executive Director makes a written determination that the game shall be ended immediately in order to ensure the security and integrity of the lottery

**704 PULL TAB LOTTERY GAMES**

- 704.1 The Agency may operate a pull tab lottery game. The rules governing the game shall not apply to "charity game tickets" sold by licensed charitable organizations pursuant to the provisions of § 1409 of this title.
- 704.2 The price of a pull tab ticket shall be fifty cents (50¢) or any other price designated by the Executive Director from a price schedule adopted pursuant to § 500.1 of this title.
- 704.3 All rules of this title governing the instant games shall apply to pull tab lottery games and tickets except as provided in § 703.4 of this chapter.
- 704.4 A pull tab ticket is a bearer instrument whether or not a signature appears on the back of the ticket, and the prize is payable to the person who presents the ticket for payment.

**METROPOLITAN POLICE DEPARTMENT****NOTICE OF FINAL RULEMAKING**

The Chief of the Metropolitan Police Department (Chief), pursuant to the authority under Section 1106 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.06 (2014 Repl.)) and Mayor's Order 2012-28, dated February 21, 2012, hereby gives notice of the adoption of an amendment to Chapter 1 (Organization of the Metropolitan Police Department) of Title 6, Subtitle A (Police Personnel) of the District of Columbia Municipal Regulations (DCMR), by adding a new Section 117 (Shift Differential).

This rulemaking will provide evening and night differential to Metropolitan Police Department Captains and Lieutenants in accordance with § 1104(d) of the CMPA (D.C. Official Code § 1-611.04(d) (2014 Repl.)).

A Notice of Proposed Rulemaking was previously published in the *D.C. Register* on December 12, 2014 at 61 DCR 12619. No comments were received in response to the proposed rulemaking and no changes have been made.

In accordance with D.C. Official Code § 1-611.06, an approval resolution, the Metropolitan Police Department Captain and Lieutenant Shift Differential Approval Resolution of 2014 (PR20-1062), was transmitted to the Council of the District of Columbia on September 30, 2014. The resolution was approved by the Council of the District of Columbia on November 18, 2014 (R20-0683).

The Chief adopted these rules as final on February 13, 2015. These final rules will be effective upon publication of this notice in the *D.C. Register*.

**Chapter 1, ORGANIZATION OF THE METROPOLITAN POLICE DEPARTMENT, of Title 6-A, POLICE PERSONNEL, of the DCMR is amended by adding a new Section 117 to read as follows:**

**117           SHIFT DIFFERENTIAL**

117.1           Captains and Lieutenants may receive pay at their scheduled rate plus a differential of three percent (3%) for regularly scheduled non-overtime work when the majority of their work hours occur between 3 p.m. and midnight; four percent (4%) of their scheduled rate if the majority of their work hours occur between 11 p.m. and 8 a.m.

**METROPOLITAN POLICE DEPARTMENT**

**NOTICE OF FINAL RULEMAKING**

The Chief of the Metropolitan Police Department (Chief), pursuant to the authority under Section 3002 of the FY 2015 Budget Support Congressional Emergency Act of 2014, signed October 10, 2014 (D.C. Act 20-449; 61 DCR 10915 (October 24, 2015)), any substantially similar emergency, temporary, or permanent versions of that legislation, and Mayor’s Order 2014-231, dated October 2, 2014, hereby gives notice of the adoption of a new Chapter 38 (Metropolitan Police Department Reimbursable Details), and amendments to Chapter 7 (Parades and Public Events), of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking allows the Metropolitan Police Department to schedule reimbursable details or services to address these safety concerns, but at a direct cost to the entity benefitting from the officers’ work, rather than being paid for by District taxpayers. Additionally, the rulemaking standardizes the fee charged for services provided by the Metropolitan Police Department at licensed special events.

A Notice of Emergency and Proposed Rulemaking was previously published in the *D.C. Register* on December 12, 2014 at 61 DCR 12640. No comments were received in response to the proposed rulemaking and no changes have been made.

These rules were adopted by the Chief as final on February 13, 2015, and will be effective upon publication of this notice in the *D.C. Register*.

**A new Chapter 38, METROPOLITAN POLICE DEPARTMENT REIMBURSABLE DETAILS, is added to Title 24 DCMR, PUBLIC SPACE AND SAFETY, to read as follows:**

**CHAPTER 38 METROPOLITAN POLICE DEPARTMENT REIMBURSABLE DETAILS**

**3800 SCOPE**

3800.1 The provisions of this chapter are issued by the Chief of Police (the “Chief of Police”) pursuant to Section 3002 of the Fiscal Year 2015 Budget Support Emergency Act of 2014 (Act), enacted July 14, 2014 (D.C. Act 20-377; 61 DCR 7598, 7629 (August 1, 2014)) (the “Act”).

**3801 APPLICABILITY**

3801.1 This chapter shall apply to any reimbursement for providing a police escort or other law enforcement services, as defined in § 2801.2, deemed by the Chief of Police to be necessary to protect the public health and safety.

3801.2 For purposes of this chapter, the phrase “police escort or other law enforcement services” shall include the assignment of Metropolitan Police Department

personnel and/or vehicles as necessary to ensure the preservation of public safety, typically either at a specified location or from a point of origin to a specified destination, in a manner consistent with the nature of the persons, materials, or threats posed by the movements, activities, or events.

3801.3 Pursuant to Section 3003(b) of the Act (to be codified at D.C. Official Code § 47-2826(d)), any funds collected under this chapter shall be deposited in the MPD Overtime Reimbursement Fund.

**3802 REIMBURSEMENT FEES**

3802.1 The reimbursement rate for all reimbursable details or other law enforcement services provided for under this chapter is \$60.58 per hour per Metropolitan Police Department officer assigned.

3802.2 As of January 1, 2015, the reimbursement rate for all reimbursable details or other law enforcement services provided for under this chapter shall be \$65.45 per hour per Metropolitan Police Department officer assigned, and that rate shall increase by three percent (3%) on October 1 of each fiscal year.

3802.3 The use of any type of Metropolitan Police Department vehicle requested pursuant to this chapter will result in additional cost, which will depend on the type and number of vehicles and the length of time they are assigned.

**Subsection 720.3(d) of Section 720, SPECIAL EVENTS USER FEES, of Chapter 7, PARADES AND PUBLIC EVENTS, of Title 24 DCMR, PUBLIC SPACE AND SAFETY, (24 DCMR § 720.3(d)), is amended to read as follows:**

(d) Fees of the Metropolitan Police Department:

(1) Special Events Fee – to cover the cost of police services for special events.

(A) The rate per hour per Metropolitan Police Officer assigned is \$60.58.

(B) As of January 1, 2015, the rate per hour per Metropolitan Police Officer assigned shall be \$65.45, and that rate shall increase by three percent (3%) on October 1 of each fiscal year.

(2) The use of any type of Metropolitan Police Department vehicle requested pursuant to this chapter will result in additional cost, which will depend on the type and number of vehicles and the length of time they are assigned.



## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, 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 75 (Massage Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purpose of this rulemaking is to require hands-on, massage-techniques continuing education for massage therapists and to clarify that the required first-aid and CPR certifications must be maintained and remain current throughout the licensure period.

**Chapter 75, MASSAGE THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 7506, CONTINUING EDUCATION REQUIREMENTS, is amended as follows:**

**Subsection 7506.4 is amended to read as follows:**

7506.4 An applicant for renewal, reactivation, or reinstatement of a license shall submit proof pursuant to § 7506.7 of having completed twelve (12) hours of approved continuing education credit during the two (2) -year period preceding the date the license expires which shall consist of the following:

- (a) Three (3) hours of professional ethics; and
- (b) Nine (9) hours of massage-related course work provided by a Board approved provider of which six (6) hours shall be hands-on, massage-technique course(s) completed in a live classroom setting taught by an appropriate instructor.

**Subsection 7506.6 is amended to read as follows:**

7506.6 To qualify for reinstatement of a license to practice massage therapy, an applicant shall submit proof pursuant to § 7506.7 of having completed the following:

- (a) Twelve (12) hours of approved continuing education during the two (2)-year period preceding the date the license expired in accordance with § 7506.4;
- (b) Four and one half (4.5) hours of approved continuing education credit for each year after the expiration of the license, with at least three (3) hours of

hands-on, massage-technique course(s) completed in a live classroom setting taught by an appropriate instructor; and

- (b) One and one half (1.5) hours of professional ethics for each year after the expiration of the license.

**Section 7512, CARDIAC PULMONARY RESUSCITATION AND FIRST AID REQUIREMENTS, is amended as follows:**

**Subsection 7512.3 is added to read as follows:**

7512.3 A person licensed under this chapter shall maintain, without interruption or gap, valid and effective CPR and first-aid certifications for the duration of his or her massage therapy license issued under this chapter.

**Section 7599, DEFINITIONS, is amended as follows:**

**Subsection 7599.1 is amended by adding the following**

**Hands-on, massage-technique course** – means a course, class, workshop, or training session in which one or more massage techniques are taught or provide the basis of the instruction, and the participants or attendees have the opportunity to emulate, practice, or learn massage techniques from the instructor.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002, or by email to [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov). Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

## DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(1), (19), 14, and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(1), (19), 50-313, and 50-320 (2014 Repl.)), hereby gives notice of its intent to adopt amendments to Chapter 8 (Operation of Taxicabs) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

The proposed amendments to Chapter 8 would make consistent the two time-based taximeter rates (the hourly contract rate in § 801.7(b) and the wait time rate in § 801.7(c)(1(C)) by increasing the wait time rate from the current amount of twenty five dollars (\$25) per hour to thirty five dollars (\$35) per hour (the current hourly contract rate). The proposed amendments would also make grammar, style, and technical corrections.

Directions for submitting comments may be found at the end of this notice. The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice of proposed rulemaking in the *D.C. Register*.

**Chapter 8, OPERATION OF TAXICABS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:**

**Section 801, PASSENGER RATES AND CHARGES, is amended to read as follows:**

**Subsection 801.7 is amended to read as follows:**

801.7 Taxicab fares shall be as follows:

- (a) Each taximeter fare shall consist only of the time and distance charges, and authorized additional charges, provided in this subsection, as applicable.
- (b) The hourly contract rate for a taxicab trip booked on a time basis by advance contract shall be thirty five dollars (\$35) for the first one (1) hour or fraction thereof, and eight dollars and seventy five cents (\$8.75) for each additional fifteen (15) minutes or fraction thereof, without regard to distance. No additional charges are authorized.
- (c) Fare for trips booked by a street hail, a telephone dispatch or a digital dispatch by a DDS that does not process digital payments (in-vehicle payment only) shall be as follows:

- (1) The time and distance charges that shall be automatically generated by the taximeter for a taxicab trip booked by a street hail, telephone dispatch, or digital dispatch by a DDS that does not process digital payments are established as follows:
  - (A) Three dollars and twenty five cents (\$3.25) for entry (drop rate) and the first one eighth (1/8) of a mile;
  - (B) Twenty seven cents (\$0.27) for each one eighth (1/8) of a mile after the first one-eighth (1/8) of a mile;
  - (C) Wait time shall be calculated as follows:
    - (i) The rate is thirty five dollars (\$35.00) per hour;
    - (ii) Wait time begins five (5) minutes after the taxicab arrives at the place to which it was dispatched and no wait time shall be charged for premature response to a dispatch;
    - (iii) Wait time shall also be charged for time consumed while the taxicab is stopped or slowed to a speed of less than ten (10) miles per hour for longer than sixty (60) seconds and for time consumed for delays or stopovers en route at the direction of the passenger; and
    - (iv) Wait time shall be calculated in sixty (60) second increments and does not include time lost due to taxicab or operator inefficiency.
- (2) The authorized additional charges which shall be included in the taximeter fare for a trip booked by a street hail, or a telephone dispatch, or a digital dispatch by a DDS that does not process digital payments are the following:
  - (A) A fee for telephone dispatch, if any, which shall be two dollars (\$2.00);
  - (B) A taxicab passenger surcharge, which shall be twenty-five cents (\$.25) (per trip, not per passenger);
  - (C) A charge for delivery service (messenger service and parcel pick-up and delivery), which shall be at the same rate as for a single passenger unless the vehicle is hired by the hour pursuant to § 801.4;

- (D) An airport surcharge or toll paid by the taxicab operator, if any, which shall be charged in an amount equal to the amount paid by the operator;
  - (E) An additional passenger fee, if there is more than one (1) passenger, which shall be one dollar (\$1.00) regardless of the number of additional passengers (the total fee shall not exceed one dollar (\$1.00)); and
  - (F) A snow emergency fare when authorized under § 804.
- (d) Fare for trips booked by digital dispatch and paid by digital payment shall be as follows:
- (1) Time and distance charges. The time and distance charges for a taxicab trip booked by a digital dispatch are established as follows: zero dollars (\$0) regardless of the amount displayed on the taximeter.
  - (2) Authorized additional charges. The additional charges which shall be included in the taximeter fare for a trip booked by a digital dispatch are the following: zero dollars (\$0) regardless of the amount displayed on the taximeter.
  - (3) DDS charges. The only charges, if any, which may be assessed to the passenger for a trip paid by digital payment shall be those charges billed directly to the passenger by the DDS, which shall not be displayed on the taximeter except as permitted or required by an applicable provision of this title, and which shall adhere to the requirements of § 1402.11, in the same manner and to the same extent as if the taxicab were a sedan, including the requirement that the District be paid the passenger surcharge in the manner required by this title.

Copies of this proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting Juanda Mixon, Secretary to the Commission, District of Columbia Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to [dctc@dc.gov](mailto:dctc@dc.gov) or by mail to the DC Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington, DC 20020, Attn: Juanda Mixon, Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.

## DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF EMERGENCY RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(1), (19), 14, and 20a of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(1), (19), 50-313, and 50-320 (2014 Repl.)), hereby gives notice of its adoption of amendments to Chapter 8 (Operation of Taxicabs) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessary to change the wait time rate in § 801.7(c)(1)(C), which was inadvertently increased, from twenty-five dollars (\$25) per hour to thirty-five dollars (\$35) per hour, in a final rulemaking published in the *D.C. Register* on December 5, 2014 at 61 DCR 12501, without the notice and comment period required by the Administrative Procedures Act. This emergency rulemaking clarifies that the wait time rate is twenty-five dollars (\$25) per hour. This emergency rulemaking is required in order to comply with the statutory requirements of the D.C. Official Code § 2-505(a), to correct the legal error in the final rulemaking, and to provide an opportunity for public notice and comment in connection with any proposed rulemaking to modify the wait time rate.

This emergency rulemaking was adopted by the Commission on January 14, 2015 and took effect immediately. The emergency rules shall remain in effect for one hundred and twenty (120) after the date of adoption (expiring May 14, 2015), unless earlier superseded by an amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

**Chapter 8, OPERATION OF TAXICABS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:**

**Section 801, PASSENGER RATES AND CHARGES, is amended to read as follows:**

**Subsection 801.7 is amended to read as follows:**

- 801.7 Taxicab fares shall be as follows:
- (a) Each taximeter fare shall consist only of the time and distance charges, and authorized additional charges, provided in this subsection, as applicable.
  - (b) The hourly rate for a taxicab trip booked on a time basis by advance contract shall be thirty-five dollars (\$35) for the first one (1) hour or fraction thereof, and eight-dollars and seventy-five cents (\$8.75) for each additional fifteen (15) minutes or fraction thereof, without regard to distance. No additional charges are authorized.

- (c) Fare for trips booked by a street hail, a telephone dispatch or a digital dispatch by a DDS that does not process digital payments (in-vehicle payment only) shall be as follows:
- (1) The time and distance charges that shall be automatically generated by the taximeter for a taxicab trip booked by a street hail, telephone dispatch, or digital dispatch by a DDS that does not process digital payments are established as follows:
    - (A) Three dollars and twenty-five cents (\$3.25) for entry (drop rate) and the first one-eighth (1/8) of a mile;
    - (B) Twenty-seven cents (\$0.27) for each one-eighth (1/8) of a mile after the first one-eighth (1/8) of a mile;
    - (C) The rate for wait time is twenty-five dollars (\$25.00) per hour. Wait time begins five (5) minutes after the taxicab arrives at the place to which it was dispatched. No wait time shall be charged for premature response to a dispatch. Wait time shall also be charged for time consumed while the taxicab is stopped or slowed to a speed of less than ten (10) miles per hour for longer than sixty (60) seconds and for time consumed for delays or stopovers en route at the direction of the passenger. Wait time shall be calculated in sixty (60) second increments. Wait time does not include time lost due to taxicab or operator inefficiency.
  - (2) The authorized additional charges which shall be included in the taximeter fare for a trip booked by a street hail, or a telephone dispatch, or a digital dispatch by a DDS that does not process digital payments are the following:
    - (A) A fee for telephone dispatch, if any, which shall be two dollars (\$2.00);
    - (B) A taxicab passenger surcharge, which shall be twenty-five cents (\$.25) (per trip, not per passenger);
    - (C) A charge for delivery service (messenger service and parcel pick-up and delivery), which shall be at the same rate as for a single passenger unless the vehicle is hired by the hour pursuant to § 801.4;
    - (D) An airport surcharge or toll paid by the taxicab operator, if any, which shall be charged in an amount equal to the amount paid by the operator;

- (E) An additional passenger fee, if there is more than one (1) passenger, which shall be one dollar (\$1.00) regardless of the number of additional passengers (the total fee shall not exceed one dollar (\$1.00)); and
  - (F) A snow emergency fare when authorized under § 804.
- (d) Fare for trips booked by digital dispatch and paid by digital payment shall be as follows:
- (1) Time and distance charges. The time and distance charges for a taxicab trip booked by a digital dispatch are established as follows: zero dollars (\$0) regardless of the amount displayed on the taximeter.
  - (2) Authorized additional charges. The additional charges which shall be included in the taximeter fare for a trip booked by a digital dispatch are the following: zero dollars (\$0) regardless of the amount displayed on the taximeter.
  - (3) DDS charges. The only charges, if any, which may be assessed to the passenger for a trip paid by digital payment shall be those charges billed directly to the passenger by the DDS, which shall not be displayed on the taximeter, and which shall adhere to the requirements of § 1402.11, in the same manner and to the same extent as if the taxicab were a sedan, including the requirement that the District be paid the passenger surcharge in the manner required by this title.



## DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF SECOND 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 (2014 Repl.)), and 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 1934, entitled “Supported Living Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

These emergency and proposed rules establish standards governing reimbursement of supported living services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services, for a five-year period beginning November 20, 2012. Supported living services are provided to persons with an assessed need for assistance with acquisition, retention, or improvement in skills related to activities of daily living, and the social and adaptive skills necessary to enable persons enrolled in the Waiver to reside and successfully participate in the community. A Notice of Emergency and Proposed rulemaking was published in the *D.C. Register* on October 31, 2014 at 61 DCR 011500. That rulemaking amended the previously published final rules by increasing the rates, using the approved rate methodology, to reflect the increase in the D.C. Living Wage to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)). Comments were received, and this Second Notice of Emergency and Proposed Rulemaking amends the previous emergency and proposed rulemaking by increasing the rates for periodic services, using the approved rate methodology, to reflect the increase in the D.C. Living Wage for 2015 to comply with the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.01 *et seq.* (2012 Repl.)).

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of supported living services. The ID/DD Waiver serves some of the District’s most vulnerable residents. The rate increase is necessary to ensure a stable workforce and provider base. In order to ensure that the residents’ health, safety, and welfare are not threatened, it is necessary that that these rules be published on an emergency basis.

The emergency rulemaking was adopted on January 7, 2015 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until May

7, 2015 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 1934, SUPPORTED LIVING SERVICES, of Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended to read as follows:**

**1934 SUPPORTED LIVING SERVICES**

- 1934.1 The purpose of this section is to establish standards governing Medicaid eligibility for supported living services under the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of supported living services for Medicaid reimbursement.
- 1934.2 Supported living services are provided to persons enrolled in the Waiver who have limited informal supports and have an assessed need for assistance with acquisition, retention, or improvement in skills related to activities of daily living, and who require assistance with the development of social and adaptive skills that are necessary to enable the person to reside in the community and successfully participate in community activities.
- 1934.3 To be eligible for all Medicaid reimbursable supported living services, each person shall:
- (a) Have a documented need for assistance with acquisition, retention or improvement in skills related to activities of daily living;
  - (b) Require assistance with the development of social and adaptive skills necessary to enable the person to reside in the community and successfully participate in community activities; and
  - (c) Have an Individual Support Plan (ISP) and Plan of Care that identifies the need for supported living services.
- 1934.4 To be eligible for Medicaid reimbursement, twenty-four (24) hour one-to-one supported living services in a single occupancy supported living residence (SLR), each person shall:
- (a) Have a history of challenging behaviors that may put others at risk;
  - (b) Require intensive supports as determined by a psychological assessment which is updated annually or pursuant to a court order; and

- (c) Have a behavior support plan (BSP) that identifies the challenging behaviors and the need for one-to-one supervision that was approved by the Department on Disability Services (DDS).
- 1934.5 Persons eligible for Medicaid reimbursable twenty-four (24) hour supported living services with skilled nursing must have a circulatory, respiratory, gastrointestinal, or neurological condition or any other serious medical condition that requires frequent monitoring or at least hourly care.
- 1934.6 To be eligible for Medicaid reimbursable twenty-four (24) hour supported living with skilled nursing services, the following documents shall be required:
- (a) A physician's order or an advanced practice registered nurse's (APRN) order documenting the scope, frequency, and duration of skilled nursing services; and
- (b) A concise statement which sets forth the presenting problem that requires supported living with skilled nursing services and includes the responsibilities of the nurse.
- 1934.7 In order to be eligible for Medicaid reimbursable supported living periodic services in an SLR, each person shall:
- (a) Demonstrate a need for the acquisition, and improvement of skills related to activities of daily living and the social and adaptive skills necessary for community residence, as indicated in the ISP; and
- (b) Be willing to be supported in their own home or SLR's without twenty-four (24) hour supports and supervision.
- 1934.8 Medicaid reimbursable supported living services shall be provided in one of the following types of residences:
- (a) An SLR owned or leased by a Waiver provider; or
- (b) A home owned or leased by the person receiving supported living services.
- 1934.9 In order to be eligible for Medicaid reimbursement, each provider, including an out-of-state provider of supported living services, shall be a Waiver provider agency and meet the following requirements:
- (a) Comply with Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR;

- (b) Provide verification of passing the DDS Provider Certification Review; and
- (c) Have at least three (3) years of experience providing in-home supports services or respite services, unless waived by DDS, when applicable.

1934.10 In addition to the requirements described under § 1934.9, each out-of-state provider shall comply with the following additional requirements to receive Medicaid reimbursement:

- (a) Remain in good standing in the jurisdiction where the program is located, if licensed or certified by the host state;
- (b) Submit a copy of the annual certification or survey performed by the host state and provider's corrective action, if applicable, to DDS; and
- (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.

1934.11 Medicaid reimbursable supported living services may be provided with or without transportation. Each Medicaid provider shall comply with the requirements set forth in Subsection 1904.5 of Title 29 DCMR, if transportation services are provided to enable persons to gain access to Waiver services and other community services and activities in a safe and efficient manner.

1934.12 If transportation services are provided by the Direct Support Professional (DSP), such that the DSP drives the person in the vehicle provided by the provider, the DSP shall meet the requirements governing transportation services set forth in Subsections 1904.5(j) and (k) (Provider Qualifications) of Chapter 19 of Title 29 of the DCMR.

1934.13 When Medicaid reimbursable supported living services are provided in an SLR, the SLR shall serve one (1) to three (3) related or unrelated persons. With the exception of couples who chose to share a bedroom, the number of persons in the SLR shall not exceed the number of bedrooms in the residence unless written approval from DDS is obtained.

1934.14 In order to receive Medicaid reimbursement, the Waiver provider shall include the person living in the residence in the lease, when the SLR is owned or leased by the Waiver provider, unless the person does not meet the leasing eligibility criteria.

1934.15 In order to be eligible for Medicaid reimbursement, each SLR located out-of-state shall be licensed or certified in accordance with the host state's laws and regulations and must adhere to the terms and conditions set forth in an agreement

between the District of Columbia and the host state.

- 1934.16 Each DSP shall meet all of the requirements set forth in Section 1906 (Requirements for Persons Providing Direct Services) of Chapter 19 of Title 29 of the DCMR.
- 1934.17 Each provider of Medicaid reimbursable supported living services shall assist persons in the acquisition, retention, and improvement of skills related to activities of daily living, and other social and adaptive skills necessary to enable the person to become a fully integrated member of their community. To accomplish these goals, the provider shall:
- (a) Use observation, conversation, and other interactions guided by a person-centered planning process to develop a functional assessment of the person's capabilities within the person's first month of service;
  - (b) Develop a support plan with measurable outcomes using the functional assessment that was developed using a person-centered planning process, the ISP and Plan of Care, and other available information;
  - (c) Develop and submit a quarterly report to the person, guardian, other members of the Support Team, and the DDS Service Coordinator describing the activities and support provided to help the person achieve identified outcomes and include progress to date; and
  - (d) Develop and implement the Health Management Care Plan, when necessary.
- 1934.18 Each provider of Medicaid reimbursable supported living services shall ensure that each person receives the level of support he/she needs for habilitation and other supports, when appropriate, which shall include, but not be limited to, support for the following categories:
- (a) Eating and food preparation;
  - (b) Personal hygiene;
  - (c) Dressing;
  - (d) Monitoring medication administration and healthcare needs;
  - (e) Communications;
  - (f) Interpersonal and social skills;
  - (g) Household chores;

- (h) Mobility;
- (i) Financial management;
- (j) Motor and perceptual skills;
- (k) Problem-solving and decision-making;
- (l) Human sexuality;
- (m) Opportunity for individual social, recreational, and religious activities utilizing community resources based on the person's interests, beliefs, culture, and preferences; and
- (n) Ensuring that adaptive equipment is appropriate, functioning and well maintained.

1934.19 Each provider of Medicaid reimbursable supported living services shall ensure that staff delivering day habilitation, employment readiness, or supported employment services shall receive training about the person's health care needs as identified by the nurse, and are informed about any needs identified in the person's Health Management Care Plan and BSP.

1934.20 Each provider of Medicaid reimbursable supported living services shall ensure that each person enrolled in the Waiver receives the professional services required to meet his or her goals as identified in the person's ISP and Plan of Care. Professional services may include, but are not limited to, the following disciplines:

- (a) Medicine;
- (b) Dentistry;
- (c) Education;
- (d) Nutrition;
- (e) Nursing;
- (f) Occupational therapy;
- (g) Physical therapy;
- (h) Psychology;

- (i) Social work; and
- (j) Speech, hearing, and language therapy.

1934.21 Each provider of Medicaid reimbursable twenty-four (24) hour supported living services with skilled nursing shall:

- (a) Provide skilled nursing services and supports to the person living in the SLR;
- (b) Complete any skilled nursing assessment and document hourly nursing interventions and treatments; and
- (c) Provide as appropriate, all of the supported living activities listed in Subsections 1934.18 and 1934.19, and Subsection 1934.20.

1934.22 In order to be eligible for Medicaid reimbursement, the duties of a registered nurse delivering twenty-four (24) hour supported living services with skilled nursing shall be consistent with the scope of practice standards for registered nurses set forth in Section 5414 of Title 17 DCMR. At a minimum, they shall include the following duties:

- (a) Prepare an initial routine physical assessment, including an individualized service nursing plan and evaluation;
- (b) Assist in the development of the Health Management Care Plan;
- (c) Coordinate the person's care and referrals;
- (d) Administer medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia, or consistent with the requirements of the appropriate jurisdiction;
- (e) Provide oversight of non-licensed medication administration personnel;
- (f) Provide wound care, tube feeding, diabetic care, and other treatment regimens prescribed by the physician, as needed;
- (g) Provide oversight and supervision to a licensed practical nurse, when delegating and assigning nursing interventions;
- (h) Record progress notes during each visit and complete quarterly reports; and
- (i) Provide training to the day habilitation, employment readiness, and supported employment staff on the person's healthcare needs by the nurse,

including needs identified in the Health Management Care Plan, if applicable.

- 1934.23 In order to be eligible for Medicaid reimbursement, the duties of a licensed practical nurse delivering twenty-four (24) hour supported living services with skilled nursing, shall be consistent with the scope of practice standards for a licensed practical nurse set forth in Chapter 55 of Title 17 DCMR. At a minimum, they shall include the following duties:
- (a) Record progress notes during each visit and on quarterly reports;
  - (b) Report immediately, any changes in the person's condition, to the supervising registered nurse;
  - (c) Provide wound care, tube feeding, diabetic care, and other treatment regimens prescribed by the physician; and
  - (d) Administer medications and treatment as prescribed by a legally authorized healthcare professional licensed in the District of Columbia or consistent with the requirements of the jurisdiction in which the healthcare professional is licensed.
- 1934.24 Medicaid reimbursable supported living one-to-one services in a single occupancy means services provided to one person exclusively by a supported living service provider who has been trained in all general requirements and possesses all training required to implement the person's specific behavioral and/or clinical protocols and support plans for a pre-authorized length of time.
- 1934.25 Medicaid reimbursable supported living one-to-one services in a single-occupancy SLR shall only be permitted with prior annual approval by the DDS Human Rights Committee and Restrictive Control Review Committee, or a medical treatment plan signed by the person's physician. Providers delivering one-to-one services shall require the person to have a BSP that reflects the need for one-to-one supervision.
- 1934.26 The BSP shall be developed according to the requirements set forth in the DDA/DDS Behavioral Supports Policy and Procedure available at: <http://dds.dc.gov/page/policies-and-procedures-dda>.
- 1934.27 If providers of Medicaid reimbursable supported living services are delivering one-to-one supported living services pursuant to a BSP, the assessment shall be updated on an annual basis to determine if the services are necessary.
- 1934.28 If one-to-one supported living services are delivered pursuant to a court order, the order shall be verified on an annual basis, to determine if the services are necessary.



- 1934.29 Services shall only be authorized for Medicaid reimbursement in accordance with the following provider requirement procedures:
- (a) DDS shall provide a written service authorization before the commencement of services;
  - (b) The service name and Waiver provider delivering services must be identified in the ISP and Plan of Care;
  - (c) The ISP, Plan of Care, and Summary of Supports and Services must document the amount and frequency of services to be received; and
  - (d) The services to be provided shall not conflict with the service limitations described under Subsection 1934.33.
- 1934.30 Each provider of Medicaid reimbursable supported living services shall maintain the records as prescribed under Section 1909 of Chapter 29 DCMR for monitoring and audit purposes for each person receiving services and shall also maintain the following documents:
- (a) If providing twenty-four (24) hour supported living services in a single occupancy or one-to-one supports, a copy of the annual BSP or court order;
  - (b) A daily log of scheduled activities to include those activities participated in by the person and a schedule of when the person is in his or her home;
  - (c) The records of any nursing care, procedures, and other supports related to the development and management of the Health Management Care Plan;
  - (d) A record of monitoring and maintenance of adaptive equipment, if applicable;
  - (e) A copy of the physician's order or an APRN's order specifying the type, frequency, scope, and duration of the skilled nursing services, if applicable;
  - (f) A copy of the job description detailing the duties of the nurse delivering the service, if applicable; and
  - (g) A copy of each assessment that the nurse has conducted and documentation of the hourly nursing interventions and treatments, if applicable.

- 1934.31 Each provider of Medicaid reimbursable supported living services shall meet the requirements described under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1934.32 Each provider of Medicaid reimbursable supported living services shall comply with the following requirements:
- (a) Provide access and information as requested for service coordination visits and reviews;
  - (b) Review the person's ISP and Plan of Care goals, objectives, and activities at least quarterly and more often, as necessary and submit the results of these reviews to the DDS Service Coordinator no later than seven (7) business days after the end of the first quarter, and each subsequent quarter thereafter;
  - (c) Submit a quarterly report to the person, guardian, other members of the Support Team, and the DDS Service Coordinator describing the activities and support provided to help the person achieve his/her identified outcomes and his/her progress to date;
  - (d) Propose modifications to the ISP and Plan of Care, as appropriate;
  - (e) Participate in ISP and Plan of Care development;
  - (f) Assist in the coordination of all services that a person may receive by ensuring that all recommended and accepted modifications to the ISP are amended to the current ISP; and
  - (g) Coordinate the delivery of necessary behavioral support services, skilled nursing services, and other services, such as occupational therapy, physical therapy, from approved Waiver providers of those services based on the requirements of the ISP and Plan of Care.
- 1934.33 Reimbursement for Medicaid reimbursable supported living services shall not include:
- (a) Cost of room and board;
  - (b) Cost of facility maintenance, upkeep and improvement, modifications or adaptations to an SLR or home to meet the requirements of the applicable life safety code;
  - (c) Safety monitoring as a stand-alone task;
  - (d) Activities for which payment is made by a source other than Medicaid;

- (e) Time when the person is in school or employed; and
  - (f) Time when the person is hospitalized, on vacation independently, or any other time in which the person is not receiving direct care staff support from a provider.
- 1934.34 Medicaid reimbursable supported living services shall not include services delivered by the person's relative.
- 1934.35 Medicaid reimbursable supported living skilled nursing services shall not include custodial care.
- 1934.36 Medicaid reimbursable supported living services shall not be authorized concurrently with the following Waiver services:
- (a) Residential Habilitation;
  - (b) Respite;
  - (c) Host Home;
  - (d) Shared Living;
  - (e) In-Home Supports; and
  - (f) Transportation, when the provider chooses to provide supported living services with transportation services.
- 1934.37 The reimbursement rate for Medicaid reimbursable supported living services shall be calculated based on the staff on duty and shall include:
- (a) All supervision of the DSP;
  - (b) All nursing provided in the residence for medication administration, physician ordered protocols and procedures, charting, other supports as per physician's orders, and maintenance of a Health Management Care Plan;
  - (c) All transportation, if applicable;
  - (d) Programmatic supplies and fees;
  - (e) Functioning adaptive equipment as ordered by a clinician;
  - (f) Quality assurance costs, such as incident management systems and staff development; and

(g) General administrative fees for Waiver services.

1934.38 Supported living services shall be Medicaid reimbursable for emergency situations when the person is not physically residing at the SLR or home, but is temporarily residing in a hotel or other facility and continues to receive support from the provider.

1934.39 An acuity evaluation to set levels of support shall be determined by the Support Team and approved by the DDS Waiver Unit through review of current staffing levels; available health and behavioral records; and any available standardized acuity instrument results to determine if a person has a health or behavioral acuity that requires increased supports. A person may be assessed at a support level that is consistent with their current staffing level if other acuity indicators are not in place.

1934.40 Skilled nursing that is incorporated into the supported living Medicaid reimbursement rate is for routine physical assessment, the development of the Health Management Care Plan, nursing assessment, oversight of adaptive equipment, assistance with medication administration by non-licensed personnel, or actual administration of medication.

1934.41 The Medicaid reimbursement rate for supported living services without transportation shall be as follows:

- (a) Basic Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 during all hours when individuals are awake and receiving services. The reimbursement rate shall be two hundred fifty-six dollars and three cents (\$256.03) per day;
- (b) Basic Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours when the residents are receiving services. The reimbursement rate shall be two hundred seventy-four dollars and eighteen cents (\$274.18) per day;
- (c) Moderate Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage. The reimbursement rate shall be three hundred twenty dollars and ninety one cents (\$320.91) per day;
- (d) Moderate Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake

coverage overnight. The reimbursement rate shall be three hundred thirty-nine dollars and six cents (\$339.06) per day;

- (e) Intensive Support Level 1: Provides support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be three hundred seventy-eight dollars and seventy-four cents (\$378.74) per day;
- (f) Intensive Support Level 2: Provides support for a home with three (3) residents and a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be four hundred thirty-eight dollars and ninety-five cents (\$438.95) per day;
- (g) Basic Support Level 1: Provides asleep overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 during all hours when individuals are awake and receiving services. The reimbursement rate shall be three hundred and nineteen dollars and nine cents (\$319.09) per day;
- (h) Basic Support Level 2: Provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 1:2 during all awake hours when the residents are receiving services. The reimbursement rate shall be three hundred and forty-six dollars and four cents (\$346.04) per day;
- (i) Moderate Support Level 1: Provides awake overnight support for a home with two (2) residents and a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage over night. The reimbursement rate shall be four hundred and ten dollars and forty-one cents (\$410.41) per day;
- (j) Moderate Support Level 2: Provides support in a SLR with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are in the home and adjusted for increased absenteeism. The rate shall be four hundred and ninety-five dollars and seventy-one cents (\$495.71) per day;
- (k) Intensive Support Level 1: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are in the home and

adjusted for increased absenteeism. The rate shall be five hundred and thirty-four dollars (\$534.00) per day;

- (l) Supported living periodic services, as described under Subsection 1934.6, shall be authorized up to sixteen (16) hours per day without transportation. The hourly rate shall be twenty-three dollars and eighty-eight cents (\$23.88) billable in quarter hour units (fifteen minutes) of five dollars and ninety-seven cents (\$5.97) per billable unit;
- (m) There shall be a specialized service rate for supported living with skilled nursing services, described under Subsection 1934.5. The rate shall be six hundred and two dollars and fifty-four cents (\$602.54) per day without transportation, when there are at least three (3) people living in the SLR or residing in a home that require skilled nursing services and demonstrate extraordinary medical needs; and
- (n) There shall be a specialized service rate for twenty-four hour one-to-one supported living service for a person living in a single occupancy SLR, described under Subsection 1934.4. The rate shall be five hundred sixty-three dollars and twenty cents (\$563.20) for asleep overnight staff and six hundred and twenty-four dollars (\$624.29) for one-to-one awake overnight staff.

1934.42 The Medicaid reimbursement rate for supported living services with transportation shall be as follows:

- (a) Basic Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 during all hours. The reimbursement rate shall be two hundred seventy-six dollars and thirty-seven cents (\$276.37) per day;
- (b) Basic Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 1:3 during all awake hours. The reimbursement rate shall be two hundred and ninety-four dollars and fifty-two cents (\$294.52) per day;
- (c) Moderate Support Level 1: Provides asleep overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during the remaining awake hours, and 1:3 staff asleep overnight coverage. The reimbursement rate shall be three hundred and forty-one dollars and twenty-five cents (\$341.25) per day;
- (d) Moderate Support Level 2: Provides awake overnight support for a home with three (3) residents and a direct care staff support ratio of 2:3 for eight (8) hours a day, 1:3 during remaining awake hours, and 1:3 staff awake

coverage overnight. The reimbursement rate shall be three hundred and fifty-nine dollars and forty cents (\$359.40) per day;

- (e) Intensive Support Level 1: Provides support for a home with three (3) residents and a direct care staff support ratio of 1:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be three hundred and ninety-nine dollars and eight cents (\$399.08) per day;
- (f) Intensive Support Level 2: Provides support for a home with three (3) residents and a direct care staff support ratio of 2:3 for staff awake overnight and 2:3 during all awake hours when the residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be four hundred and fifty-nine dollars and twenty-nine cents (\$459.29) per day;
- (g) Basic Support Level 1: Provides asleep overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 staff asleep overnight coverage and 1:2 staff awake coverage when residents are receiving services. The reimbursement rate shall be three hundred and thirty-nine dollars and forty-three cents (\$339.43) per day;
- (h) Basic Support Level 2: Provides overnight support for a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 1:2 during all awake hours when the resident is receiving services. The reimbursement rate shall be three hundred and sixty-six dollars and thirty-eight cents (\$366.38) per day;
- (i) Moderate Support Level 1: Provides awake overnight daily rate for a home with two (2) residents and a direct care staff support ratio of 2:2 for four (4) hours a day, 1:2 during remaining awake hours and 1:2 staff awake coverage overnight shall be four hundred and thirty dollars and seventy-five cents (\$430.75) per day;
- (j) Moderate Support Level 2: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for eight (8) hours a day, 1:2 during remaining awake hours when residents are receiving services and adjusted for increased absenteeism from day and employment programs. The reimbursement rate shall be five hundred and sixteen dollars and five cents (\$516.05) per day;
- (k) Intensive Support Level 1: Provides support in a home with two (2) residents and a direct care staff support ratio of 1:2 for staff awake overnight and 2:2 for all awake hours when residents are receiving services and adjusted for increased absenteeism from day and employment

programs. The reimbursement rate shall be five hundred and fifty-four dollars and thirty-four cents (\$554.34) per day;

- (l) Supported Living periodic services, described under Subsection 1934.6, shall be authorized up to sixteen (16) hours per day. The hourly rate shall be twenty six dollars and forty-four cents (\$26.44) per hour billable in quarter hour units of six dollars and sixty-one cents (\$6.61) per fifteen (15) minute unit; and
- (m) There shall be a specialized service rate for supported living with skilled nursing services, described under Subsection 1934.5. The reimbursement rate is six hundred and twenty-two dollars and eighty-eight cents (\$622.88) per day, when there are at least three (3) people living in the SLR or home who require Skilled Nursing Services and demonstrate extraordinary medical needs.
- (n) There shall be a specialized service rate for twenty-four hour one-to-one supported living service for a person living in a single occupancy SLR, described under Subsection 1934.4. The reimbursement rate is five hundred and eighty-three dollars and fifty-four cents (\$583.54) for asleep overnight staff and six hundred and forty-four dollars and sixty-three cents (\$644.63) for one-to-one awake overnight staff.

1934.43 For purposes of staffing and determining the Medicaid reimbursement rates for supported living services, awake hours of the day with absence from day program, weekend, or holiday shall be the time period between 6:00 a.m. to 10:00 p.m., and for purposes of awake hours for all other days shall be the time period from 6:00 a.m. to 10:00 a.m. and 2:00 p.m. to 10:00 p.m.

1934.44 For purposes of staffing and determining the Medicaid reimbursement rates for supported living services, the overnight period shall be the time period between 10:00 p.m. to 6:00 a.m.

1934.45 The billable unit of service for Medicaid reimbursable supported living services excluding periodic supported living services, shall be one (1) day (*i.e.* twenty-four (24) hours.)

1934.46 The Medicaid reimbursement rate assumes a ninety-three percent (93%) annual occupancy and includes any unanticipated absences due to illness from any day/vocational services.

1934.47 Each provider of Medicaid reimbursable supported living services shall maintain the staffing ratio, described under Subsections 1934.40 and 1934.41, associated with the approved acuity rate for the residence. The DDA Service Coordinator shall generate an incident report if it is discovered that the staffing ratio is not maintained during DDA's quarterly visits to the SLR.



- 1934.48 The Medicaid provider shall notify the DDS Service Coordinator to schedule a meeting to address the cause of any unanticipated absences that may result in a less than ninety-three percent (93%) occupancy rate or a reduced staffing ratio.
- 1934.49 Daily activities including participation in day programs such as day habilitation services, individualized day supports services, employment readiness or supported employment services, and are typically scheduled for five (5) hours per day, five (5) days per week. The reimbursement rate for Medicaid reimbursable supported living periodic services shall not include any period of time during which the person is enrolled in a day program.
- 1934.50 Medicaid reimbursable supported living periodic services are calculated based on the time the person is scheduled to be in their place of residence, except the provider may include the time the person is being transported by the provider to day programs, employment, professional appointments, community activities, and events.

**Section 1999, DEFINITIONS, is amended by adding the following:**

**Couples** - A couple refers to those married or unmarried persons in a relationship, including same-sex relationships.

**Health Management Care Plan** - A written document designed to evaluate a person's health care status and to provide recommendations regarding the treatment and amelioration of health care issues by identifying types of risk, interventions to manage identified risks, persons responsible for carrying out interventions, and persons responsible for providing an evaluation of outcomes and timeframes.

**Person** – An individual enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities.

**Supported Living Residence (SLR)** - A residence owned or leased by the provider or a residence owned or leased by the person receiving services.

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, Acting Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4<sup>th</sup> Street, NW, 9<sup>th</sup> Floor, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at [DHCFPubliccomments@dc.gov](mailto:DHCFPubliccomments@dc.gov), or online at [www.dcregs.dc.gov](http://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.

## METROPOLITAN POLICE DEPARTMENT

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Chief of the Metropolitan Police Department (Chief), pursuant to the authority under Section 911 of the Firearms Regulations Control Act of 1975 (Act), signed January 6, 2015 (D.C. Act 20-0564; 62 DCR 866 (January 23, 2015)), and any substantially similar emergency, temporary, or permanent versions of this legislation, hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking is part on ongoing process to establish procedures for licensing by the Metropolitan Police Department (MPD) of persons to carry a concealed pistol for self-defense. A recent court decision has determined that such a licensing scheme must be in place before the District of Columbia can enforce its criminal provisions against carrying firearms openly or concealed. As a result of the injunction issued in that decision, there is an immediate need to protect the health, safety, security, and welfare of District residents by having a licensing scheme immediately implemented, as further described in the License to Carry a Pistol Emergency Declaration Resolution, effective September 23, 2014 (Res. 20-615; 61 DCR 10491 (October 10, 2014)).

This rulemaking consolidates three Notices of Emergency and Proposed Rulemakings that had been previously been published in the *D.C. Register* and amend the District's firearms regulations.

First, this rulemaking establishes procedures for licensing by the Metropolitan Police Department (MPD) of persons to carry concealed firearms for self-defense. This rulemaking supersedes the Notice of Emergency and Proposed Rulemaking previously published in the *D.C. Register* on October 31, 2014 at 61 DCR 11519. One comment was received in response to that Notice and it has been incorporated in Subsection 2343.1 of this rulemaking.

Second, this rulemaking establishes procedures for firearms training instructors to obtain a certification from the Chief, for the purpose of providing firearms safety training to potential applicants for a license to carry a concealed pistol, pursuant to the Act. This rulemaking supersedes the Notice of Emergency and Proposed Rulemaking previously published in the *D.C. Register* on October 31, 2014 at 61 DCR 11534.

Third, this rulemaking clarifies that the original intent of Subsection 2334.1 (23 DCMR § 2334.1) was to include as a proper reason for a concealed carry license to be the need for the protection by a family member of another family member who is physically or mentally incapacitated when the incapacitated family member can demonstrate a good reason to fear injury in the manner required by Section 2333. This rulemaking supersedes the Notice of Emergency and Proposed Rulemaking previously published in the *D.C. Register* on January 23, 2015 at 62 DCR 1138.

Finally, this rulemaking makes several changes to the previously published Notices of Emergency and Proposed Rulemakings to: incorporate comments received; reflect recent statutory changes made by the License to Carry a Pistol Second Emergency Amendment Act of 2014, signed January 6, 2015 (D.C. Act 20-0564; 62 DCR 866 (January 23, 2015)); and provide clarification and make grammatical corrections.

This emergency rulemaking was adopted on February 13, 2015, became effective immediately, and will remain in effect for up to one hundred twenty (120) days from the date of its adoption, until June 13, 2015, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*.

In addition, the Chief gives notice of the intent to take final rulemaking action to adopt these amendments in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

### SUMMARY OF LICENSING SCHEME

The Act delegates rulemaking authority to the Chief to implement the concealed carry licensing scheme re-instituted by the Act. The Act permits the Chief to issue a concealed pistol carry license to a person who: 1) a) demonstrates: good reason to fear injury to his or her person or property; or b) has any other proper reason for carrying a pistol; and 2) is a suitable person to be so licensed. This rulemaking establishes standards by which the Chief will exercise the discretion the Act vests in him or her for each of the above requirements. The rulemaking also establishes application and investigation procedures. The rulemaking does not cover all regulations required by the Act for the licensing of concealed pistols. A future rulemaking will establish procedures for the renewal of concealed pistol licenses; a separate rulemaking issued by the Mayor has established procedures for the Concealed Pistol Licensing Review Board.

Some of the standards the Chief will use to consider license applications were established in the Act by the Council of the District of Columbia (Council). The Council derived the standards found in similar “may issue” handgun licensing or permitting schemes in the States of Maryland (good and substantial reason standard), New Jersey (justifiable need standard), and New York (proper cause standard). All of these schemes have been sustained as constitutional by U.S. Courts of Appeals. Additionally, some of the standards in these regulations have been adapted from the above states and earlier MPD regulations. Many of the application and investigation procedures were adapted from Maryland regulations. Key portions of the rulemaking include:

#### Good Reason To Fear Injury To Person Or Property

These regulations include the Act’s standards for “good reasons to fear injury to person or property” which includes “showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks which demonstrate a special danger to the applicant’s life.”

The requirement of “showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks” includes language from New Jersey regulations defining the term “justifiable need” as well as New York City’s

regulations defining the term “proper cause”. The requirement that the threats or attacks “demonstrate a special danger to applicant’s life” includes language contained in New Jersey regulations defining “justifiable need.”

The standard that a high crime area by itself does not establish good cause is language that appeared in the District’s prior concealed carry regulations and also appears in New York regulations.

#### Other Proper Reason for Carrying a Pistol

These regulations establish standards for “other proper reasons for carrying a pistol.” One standard is employment of a type that requires the handling of large amounts of cash or other highly valuable objects that must be transported upon the applicant’s person.” This standard, in some form, is found in the laws or regulations of Maryland, New Jersey, and New York City.

Another standard is “the need for a parent, son, daughter, sibling or other adult member of the immediate family to provide protection of a family member who is physically or mentally incapacitated to a point where he or she cannot act in defense of himself or herself, and the family member who is physically or mentally incapacitated can demonstrate a good reason to fear injury to his or her person.” That standard was adapted from a similar standard that appeared in MPD’s prior regulations.

#### Suitability To Obtain A Concealed Carry License

These regulations establish standards for suitability to obtain a concealed carry license, which include completion of a firearms safety and proficiency training course. Firearms safety and proficiency training courses are required by Maryland, New Jersey, Illinois, and many other states.

The suitability standard excludes applicants who are addicts or habitual users of alcohol or controlled substances, exhibit a propensity for violence or instability, or suffer from mental illness of a type that should prevent the carrying of a pistol. All of these standards are present and applied in Maryland, New Jersey, and New York. They were also part of MPD’s prior regulations.

The Council has narrowed the mental health standard that was present in the prior regulations. The prior regulations required a showing of a “sound mind.” Indications of an unsound mind included suffering from “any mental disorder” occurring during the previous five (5) years. The Act and this rulemaking limit the mental health determination to a mental illness or condition that creates a substantial risk that an applicant is a danger to himself or others. The consideration of mental health issues creating a danger to self or others is found in some form in both Maryland and New York.

Additionally, the Chief adapted language in the prior regulations to provide that an applicant with a mental health history that would otherwise render an applicant ineligible can submit a notarized report under oath from a registered psychologist or psychiatrist. The applicant must

have a bona fide patient relationship with the psychologist or psychiatrist, have been examined within six (6) months prior to submitting the statement, and have been found that he or she is no longer suffering from any mental disorder, illness, or condition that creates a substantial risk that he or she is a danger to himself or herself or others.

#### Preliminary Approval Option

These regulations establish three (3) methods for an applicant to satisfy the firearms training requirements established by the Act. An applicant may first obtain a certificate of completion for the required firearms training and submit the certificate as part of an application.

The Act also provides certain circumstances under which an applicant may also submit a request for an exemption from the firearms training as part of the application.

Lastly, the applicant may submit a statement of intent to complete firearms training after the Chief considers all other matters contained in the application and issues a preliminary approval. The last method was designed to allow an applicant to receive a determination of eligibility for a conceal carry license before he or she would have to expend time and money to complete the required firearms training.

### **Chapter 23, GUNS AND OTHER WEAPONS, of Title 24 DCMR, PUBLIC SPACE AND SAFETY, is amended as follows:**

#### **Section 2331, FEES, is amended to read as follows:**

#### **2331 FEES**

2331.1 The following fees shall be charged in connection with the services provided under this chapter:

- (a) Accident reports – \$3.00;
- (b) Arrest records – \$7.00;
- (c) Fingerprints – \$35.00;
- (d) Firearm registration – \$13.00;
- (e) Firearms training instructor certification – \$400.00;
- (f) Transcript of records – \$3.00; and
- (g) License to carry a pistol – \$75.00.

**New Sections 2332 through 2348 are added to read as follows:**

**2332 LICENSES FOR CONCEALED PISTOLS**

2332.1 A person is eligible for issuance of a license to carry a concealed pistol (concealed carry license or license) only if the person:

- (a) Is twenty-one (21) years of age;
- (b) Meets all of the requirements for a person registering a firearm pursuant to the Firearms Control Regulations Act of 1975 (the Act), effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §§ 7-2501.01 *et seq.* (2012 Repl. & 2014 Supp.));
- (c) Possesses a pistol registered pursuant to the Act;
- (d) Does not currently suffer nor has suffered in the previous five (5) years from any mental illness or condition that creates a substantial risk that he or she is a danger to himself or herself or others; provided, that if the person no longer suffers such mental illness or condition, and that person has provided satisfactory documentation required under § 2337.3, then the Chief may determine that this requirement has been met;
- (e) Has completed a firearms training course, or combination of courses, conducted by an instructor (or instructors) certified by the Chief;
- (f) Has a bona fide residence or place of business:
  - (1) Within the District of Columbia;
  - (2) Within the United States and a license to carry a pistol concealed upon his or her person issued by the lawful authorities of any State or subdivision of the United States; or
  - (3) Within the United States and meets all registration and licensing requirements pursuant to the Act;
- (g) Has demonstrated to the Chief good reason to fear injury to his or her person or property or has any other proper reason for carrying a pistol; and
- (h) Is a suitable person to be so licensed.

**2333 GOOD REASON TO FEAR INJURY TO PERSON OR PROPERTY**

2333.1 A person shall demonstrate a good reason to fear injury to his or her person by showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks which demonstrate a special danger to the applicant's life.

2333.2 For the purposes of satisfying the specifications of § 2333.1, a person shall allege, in writing, serious threats of death or serious bodily harm, any attacks on his or her person, or any theft of property from his or her person. The person shall also allege that the threats are of a nature that the legal possession of a pistol is necessary as a reasonable precaution against the apprehended danger.

2333.3 The person shall provide all evidence of contemporaneous reports to the police of such threats or attacks, and disclose whether or not the applicant has made a sworn complaint to the police or the courts of the District of Columbia concerning any threat or attack.

2333.4 The fact that a person resides in or is employed in a high crime area shall not by itself establish a good reason to fear injury to person or property for the issuance of a concealed carry license.

#### **2334 OTHER PROPER REASON FOR CONCEALED CARRY LICENSE**

2334.1 A person may allege any other proper reason that the Chief may accept for obtaining a concealed carry license which may include:

- (a) Employment of a type that requires the handling of large amounts of cash or other highly valuable objects that must be transported upon the applicant's person; or
- (b) The need for a parent, son, daughter, sibling, or other adult member of the immediate family to provide protection of a family member who is physically or mentally incapacitated to a point where he or she cannot act in defense of himself or herself, and the family member who is physically or mentally incapacitated can demonstrate a good reason to fear injury to his or her person by showing a special need for self-protection distinguishable from the general community as supported by evidence of specific threats or previous attacks which demonstrate a special danger to the applicant's life in the manner described in § 2333.

#### **2335 SUITABILITY TO OBTAIN A CONCEALED CARRY LICENSE**

2335.1 A person is suitable to obtain a concealed carry license if he or she:

- (a) Meets all of the requirements for a person registering a firearm pursuant to the Act;
- (b) Has completed a firearms training course, or combination of courses, conducted by an instructor (or instructors) certified by the Chief;

- (c) Is not presently an alcoholic, addict, or habitual user of a controlled dangerous substance, unless the habitual use of a controlled dangerous substance is under licensed medical direction;
- (d) Has not exhibited a propensity for violence or instability that may reasonably render the person's possession of a concealed pistol a danger to the person or another; and
- (e) Does not currently suffer nor has suffered in the previous five (5) years from any mental disorder, illness or condition that creates a substantial risk that he or she is a danger to himself or herself or others, or if the Chief has determined that the person is suitable based upon documentation provided by the person pursuant to § 2337.3.

### **2336 FIREARMS TRAINING COURSE REQUIREMENTS**

2336.1 To satisfy the firearms training eligibility requirement of § 2332.1(e), a person shall obtain a certificate of completion from an instructor (or instructors) certified by the Chief that includes at least sixteen (16) hours of training, and covers the following:

- (a) Firearm safety, including firearm safety in the home, a discussion of prevention of access by minors, locking and storing of firearms, and use of safety devices such as secure lock boxes;
- (b) Firearm nomenclature;
- (c) The basic principles of marksmanship;
- (d) The care, cleaning, maintenance, loading, unloading, and storage of pistols;
- (e) Situational awareness, conflict management, and use of deadly force;
- (f) Selection of pistols and ammunition for defensive purposes; and
- (g) All applicable District and federal firearms laws, including the requirements of the Act, An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code §§ 22-4501 *et seq.*), and District law pertaining to self-defense.

2336.2 In addition to the requirements of § 2336.1, a person shall complete at least two (2) hours of range training, including shooting a qualification course of fifty (50) rounds of ammunition from a maximum distance of fifteen (15) yards (forty-five



(45) feet), and receiving a qualifying score of seventy percent (70%) as certified by the instructor.

2336.3 The Chief may, on a case by case basis, exempt a person from the requirements of §§ 2336.1 and 2336.2 if the person submits evidence that he or she has received firearms training in the U.S. military or has otherwise completed firearms training conducted by a firearms instructor that, as determined by the Chief, is equal to or greater than that required by the Act.

2336.4 An applicant may submit to the Chief the application required under § 2337 without including the certificate of completion of training required by this section; provided that if the Chief preliminarily approves the application pursuant to § 2339, the applicant has forty-five (45) days to submit the certificate of completion and successfully complete the range training.

### **2337 CONCEALED CARRY APPLICATIONS**

2337.1 A complete concealed carry license application shall be submitted to the Firearms Registration Section in the format and on forms prescribed by the Chief.

2337.2 The application shall include:

- (a) The applicant's name, address, driver's license number or other government issued photo identification number, place and date of birth, height, weight, race, sex, eye and hair color, occupation, and home and work telephone numbers, and email (optional);
- (b) If applying as a District resident or business owner, proof of a bona fide District residence or place of business;
- (c) Evidence of completion or intent to complete the firearms training requirements in § 2336 by:
  - (1) Proof of the applicant's completion of a firearm training course within the past two (2) years in the manner prescribed by the Chief in § 2336;
  - (2) Support for the applicant's request for an exemption from the firearm training course requirement as permitted by the Act; or
  - (3) If the applicant chooses to seek a preliminary approval pursuant to § 2339, then the applicant shall certify that he or she will provide proof of completion of the firearms training requirements within forty-five (45) days of the Chief's provisional approval of the application pursuant to § 2339;

- (d) A complete set of the applicant's fingerprints, taken and submitted in the manner prescribed by the Chief on the application;
- (e) A declaration by the applicant as to whether or he or she currently suffers or has suffered in the previous five (5) years from any mental disorder, illness, or condition that creates a substantial risk that he or she is a danger to himself or herself or others. If the applicant attests to suffering from any mental disorder, illness, or condition, the applicant shall sign an authorization to disclose any treatment records related to those circumstances;
- (f) An authorization by the applicant to the Department of Behavioral Health, or any other similar agency or department of another state to disclose to the Chief information as to whether the applicant:
  - (1) Suffers from a mental illness or condition and has a history of violence; or
  - (2) Has been voluntarily or involuntarily committed to a mental health facility or an institution that provides treatment or services for individuals with a mental illness or condition;
- (g) Proof, including any documents, statements of third parties taken under oath and before a notary, or personal statements of the applicant to demonstrate to the Chief that the person has good reason to fear injury to his or her person or property or has any other proper reason for carrying a pistol;
- (h) Any information reasonably required by the Chief, as part of the application form or materials, to complete an investigation required by § 2338;
- (i) A declaration by the applicant that the applicant is not prohibited under federal or District law, or state law of the applicant's residence, from possessing a handgun;
- (j) A declaration by the applicant, under the penalty of perjury, that all information in the application is true and accurate; and
- (k) A declaration by the applicant acknowledging that the applicant shall be responsible for compliance with all federal and District laws, rules, regulations, and procedures that are applicable to this license.

2337.3

The Chief may find the applicant has satisfied the requirements of § 2331.1(d) if the applicant submits a notarized report under oath from a registered psychologist or psychiatrist, with which the applicant has bona fide patient relationship, stating

that the psychologist or psychiatrist has examined the applicant within six (6) months prior to submitting the statement and found the applicant to no longer to be suffering from any mental illness or condition that creates a substantial risk that he or she is a danger to himself or herself or others.

2337.4 The application must be accompanied by the fees for Fingerprints and License to carry a pistol listed in §§ 2331.1(c) and (g), respectively.

2337.5 The Chief may waive some or the entire application fee for good cause shown on the application.

2337.6 Any knowing material omission or false statement made by or provided by the applicant may be considered grounds for denial of a conceal carry license, or revocation for a license falsely obtained, and may subject the person to criminal prosecution for perjury.

### **2338 INVESTIGATION OF APPLICATION**

2338.1 The Chief shall conduct an investigation of every applicant within a reasonable period of time after receipt of a completed application.

2338.2 The following areas shall be a part of the investigation of every applicant and shall be considered by the Chief in determining whether a concealed carry license shall be issued:

- (a) Age of the applicant;
- (b) Occupation, profession, or employment of the applicant;
- (c) Verification of the applicant's eligibility, including a firearms training course completion certificate from a certified trainer;
- (d) Verification of the information supplied by the applicant in the application;
- (e) Information received from personal references and other persons interviewed;
- (f) Information received from business or employment references as may be necessary in the discretion of the investigator;
- (g) Criminal record of applicant, including any juvenile record.
- (h) Medical or mental health history of applicant as it may pertain to the applicant's fitness to carry, wear, or transport a handgun;

- (i) Psychiatric or psychological background of the applicant as it may pertain to the applicant's fitness to carry, wear, or transport a handgun;
- (j) The applicant's propensity for violence or instability that could reasonably render the applicant's wearing, carrying, or transporting of a handgun a danger to the applicant or to others;
- (k) The applicant's use of intoxicating beverages or drugs;
- (l) The reasons given by the applicant for carrying, wearing, or transporting a handgun, and whether those reasons demonstrate good cause;
- (m) Whether the permit is necessary as a reasonable precaution for the applicant against apprehended danger; and
- (n) Any other areas the Chief determines are reasonably necessary to determine if the applicant is eligible to obtain a concealed carry license.

**2339****PRELIMINARY APPROVAL**

2339.1

The Chief shall issue a preliminary approval to carry a concealed pistol or provide a written denial of the application within a reasonable time after receiving an application containing all required supporting documents, with the exception of proof of completion of the firearms training requirements. A reasonable period of time shall normally be within ninety (90) days; however, the time may be extended by the Chief for an additional ninety (90) days where there is good cause for additional time to complete the investigation and the applicant is so notified in writing.

2339.2

After completing the investigation of the application, the Chief shall either:

- (a) Deny the application pursuant to § 2340; or
- (b) Issue a preliminary approval of the application.

2339.3

If the Chief issues a preliminary approval of the application, it shall:

- (a) Be in writing;
- (b) Notify the applicant that he or she has forty-five (45) days from the date of the preliminary approval to provide proof of completion of the firearms training course requirements in §§ 2336.1 and 2336.2; and
- (c) Notify the applicant that the Chief may deny the application pursuant to § 2340 if the applicant fails to provide the documentation required under paragraph (b) within the allotted time.

2339.4 If the applicant provides the information required under § 2339.3(b), the application shall be deemed complete and the Chief shall issue the license pursuant to § 2340.

**2340 ISSUANCE OR DENIAL**

2340.1 The Chief shall issue a license to carry a concealed pistol or provide a written denial of the application within a reasonable time after receiving a completed application. A reasonable period of time shall normally be within ninety (90) days; however, the time may be extended by the Chief for an additional ninety (90) days where there is good cause for additional time to complete the investigation and the applicant is so notified in writing.

2340.2 A completed application shall satisfy all the requirements prescribed by the Chief including evidence that applicant has satisfied the firearms training requirements in § 2336.

2340.3 A written denial provided by the Chief shall contain the reasons the application was denied and a statement of the applicant's appeal rights.

2340.4 The Chief may limit the geographic area, circumstances, or times of the day, week, month, or year in which a license is valid or effective.

2340.5 Unless otherwise limited or revoked by the Chief pursuant to § 2341, a concealed carry license expires two (2) years from the date of issuance.

**2341 REVOCATION, LIMITATION, AND SUMMARY SUSPENSION**

2341.1 The Chief may revoke a concealed carry license on a finding that the licensee:

- (1) No longer satisfies one or more of the concealed carry license qualifications set forth in the Act or any regulation authorized by the Act; or
- (2) Failed to comply with one or more requirements or duties imposed upon the licensee by the Act or any regulation authorized by the Act.

2341.2 A concealed carry license may be limited, after its issuance, as described in § 2340.4, upon a finding by the Chief that such limitation is necessary to protect the health, safety, security, or welfare of the District and its residents.

2341.3 The Chief shall provide a written notice of revocation or limitation to a person whose license is revoked or limited. The written notice shall contain:

- (a) The reasons the license was revoked or limited; and

(b) A statement that the revocation or limitation will take effect unless the licensee requests an appeal to the Concealed Pistol Licensing Review Board (Board) no later than fifteen (15) days after the receipt of the notice of revocation or limitation.

2341.4 Unless a licensee has requested an appeal pursuant to § 2341.6(b), a licensee whose concealed carry license is revoked shall return the license to the Firearms Registration Section within fifteen (15) days after receipt of the notice of revocation.

2341.5 The Chief may summarily suspend or limit, without a hearing, a concealed carry license, when the Chief has determined that the conduct of the licensee presents an imminent danger to the health and safety of a person or the public.

2341.6 At the time of the summary suspension or limitation of a concealed carry license, the Chief shall provide the licensee with written notice stating:

(a) The action that is being taken;

(b) The basis for the action; and

(c) The right of the licensee to request a hearing with the Board pursuant to § 2341.7.

2341.7 A licensee shall have the right to request a hearing by the Board within seventy-two (72) hours after service of notice of the summary suspension or limitation of the concealed carry license. The Board shall hold a hearing within seventy-two (72) hours after receipt of a timely request and shall issue a written decision within seventy-two (72) hours after the hearing.

2341.8 Upon receipt of a summary suspension notice issued pursuant to § 2341.6, the licensee shall immediately return his or her suspended license to the Chief.

2341.9 If the Board does not sustain a summary suspension, the suspended concealed carry license shall be returned to the licensee.

## **2342 APPEAL**

2342.1 With the exception of an appeal of a summary suspension or limitation of a license, a person whose original or renewal license application is denied or whose license is revoked or limited may submit a written request to the Board to review the decision of the Chief within fifteen (15) days after receipt of the notice of denial, revocation, or limitation.

## **2343 AMMUNITION CARRIED BY LICENSEE**

2343.1 A person issued a concealed carry license by the Chief, while carrying the pistol, shall not carry more ammunition than is required to fully load the pistol twice, and in no event shall that amount be greater than twenty (20) rounds of ammunition.

2343.2 A person issued a concealed carry license by the Chief may not carry any restricted pistol bullet as that term is defined in the Act.

#### **2344 PISTOL CARRY METHODS**

2344.1 A licensee shall carry any pistol in a manner that it is entirely hidden from view of the public when carried on or about a person, or when in a vehicle in such a way as it is entirely hidden from view of the public.

2344.2 A licensee shall carry any pistol in a holster on their person in a firmly secure manner that is reasonably designed to prevent loss, theft, or accidental discharge of the pistol.

#### **2345 NON-RESIDENT APPLICATIONS FOR CONCEALED CARRY LICENSE**

2345.1 A non-resident of the District, as defined by the Act, may apply to the Firearms Registration Section for a concealed carry license upon a showing that the applicant meets all of the eligibility requirements of § 2332.

2345.2 A non-resident may satisfy some or all of the firearms training requirements in § 2336 by providing proof of completion of a firearms training course in another state or subdivision of the United States.

2345.3 A non-resident shall obtain a certification from a firearms trainer that the applicant has received and completed training in District firearms law and the District law of self-defense.

2345.4 A non-resident must demonstrate to the Chief that he or she has a good reason to fear injury to his or her person or property, as defined by the Act and these regulations, by showing that the fear is from a cause that will likely be present in the District and is not a cause that is likely to be present only in another jurisdiction.

2345.5 A non-resident must demonstrate to the Chief that he or she has any other proper reason for carrying a pistol, as defined by the Act and these regulations, by showing that the other proper reason exists in the District.

#### **2346 SIGNAGE TO PREVENT ENTRANCE BY CONCEALED CARRY LICENSEE ONTO NON-RESIDENTIAL PRIVATE PROPERTY**

2346.1 Signs stating that the carrying of firearms is prohibited on any private property shall be clearly and conspicuously posted at any entrance, open to the public, of a building, premises, or real property.

2346.2 A sign shall be considered conspicuous if it is at least eight (8) inches by ten (10) inches in size and contains writing in contrasting ink using not less than thirty-six (36) point type.

### **2347 FIREARMS TRAINING INSTRUCTOR CERTIFICATION**

2347.1 Any person providing firearms training to an applicant for a concealed carry license shall obtain a valid certification issued by the Chief in accordance with this section.

2347.2 A certified firearms training instructor shall obtain proof of certification from the Chief before providing instruction to an applicant for a concealed carry license.

2347.3 Upon a person's satisfactory completion of a required firearms training course, a certified firearms training instructor shall:

- (a) Provide the person a firearms training certificate that includes:
  - (1) The person's name and date of birth;
  - (2) The instructor's name;
  - (3) The length in hours of the course;
  - (4) The date of course completion;
  - (5) The location of the training;
  - (6) A declaration certifying that the course met the minimum standards prescribed by the Act and the Chief; and
  - (7) A declaration certifying that the person completed the course; and
- (b) Submit the requisite information to the Firearms Registration Section.

2347.4 A certified firearms training instructor application shall be submitted to the Security Officers Management Branch in the format prescribed by the Chief.

2347.5 The certified firearms training instructor application shall:

- (a) Meet, with the exception of Section 203(a)(13)(A) of the Act (D.C. Official Code § 7-2502.03(a)(13)(A) (2012 Repl. & 2014 Supp.)), all of



the requirements for a person registering a firearm pursuant to the Firearms Control Regulations Act of 1975 (the Act), effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §§ 7-2501.01 *et seq.* (2012 Repl. & 2014 Supp.));

- (b) Include the applicant's name, address, driver's license or other government issued photographic identification, place and date of birth, home address and telephone number, work address and telephone number, email address, name and location of firing range to be used to provide training, and business website address (optional);
- (c) Include proof of the applicant's formal training in the care, safety, and use of firearms, which may be satisfied pursuant to the conditions stated in Section 902(c) of the Act;
- (d) Include proof of the applicant's minimum of one (1) year of experience in instruction in the care, safety, and use of handguns; and
- (e) Include a detailed syllabus describing the methods and materials the trainer will use to conduct the firearms training for a concealed carry license.

2347.6 Any person licensed by the Chief as of the effective date of the Act to provide firearms instruction training to special police officers and who is seeking to be certified under this section shall not be required to pay the fees listed under § 2331.1; provided, that he or she shall pay the fees upon renewal of his or her firearms instructor license in March 2015.

2347.7 Upon receipt of a properly completed application, the Chief shall issue a certification or denial to the applicant within a reasonable time.

2347.8 A certified firearms training instructor license expires two (2) years from the date of issuance.

## **2348 SAFE STORAGE OF FIREARMS AT A PLACE OF BUSINESS**

2348.1 No registrant shall store or keep any firearm on any premises under his or her control if he or she knows or reasonably should know that a minor or a person prohibited from possessing a firearm under D.C. Official Code § 22-4503 can gain access to the firearm.

2348.2 When not in storage, each registrant shall carry the firearm on his or her person or within such close proximity that he or she can readily retrieve or use it as if he or she carried it on his or her person; provided, that the firearm is entirely hidden from view of the public.

2348.3 If the firearm is stored at a place of business, it shall be stored in a gun safe, locked box, or other secure device affixed to the property.

**Section 2399, DEFINITIONS, is amended by adding the following definitions:**

**2399 DEFINITIONS**

**Board** – means the Concealed Pistol Licensing Review Board.

**Bona fide patient relationship** – means a relationship between a psychiatrist or psychologist and a patient in which:

- (a) A complete assessment of the patient’s mental health history, current mental health condition, and a current mental health examination has taken place; and
- (b) Where the psychiatrist or psychologist has responsibility for the ongoing care and mental health treatment of the patient.

**Bona fide residence** – means a dwelling place of a person that is documented by two (2) or more of the following:

- (a) Voter registration indicating the address of the dwelling place;
- (b) Motor vehicle registration indicating the address of the dwelling place;
- (c) Motor vehicle driver permit indicating the address of the dwelling place;
- (d) Withholding and payment of individual income taxes indicating the address of the dwelling place including:
  - (1) Copies of certified District or state income tax returns; and
  - (2) Copies of certified federal tax returns filed with the U.S. Internal Revenue Service;
- (e) Certified deed or lease or rental agreement for real property indicating the address of the dwelling place;
- (f) Cancelled checks or receipts for mortgage or rental payments;
- (g) Utility bills and payment receipts indicating the address of the dwelling place;

- (h) A copy of a bank account statement in the name of the applicant at the address of the dwelling place;
- (i) Copies of credit card or brokerage account statements mailed to the applicant at the address of the dwelling place; or
- (j) Copies of automobile insurance statements mailed to the applicant at the address of the dwelling place.

**Licensee** – means a person issued a license for a concealed pistol.

**Place of business** – means a business that is located in an immovable structure at a fixed location, as documented by a business license or certificate of occupancy, and that is operated and owned entirely, or in substantial part, by a firearm registrant.

**Security Officers Management Branch** – a part of the Police Business Services Division of the Metropolitan Police Department, located at 2000 14<sup>th</sup> Street, N.W., Washington, D.C. 20009.

**Section 2399, DEFINITIONS, is amended by amending the definition of Chief to read as follows:**

**Chief** – means the Chief of the Metropolitan Police Department or his or her designee.

All persons interested in commenting on these proposed rulemaking action may submit comments in writing to Kelly O’Meara, Executive Director, Strategic Change, Metropolitan Police Department, 300 Indiana Avenue, NW, Suite 5117, Washington, DC 20001, or via e-mail at [Gun.Regulations@dc.gov](mailto:Gun.Regulations@dc.gov). Comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. Copies of this proposal may be obtained, at cost, by writing to the above address.

## DISTRICT OF COLUMBIA PUBLIC SCHOOLS

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to Section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172(c) (2012 Repl.)), and Mayor's Order 2007-186, dated August 10, 2007, hereby gives notice of the adoption of the following emergency and proposed rulemaking amending Chapter 20 (Admission of Students) of Subtitle E of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking will delete Section 2002 of Chapter 20 and replace it with a new Section 2002. This amendment is necessary to implement new requirements instituted by the District of Columbia Public Schools (DCPS) regarding student assignment and attendance zones.

Emergency rulemakings are necessary for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR § 311.4(e). The new requirements are being effectuated primarily through the out-of-boundary lottery process. The out-of-boundary lottery is utilized by a large number of DCPS parents each year to secure desired spots for their children in a school of their choice. Allowing the amendment to be made as emergency rulemaking will ensure that the lottery can commence as early as possible and operate with the new requirements set forth by the Chancellor.

The emergency rules were adopted on December 8, 2014 and took effect at that time. The rules will remain in effect for up to one hundred twenty (120) days, expiring on April 4, 2015, unless earlier superseded by a Notice of Final Rulemaking.

The proposed rulemaking will be submitted to the Council for a forty-five (45) day period of review. The Chancellor also hereby gives notice of the intent to adopt this rulemaking, in final, in not less than thirty (30) days from the publication of this notice in the *D.C. Register*, or upon approval of the rulemaking by the Council, whichever occurs later.

**Section 2002, ADMISSION AND REGISTRATION PROCEDURES, of Chapter 20, ADMISSION OF STUDENTS, of Title 5-E DCMR, EDUCATION, is deleted and replaced with a new Section 2002 to read as follows:**

**2002 ADMISSION AND REGISTRATION PROCEDURES**

- 2002.1 Application for admission to the D.C. Public Schools shall be made by registering at the school for which the student is eligible which is located in the attendance zone within which the applicant resides or by application in the out-of-boundary lottery process pursuant to § 2106.
- 2002.2 Application for admission to the D.C. Public Schools by students who reside outside of the District of Columbia shall be made to the appropriate office to be

designated by the Chancellor. Approval of any applications shall be within the discretion of the official vested by the Chancellor with such authority.

- 2002.3 Residence attendance zone restrictions shall not apply to the following:
- (a) Career development centers;
  - (b) Special education schools or programs;
  - (c) Adult education day and evening schools; or
  - (d) Schools and programs as defined in §§ 2106.8 and 2106.9.
- 2002.4 If admission to a particular school or program is not based upon residence in a particular attendance zone, initial registration may be required at the appropriate attendance zone school, as required in § 2002.1, or at another place designated by the Chancellor of Schools.
- 2002.5 The principal or other person in charge of registration for each school or program shall be responsible for the receipt of all applications for admission, the conduct of registration procedures, and the certification that all admission requirements and prerequisites have been properly met by the student and that each student is provided a copy of § 2401 (Student Bill of Rights) upon registration.
- 2002.6 Prior to the admission of a student the adult student, or the student's parent or guardian shall be required to provide documentary proof of the date of birth of each registering student. Proof of age may include, but is not necessarily limited to, any one (1) of the following:
- (a) An original or certified true copy of the student's official birth certificate;
  - (b) A valid, unexpired passport which gives the student's date of birth;
  - (c) A sworn (notarized) affidavit of the student's correct date of birth. Affidavit forms shall be available from each principal or other person responsible for admission and registration procedures;
  - (d) An official transcript from the last school attended which includes the student's date of birth; or
  - (e) An original or certified true copy of the student's baptismal certificate which includes the student's date of birth.
- 2002.7 A minor student must be accompanied at registration by a parent or guardian.

- 2002.8 The parent or guardian shall provide the following information for each registering minor student:
- (a) Full name of the student;
  - (b) Full name, home address, and work address of each parent, guardian, or other person having custody or control of the minor student for the purpose of admission;
  - (c) The home and work telephone numbers of each parent, guardian, or other responsible adult or, in each case, the telephone number through which each person may be contacted at home and at work;
  - (d) The name and telephone number of a person or persons who should be contacted in case of an emergency;
  - (e) The name, address, and telephone number of the student's physician, clinic, or other person or agency where the student's medical records are located;
  - (f) The date of registration; and
  - (g) The manner or type of admission.
- 2002.9 An adult student shall not be required to provide information about the adult student's parent or guardian, but shall provide the appropriate items of information about him or herself.
- 2002.10 The principal or other person responsible for admission or enrollment shall adhere to the following:
- (a) The principal or other person responsible for admission and enrollment procedures shall follow the requirements set forth in Title 38, Chapter 3 of the District of Columbia Official Code and Subtitle A, Chapter 50 of this title with respect to verification of District of Columbia residency for all enrolled students.
  - (b) For students enrolled through the out-of-boundary lottery process, the principal or other person responsible for admission and enrollment procedures shall require the parent, guardian, or other custodian to provide a copy of the Lottery Confirmation Letter confirming the student's acceptance for enrollment at the out-of-boundary school.
- 2002.11 District residency shall be determined pursuant to the District of Columbia Nonresident Tuition Act of 1960, effective September 8, 1960 (74 Stat. 853; D.C. Official Code §§ 38-302 *et seq.*).

- 2002.12 Any person who supplies false information to the D.C. Public Schools in connection with student residency verification may be subject to penalties in accordance with the provisions of D.C. Official Code § 38-312.
- 2002.13 The documents that shall be accepted for verification of residency for current D.C. Public School students shall be the same indicators of residency required to be submitted for a child/adult initially seeking admission to a D.C. public school.
- 2002.14 The parent, court-appointed guardian or custodian shall have ten (10) school days to provide the indicators of residency requested. If the required information is not provided in the requested time period, which can be extended at the discretion of the Chancellor or the Chancellor's designee, arrangements shall be made to enroll as a non-resident student and pay all non-resident tuition, as set forth in § 2007.
- 2002.15 Failure to provide the requested information or pay the required tuition will result in exclusion from D.C. Public Schools, subject to the tuition waiver authority provided in § 2000.2(f).
- 2002.16 District of Columbia residency shall be established through the use of satisfactory documentation as follows:
- (a) One of the following items shall be required to establish District of Columbia residency:
    - (1) Proof of payment of D.C. personal income tax by a parent or guardian for the tax period closest in time to the consideration of District of Columbia residency;
    - (2) A current (*i.e.*, issued less than forty-five (45) days prior to consideration of residency) tax withholding statement which contains a parent's or guardian's name and evidence of his or her District of Columbia residency; or
    - (3) Current official documentation of financial assistance from the District government including, but not limited to, Temporary Assistance for Needy Families (TANF), housing assistance or other programs, etc.;
  - (b) In addition, two (2) or more of the following items shall be required to establish District residency:
    - (1) A vehicle registration showing the parent's or guardian's name and evidencing District of Columbia residency;

- (2) Title to residential property in the District of Columbia, or a valid, unexpired lease agreement and paid receipts or canceled checks (for a period within the two (2) months immediately preceding consideration of residency) for payment of rent on a District residence in which applicant actually resides.
  - (3) A valid, unexpired D.C. Motor Vehicle Operator's Permit, or nondriver's identification;
  - (4) Maintenance of District of Columbia voter registration; and
  - (5) One (1) or more utility bills and paid receipts or canceled checks (from a period within the two (2) months immediately preceding consideration of residency), showing the parent's or guardian's name and a District of Columbia residence; and
- (c) If the parent, court-appointed guardian or custodian cannot provide the documents described in this subsection (*e.g.*, in the case of a homeless student), the Chancellor or the Chancellor's designee has the discretion to grant an exemption to the required indicators of District of Columbia residency to permit attendance in a D.C. public school.

- 2002.17 The principal or other person responsible for admission and registration procedures shall keep a record of the removal of any student from the rolls of the school or program and any subsequent readmission of the student.
- 2002.18 All records and information received and maintained pursuant to this section shall be subject to the requirements and restrictions set forth in Chapter 26.
- 2002.19 Except as provided otherwise in this section, the entrance-level placement of each student shall be individually determined by the principal or other person in charge of the school or program.
- 2002.20 Entrance-level placements for students with disabilities shall be determined by referral of the student for assessment and evaluation pursuant to the provisions of Chapter 30.
- 2002.21 Bilingual and non-English speaking students shall be referred for placement determination to the Office of Bilingual Education, and the appropriate placement determination shall be transmitted to the principal or other person in charge of the school or program.
- 2002.22 Entrance-level placement determinations may be challenged under the rules and procedures set forth in Chapter 24, except for challenges to proposed placements for handicapped students which shall be made pursuant to the rules and procedures set forth in Chapter 30.



- 2002.23 A local school administrator shall not exclude from admission or attendance any compulsory school-aged minor who resides in his or her school's attendance zone, gained a right to attend the school through the DCPS lottery, or who has been placed in his or her school by the Division of Special Education or the Division of Bilingual Education, unless the minor has been involuntarily transferred. This includes, but is not limited to, the following:
- (a) All minors who will be five (5) years of age on or before September 30<sup>th</sup> in the current school year and have not yet reached the age of eighteen (18) years;
  - (b) Teen-aged parents who have responsibility for the care of their children;
  - (c) Adjudicated or previously incarcerated youth who return to school voluntarily or by legal mandate;
  - (d) Minors awaiting special education evaluation for appropriate placement;
  - (e) Compulsory school-aged minors residing temporarily in a shelter, halfway house or similar facility or having no fixed address. The minor may elect to continue enrollment in the local school serving his or her last permanent domicile;
  - (f) Students attending the by-right alternative to their dual-language zoned school.
- 2002.24 Administrators shall place the eligible students in appropriate educational programs compatible with their last grade completed pending evaluative studies or alternative placement when necessary.

Comments on this rulemaking should be submitted, in writing, to Kaya Henderson, Chancellor, DCPS, at 1200 First Street, N.E., 12<sup>th</sup> Floor, Washington, D.C., 20002, (202) 442-5885, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address.

## DISTRICT OF COLUMBIA PUBLIC SCHOOLS

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to Section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172(c) (2012 Repl.)), and Mayor's Order 2007-186, dated August 10, 2007, hereby gives notice of the adoption of the following emergency and proposed rulemaking amending Chapter 20 (Admission of Students) of Subtitle E of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR),

This emergency rulemaking will delete Section 2004, Chapter 20, and replace it with a new Section 2004. This amendment is necessary to implement new requirements instituted by the District of Columbia Public Schools (DCPS) regarding student assignment and attendance zones.

Emergency rulemakings are necessary for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR § 311.4(e). The new requirements are being effectuated primarily through the out-of-boundary lottery process. The out-of-boundary lottery is utilized by a large number of DCPS parents each year to secure desired spots for their children in a school of their choice. Allowing the amendment to be made as emergency rulemaking will ensure that the lottery can commence as early as possible and operate with the new requirements set forth by the Chancellor.

The emergency rules were adopted on December 8, 2014 and took effect at that time. The rules will remain in effect for up to one hundred twenty (120) days, expiring on April 4, 2015, unless earlier superseded by a Notice of Final Rulemaking.

The proposed rulemaking will be submitted to the Council for a forty-five (45) day period of review. The Chancellor also hereby gives notice of the intent to adopt this rulemaking, in final, in not less than thirty (30) days from the publication of this notice in the *D.C. Register*, or upon approval of the rulemaking by the Council, whichever occurs later.

**Section 2004, ELIGIBILITY FOR ADMISSION, of Chapter 20, ADMISSION OF STUDENTS, of Title 5-E DCMR, EDUCATION, is deleted and replaced with a new Section 2004 to read as follows:**

**2004 ELIGIBILITY FOR ADMISSION**

- 2004.1 A student who is at least three (3) years of age on or before September 30<sup>th</sup> shall be eligible for admission to PK-3 program, when pre-school programs are available in the D.C. Public Schools.
- 2004.2 A student who is or will become four (4) years of age on or before September 30<sup>th</sup> shall be eligible for the PK-4 program.

- 2004.3 A student who is or will become five (5) years of age on or before September 30<sup>th</sup> shall be eligible for admission to the kindergarten program.
- 2004.4 Where appropriate PK-3 or PK-4, programs are not available in the attendance zone within which a student resides, the student shall be eligible for out-of-boundary admission to a school where the program the student wishes to attend is available, if any, and may apply for admission through the out-of-boundary lottery process, pursuant to § 2106.
- 2004.5 A student who is or will become six (6) years of age on or before September 30<sup>th</sup> shall be eligible for admission to the first (1st) grade.
- 2004.6 Admission to the secondary program shall be based upon the promotion requirements set forth in Chapter 21.
- 2004.7 Admission to special programs or city-wide schools and programs shall be based upon eligibility criteria established by the Chancellor, unless otherwise set forth in this chapter.
- 2004.8 The establishment of eligibility criteria for certain programs and age groups shall not necessarily require the D.C. Public Schools to offer any program or serve any age group, except where specifically required by law or this title. The scope of school programs is subject to the availability of adequate resources and the funding determinations of D.C. Public Schools.

Comments on this rulemaking should be submitted, in writing, to Kaya Henderson, Chancellor, DCPS, at 1200 First Street, N.E., 12<sup>th</sup> Floor, Washington, D.C., 20002, (202) 442-5885, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, MARCH 11, 2015  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

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

|   |                 |
|---|-----------------|
| <b>Show Cause (Status)*</b><br><b>Case # 14-CC-00141;</b> Kookoovaya, Inc., t/a We, the Pizza, 305 Pennsylvania Ave SE, License #82062, Retailer CR, ANC 6B<br><b>Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age, No ABC Manager on Duty</b> | <b>9:30 AM</b>  |
| <b>Fact Finding Hearing</b><br>Alemeshet Bayou t/a To Be Determined (formerly 2203 14th Street NW)<br>2203 14th Street NW, License #90459, Retailer B, ANC 1B<br><b>Request to Extend Safekeeping (Follow-up to October 15, 2014 Hearing)</b>   | <b>9:30 AM</b>  |
| <b>Show Cause Hearing</b><br><b>Case # 14-AUD-00078;</b> CSBT, Inc., t/a Town House Tavern Restaurant, 1637 R Street NW, License #24682, Retailer CR, ANC 2B<br><b>Failed to File Quarterly Statements (2nd Quarter 2014)</b>   | <b>10:00 AM</b> |
| <b>Show Cause Hearing</b><br><b>Case # 14-AUD-00011;</b> Smith Commons DC, LLC, t/a Smith Commons, 1245 H Street NE, License #84598, Retailer CR, ANC 6A<br><b>Failed to Post ABC Licenses</b>  | <b>11:00 AM</b> |
| <b>BOARD RECESS AT 12:00 PM</b><br><b>ADMINISTRATIVE AGENDA</b><br><b>1:00 PM</b>   |                 |
| <b>Protest Hearing</b><br><b>Case # 14-PRO-00095,</b> Spo-dee-o-dee, LLC, t/a The Showtime, 113 Rhode Island Ave NW, License #89196, Retailer CT, ANC 5E<br><b>Substantial Change (Sidewalk Café with Six Seats)</b>  | <b>1:30 PM</b>  |

Board's Calendar  
March 11, 2015

**Show Cause Hearing**

**4:30 AM**

**Case # 14-251-00003 and 14-AUD-00003(a);** Chloe, LLC, t/a District, 2473  
18th Street NW, License #92742, Retailer CR , ANC 1C

**Interfered with an Investigation**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
CANCELLATION AGENDA

WEDNESDAY MARCH 11, 2015  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board will be cancelling the following licenses for the reasons outlined below:

ABRA-075162– **Lotus** – Retail – C – Nightclub – 1420 K STREET NW  
[Establishment has closed and the Licensee has requested Cancellation of the license.]

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ABRA-093538– **Event Concepts** – Retail – C – Tavern – 444 NORTH CAPITOL STREET NW  
[Establishment has closed and the Licensee has requested Cancellation of the license.]

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ABRA-075752 – **Georgia Avenue Market** – Retail – Grocery – B – 3128 GEORGIA AVENUE  
NW  
[Licensee did not renew.]

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ABRA-079255 – **Pennsylvania Avenue Market** – Retail – Grocery – B – 1501  
PENNSYLVANIA AVENUE SE  
[Licensee did not renew.]

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

**NOTICE OF MEETING  
INVESTIGATIVE AGENDA**

**WEDNESDAY, MARCH 11, 2015  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On March 11, 2015 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#15-AUD-00026 Bobby Van's Grill, 1201 NEW YORK AVE NW Retailer C Restaurant, License#: ABRA-073165

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2. Case#15-CMP-00094 Turntable Restaurant, 5802 GEORGIA AVE NW Retailer C Tavern, License#: ABRA-024778

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3. Case#15-CMP-00071 T & T Associates, 5123 GEORGIA AVE NW Retailer C Club, License#: ABRA-017426

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4. Case#15-CMP-00060 Hill Country, 410 7TH ST NW Retailer C Restaurant, License#: ABRA-083696

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5. Case#15-251-00035 Peace Lounge, 2632 GEORGIA AVE NW Retailer C Tavern, License#: ABRA-094013

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LEGAL AGENDA

WEDNESDAY, MARCH 11, 2015 AT 1:00 PM  
2000 14<sup>th</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Letter in Opposition of Single Sales Request, submitted by Chairperson Jay Williams on behalf of ANC 6A, dated February 25, 2015. *1101 Convenience Mart*, 1101 H Street, NE, Retailer B, License No.: 086305.

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2. Letter in Opposition of Single Sales Request, submitted by Chairperson Jay Williams on behalf of ANC 6A, dated February 25, 2015. *Me & My Supermarket*, 1111 H Street, NE, Retailer B, License No.: 014994.

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3. Letter in Opposition of Single Sales Request, submitted by Chairperson Jay Williams on behalf of ANC 6A, dated February 25, 2015. *New H Wine and Spirits*, 914 H Street, NE, Retailer A, License No.: 093550.

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\* In accordance with D.C. Official Code §2-574(b) Open Meetings Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, MARCH 11, 2015 AT 1:00 PM  
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request for Change of Hours. *Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:* Monday-Thursday 9am to 9pm, Friday 9am to 10pm, Saturday 9am to 9pm. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:* Sunday 12pm to 8pm, Monday-Saturday 9am to 10pm. ANC 5C. SMD 5C04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Syd's*, 2325 Bladensburg Road NE, Retailer A Liquor Store, License No. 026574.

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2. Review application for Entertainment Endorsement for Summer Garden. Entertainment to Include DJs, Singer-Songwriter performances, and Acoustic Music performances on the rooftop through 8pm. ANC 6A. SMD 6A06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Rock N Roll Hotel*, 1353 H Street NE, Retailer CT, License No. 072777.

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3. Review Request to Withdraw Application for Transfer without Sale from Boom, Inc. to 1359 U, LLC. ANC 1B. SMD 1B12. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Patty Boom Boom*, 1359 U Street NW, Retailer CT, License No. 078943.

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4. Review Third Amendment to Voluntary Agreement and Letter from Attorney Stephen J. O'Brien requesting the addition of a Third Vessel to the Licensee's fleet. ANC 6D. SMD 6D04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Boomerang Boat Tours, LLC*, 600 Water Street SW/1300 Maine Avenue SW, Retailer CX Marine Vessel, License No. 085705 and 090816.

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5. Review Application for Solicitor's License. *Olivier H. Daubresse*-ABRA 098159.

**\*In accordance with D.C. Official Code §2-574(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**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 Tuesday, March 3, 2015 at 6:30 pm.

The meeting will be held at the OAPIA office at One Judiciary Square, 441 4<sup>th</sup> 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](mailto:oapia@dc.gov) or Andrew Chang at [andrew.chang@dc.gov](mailto:andrew.chang@dc.gov). Telephone: (202) 727-3120.

The DC Commission on Asian and Pacific Islander Affairs convenes meetings to discuss current issues affecting the DC Asian American and Pacific Islander (AAPI) community.

**CHILD SUPPORT SERVICES DIVISION  
OFFICE OF THE ATTORNEY GENERAL**

**NOTICE OF UPDATE REGARDING THE CHILD SUPPORT GUIDELINE  
SELF-SUPPORT RESERVE**

Section 16-916.01(g)(1)(A) of the District of Columbia Official Code provides that the self-support reserve for the Child Support Guideline is to be calculated at 133% of the United States Department of Health and Human Services poverty guideline per year for a single individual and updated by the Mayor every two years. The 2015 United States Department of Health and Human Services poverty guideline for a single person is \$11,770. Effective April 1, 2015, the new self-support reserve amount shall be \$15,654.

**COMMUNITY COLLEGE PREPARATORY ACADEMY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Help Desk Career Training Services**

The Community College Preparatory Academy Public Charter School solicits expressions of interest in the form of proposals with references from qualified vendors for the Help Desk Career Training (HDCT) services and instruction under the guidance of CC Prep and adult education charter school.

Questions and proposals may be e-mailed to [rfp@ccprep-academy.org](mailto:rfp@ccprep-academy.org) with the subject line **Help Desk Career Training Services RFP#2015-02**. Deadline for submissions is **3:00 pm Monday, March 9, 2015**. No phone calls please.

Proposals should be sent to:

Monica Jones

Director of Operations

Community College Preparatory Academy

[rfp@ccprep-academy.org](mailto:rfp@ccprep-academy.org)

## OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

DISTRICT OF COLUMBIA REGISTER  
2015 PUBLICATION SCHEDULE

Pursuant to the Notice of Final Rulemaking published in the *District of Columbia Register*, at 61 DCR 011166 on October 24, 2014, the deadline for submitting documents for publication in the *District of Columbia Register* by District agencies, boards, commissions, and public charter schools is THURSDAY, noon of the PREVIOUS Week. For example, the deadline for the Friday, March 13, 2015 edition of the *D.C. Register* is Thursday, noon on March 5, 2015.

If an official government holiday falls on a Thursday, the deadline for submitting documents is Wednesday. For example, the deadline for the April 24, 2015 Register is Wednesday, April 15, 2015 because Thursday, April 16, 2015, Emancipation Day is a public holiday.

**Documents that are uploaded after the noon deadline will be published in the next edition of the Register.**

Below is the 2015 D.C. Register publication schedule.

**OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSAUNCES  
DISTRICT OF COLUMBIA REGISTER  
2015 PUBLICATION SCHEDULE**

| <b>Submission Deadline</b> | <b>Publication Date</b> | <b>D.C. Register Issue</b> |
|----------------------------|-------------------------|----------------------------|
| February 26, 2015          | March 6, 2015           | Vol. 62/10                 |
| March 5, 2015              | March 13, 2015          | Vol. 62/11                 |
| March 12, 2015             | March 20, 2015          | Vol. 62/12                 |
| March 19, 2015             | March 27, 2015          | Vol. 62/13                 |
| March 26, 2015             | April 3, 2015           | Vol. 62/14                 |
| April 2, 2015              | April 10, 2015          | Vol. 62/15                 |
| April 9, 2015              | April 17, 2015          | Vol. 62/16                 |
| April 15, 2015             | April 24, 2015          | Vol. 62/17                 |
| April 23, 2015             | May 1, 2015             | Vol. 62/18                 |
| April 30, 2015             | May 8, 2015             | Vol. 62/19                 |
| May 7, 2015                | May 15, 2015            | Vol. 62/20                 |
| May 14, 2015               | May 22, 2015            | Vol. 62/21                 |
| May 21, 2015               | May 29, 2015            | Vol. 62/22                 |
| May 28, 2015               | June 5, 2015            | Vol. 62/23                 |
| June 4, 2015               | June 12, 2015           | Vol. 62/24                 |
| June 11, 2015              | June 19, 2015           | Vol. 62/25                 |
| June 18, 2015              | June 26, 2015           | Vol. 62/26                 |
| June 25, 2015              | July 3, 2015            | Vol. 62/27                 |
| July 2, 2015               | July 10, 2015           | Vol. 62/28                 |
| July 9, 2015               | July 17, 2015           | Vol. 62/29                 |
| July 16, 2015              | July 24, 2015           | Vol. 62/30                 |
| July 23, 2015              | July 31, 2015           | Vol. 62/31                 |
| July 30, 2015              | August 7, 2015          | Vol. 62/32                 |
| August 6, 2015             | August 14, 2015         | Vol. 62/33                 |
| August 13, 2015            | August 21, 2015         | Vol. 62/34                 |
| August 20, 2015            | August 28, 2015         | Vol. 62/35                 |
| August 27, 2015            | September 4, 2015       | Vol. 62/36                 |
| September 3, 2015          | September 11, 2015      | Vol. 62/37                 |
| September 10, 2015         | September 18, 2015      | Vol. 62/38                 |
| September 17, 2015         | September 25, 2015      | Vol. 62/39                 |
| September 24, 2015         | October 2, 2015         | Vol. 62/40                 |
| October 1, 2015            | October 9, 2015         | Vol. 62/41                 |
| October 8, 2015            | October 16, 2015        | Vol. 62/42                 |
| October 15, 2015           | October 23, 2015        | Vol. 62/43                 |
| October 22, 2015           | October 30, 2015        | Vol. 62/44                 |
| October 29, 2015           | November 6, 2015        | Vol. 62/45                 |
| November 5, 2015           | November 13, 2015       | Vol. 62/46                 |
| November 12, 2015          | November 20, 2015       | Vol. 62/47                 |
| November 19, 2015          | November 27, 2015       | Vol. 62/48                 |
| November 25, 2015          | December 4, 2015        | Vol. 62/49                 |
| December 3, 2015           | December 11, 2015       | Vol. 62/50                 |
| December 10, 2015          | December 18, 2015       | Vol. 62/51                 |
| December 17, 2015          | December 25, 2015       | Vol. 62/52                 |
| December 24, 2015          | January 1, 2016         | Vol. 62/53                 |

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue an air quality permit (#5623-R1) to the Architect of the Capitol to operate a 1,500 kWe emergency generator set with a 2,172 hp diesel fired engine at the U.S. Capitol Power Plant, located at 25 E Street SE, Washington, DC 20003. The contact person for the facility is Laura Condeluci, Public Affairs Specialist, at (202) 228-3090. The applicant's mailing address is 25 E Street SE, Washington, DC 20003.

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, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after April 6, 2015 will be accepted.**

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



**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue an air quality permit renewal (#6550-R1) to Monumental Concrete LLC to operate an existing ready mix concrete batch plant with an associated 2.7 MMBTU/hr No. 2 fuel oil fired water heater at 3 DC Village Lane SW, Washington, DC 20032. The contact person for the facility is Carl D. Jones, Chairman of the Board, at (202) 737-0006.

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, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after April 6, 2015 will be accepted.**

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

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR § 210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue an air quality permit (#6971) to Georgetown University to construct and operate a 100 kW Cummins Power Generation emergency generator set with a 324 bhp diesel fired engine at the Former Jesuit Residence of Georgetown University, located at 3700 O Street NW, Washington, DC 20057. The contact person for facility is Gregory Simmons, Associate Vice President, Facilities Operations, Design and Construction, at 202 594-6523. The applicant’s mailing address is 3700 O Street NW, Washington, DC 20057.

Emissions:

Maximum emissions from the 200 kW emergency generator, operating five hundred (500) hours per year, is expected to be as follows:

|                                     | <b>Maximum Annual Emissions</b> |
|-------------------------------------|---------------------------------|
| <b>Pollutant</b>                    | <b>(tons/yr)</b>                |
| Total Particulate Matter (PM Total) | 0.07                            |
| Sulfur Dioxide (SO <sub>2</sub> )   | 0.08                            |
| Nitrogen Oxides (NO <sub>x</sub> )  | 0.22                            |
| Volatile Organic Compounds (VOC)    | 0.09                            |
| Carbon Monoxide (CO)                | 0.06                            |

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

- a. Emissions from the unit shall not exceed those 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)]:

| <b>Pollutant Emission Limits (g/kW-hr)</b> |     |      |
|--|-----|------|
| NMHC+NO <sub>x</sub>                       | CO  | PM   |
| 4.0  | 3.5 | 0.20 |

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this 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. In addition to Condition (b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
1. 20 percent during the acceleration mode;
  2. 15 percent during the lugging mode;
  3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*
- d. 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, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after April 6, 2015 will be accepted.**

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

**DISTRICT DEPARTMENT OF THE ENVIRONMENT  
NOTICE OF FUNDING AVAILABILITY**

**GRANTS FOR**

**Trash-Free Rivers: Fostering Green Jobs and Environmental Education Opportunities by  
Cleaning Up the Anacostia River**

The District Department of the Environment (“DDOE”) is seeking eligible entities, as defined below, to submit proposals to monitor and maintain three “Bandalong” trash traps in a local river, provide environmental work experience District youth (ages 16-25), and educate participants and the public about how trash pollutes District waterbodies. The successful applicant will implement a maintenance program for two (2) years with DDOE funding to maintain three (3) trash traps in the Anacostia River. The successful applicant will be expected to recruit, train and employ school-aged youth to assist in the maintenance of all three traps, and to input into a database the tracked characteristics of the trash captured. The applicant will also coordinate opportunities for volunteers to assist with maintenance and learn about the need for trash reduction in District waters and watersheds. The successful applicant will be expected to collect data on the amount and types of trash being captured by all three traps. The amount available for the project in this RFA is approximately \$238,000.00. This amount is subject to continuing availability of funding and approval by the appropriate agencies.

Beginning 03/06/2015, the full text of the Request for Applications (“RFA”) will be available online at DDOE’s website. It will also be available for pickup. A person may obtain a copy of this RFA by any of the following means:

**Download** from DDOE’s website, [www.ddoe.dc.gov](http://www.ddoe.dc.gov). Select “Resources” tab. Cursor over the pull-down list; select “Grants and Funding;” then, on the new page, cursor down to the announcement for this RFA. Click on “Read More,” then download and related information from the “attachments” section.

**Email** a request to [2015TrashFreeRiversRFA.Grant@dc.gov](mailto:2015TrashFreeRiversRFA.Grant@dc.gov) with “Request copy of RFA 2015-1510-SWMD” in the subject line;

**Pick up a copy in person** from the DDOE reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. Call Matt Robinson at (202) 442-3204 to make an appointment and mention this RFA by name; or

**Write** DDOE at 1200 First Street NE, 5th Floor, Washington, DC 20002, “Attn: Matt Robinson RE:2015-1510-SWMD” on the outside of the letter.

**The deadline for application submissions is 4/6/2015, at 4:30 p.m.** Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to [2015TrashFreeRiversRFA.Grant@dc.gov](mailto:2015TrashFreeRiversRFA.Grant@dc.gov).

**Eligibility:** All the checked institutions below may apply for these grants:

-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;

- Faith-based organizations;
- Government agencies; and
- Universities/educational institutions.

**Period of Awards:** The end date for the work of this grant program will be two years from the date of execution of a grant award.

**Available Funding:** The total amount available for this RFA is approximately \$238,000.00. The amount is subject to continuing availability of funding and approval by the appropriate agencies.

For additional information regarding this RFA, please contact DDOE as instructed in the RFA document, at [2015TrashFreeRiversRFA.Grant@dc.gov](mailto:2015TrashFreeRiversRFA.Grant@dc.gov).

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

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

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4<sup>th</sup> Floor, Washington, DC 20005 on **Monday, March 9, 2015 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 739 329 366.

The Executive Board meeting is open to the public.

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

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

The District of Columbia Board of Dentistry hereby gives 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)) (2012 Repl.), of the change of its regularly scheduled monthly meeting time.

Beginning Wednesday, March 18, 2015, the District of Columbia Board of Dentistry is changing its regularly scheduled meeting time to 10:00 a.m. The open (public) session will begin at 10:30 a.m.

The District of Columbia Board of Dentistry meets on the third Wednesday of each month at 899 North Capitol Street, NE, 2<sup>nd</sup> Floor, Washington, D.C. 20002.

**DEPARTMENT OF HEALTH**  
**HEALTH REGULATION LICENSING ADMINISTRATION**

**NOTICE OF MEETING**

Board of Chiropractic  
March 10, 2015

On March 10, 2015 at 1:00 pm, the Board of Chiropractic 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 1:00 pm until 2:30 pm to plan, discuss, or hear reports concerning licensing issues ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be open to the public from 2:30 pm to 3:30 pm 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 4:30 pm.

The meeting location is 899 North Capitol Street NE, 2<sup>nd</sup> Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Chiropractic website [www.doh.dc.gov/boc](http://www.doh.dc.gov/boc) and select BOC Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Jacqueline A. Watson, DO, MBA CMBE (202) 724-8755.



**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 9:00am on Thursday, February 26, 2015. The meeting will be held at 1310 Southern Avenue, SE, Washington, DC 20032, in Conference Room 2/3. Notice of a location, time change, or intent to have a closed meeting 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](http://www.united-medicalcenter.com)).

**DRAFT AGENDA**

- I. CALL TO ORDER**
  
- II. DETERMINATION OF A QUORUM**
  
- III. APPROVAL OF AGENDA**
  
- IV. BOARD DISCUSSION**
  - 1. 2014 Audit Presentation - KPMG
  
- V. CONSENT AGENDA**
  - A. READING AND APPROVAL OF MINUTES**
    - 1. January 22, 2015 – Board of Directors General Meeting
  
  - B. EXECUTIVE REPORTS**
    - 1. Dr. Cyril Allen, Chief Medical Officer
    - 2. Thomas E. Hallisey, Chief Information Officer
    - 3. Jim Hobbs, VP of Business Development & Physician Recruitment
    - 4. Jackie Johnson, VP of Human Resources
    - 5. Pamela Lee, EVP of Hospital Operations & CQO
    - 6. David Thompson, Director of Public Relations
    - 7. Maribel Torres, Chief Nursing Officer
    - 8. Charletta Washington, VP of Ambulatory & Ancillary Services
  
- VI. NONCONSENT AGENDA**

**A. CHIEF EXECUTIVE REPORTS**

1. David Small, CEO
2. Barbara Roberson-Thomas, Interim CFO

**B. MEDICAL STAFF REPORT**

1. Raymond Tu, Vice Chief of Staff

**C. COMMITTEE REPORTS**

1. Audit Committee
2. Finance Committee Report
3. Governance Committee Report

**D. OTHER BUSINESS**

1. Old Business
2. New Business

**E. ANNOUNCEMENT**

Next Meeting – Thursday, March 26, 2015 at 9:00am in Conference Rooms 2/3.

**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 collective bargaining agreements, personnel, and discipline matters. D.C. Official Code §§2 - 575(b)(2)(4A)(5),(9),(10),(11),(14).

**OFFICE OF POLICE COMPLAINTS**

**NOTICE OF PUBLIC MEETING**

**POLICE COMPLAINTS BOARD MEETING**

**March 19, 2015**

**6:00 p.m.**

**1400 I St, Suite 700, Washington, DC, 20008**

**For additional information, contact Christian J. Klossner at 202-727-3838**

**AGENDA OF MEETING**

- I. Call to Order
- II. Public Comment Period
- III. Approval of PCB Minutes
  - a. January 22, 2015
- IV. Caseload Statistics
- V. Agency Report
- VI. Executive Session (if necessary)

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

**NOTICE OF GENERAL COMMISSION MEETING**

The District of Columbia Taxicab Commission will hold its regularly scheduled General Commission Meeting on Wednesday, March 11, 2015 at 10:00 am. The meeting will be held at our new office location: 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2023. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

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

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Commission on any issue of concern; the Commission generally does not answer questions. Statements are limited to five (5) minutes for registered speakers and two (2) minutes for non-registered speakers. To register, please call 202-645-6018 (ext. 4) no later than 3:30 pm on March 10, 2015. Registered speakers will be called first, in the order of registration. A fifteen (15) minute period will then be provided for all non-registered speakers. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Secretary to the Commission no later than the time they are called to the podium.**

**DRAFT AGENDA**

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

**WASHINGTON LATIN PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Educational Travel Services & Auditing Services**

Issued: February 27, 2015

Washington Latin is soliciting proposals from qualified vendors to provide services list below.

- 1.) We seek a vendor to arrange a 10-day educational trip to China in the spring of 2016 for 25 high school students. Questions and proposals may be e-mailed directly (cstouder@latinpcs.org and bpaul@latinpcs.org) with the subject line as the type of service, Student Travel Services.
- 2.) We seek a DCPCSB approved auditor to perform annual audit and OMB Circular A-133 Audit services for the school and QALICB. Questions and proposals may be e-mailed directly (gizurieta@latinpcs.org and bpaul@latinpcs.org) with the subject line as the type of service, Auditing Services.

Deadline for submission for both services is 12 noon on Friday, March 13, 2015.

E-mail is the preferred method for responding, but you may also mail proposals and supporting documents to the address below. All materials for proposals must be in our office by the above deadline.

Washington Latin Public Charter School  
Attn: Business Office  
5200 2<sup>nd</sup> Street, NW  
Washington, DC 20011

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

**Application No. 18865 of Kevin Latner**, as amended, pursuant to 11 DCMR § 3103.2, for variances from lot occupancy, nonconforming structure, alley setback and rear yard coverage requirements under sections 403, 2001.3, 2300, 2301, 2500, to allow the construction of a new two car garage serving a flat in the R-4 District at premises 21 Quincy Place, N.W. (Square 3101, Lot 104).<sup>1</sup>

**HEARING DATES:** December 16, 2014 and February 10, 2015

**DECISION DATE:** February 10, 2015

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (“Board”) 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 submitted a report in support of the application. In its report the ANC indicated that at a regularly scheduled and properly noticed public meeting on November 18, 2014, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 31.)

The Office of Planning (“OP”) submitted a timely report indicating that it cannot support the variance relief requested and finding that the Applicant did not establish a nexus between the uniqueness of the property and a practical difficulty. (Exhibit 32.) Additionally, in response to a supplemental filing from the Applicant, OP submitted a supplemental report indicating that it remained unable to support the variance relief requested in this application. (Exhibit 35.) The District Department of Transportation (“DDOT”) submitted a timely report of “no objection” to the application. (Exhibit 27.)

A petition in support signed by three neighbors was submitted to the record. (Exhibits 29-30.)

**Variance Relief**

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for a variance from the alley setback requirement of § 2300.2. No parties

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<sup>1</sup> The Applicant amended the application at the public hearing to remove his request for relief from the accessory building height requirements under § 2500.4. The caption has been changed accordingly.

BZA APPLICATION NO. 18865

PAGE NO. 2

appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board is required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.)) In this case, OP did not recommend that the Board grant the relief requested. OP based its recommendation on the finding that the property exhibits no exceptional characteristics that create a practical difficulty. The Board, however, finds that the Applicant’s right to rebuild a one-car carriage house coupled with the narrowness of the lot creates an exceptional situation that leads to a practical difficulty. Further, the Board finds that the variance relief requested in this case is *de minimis* in nature and, accordingly, a lesser burden of proof rests on the Applicant. See *Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1171 (D.C. 1990) (Holding that “the severity of the variance(s) requested” is among the proper factors for the Board’s consideration).

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the ANC and OP reports, 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 created 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 requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7**.

**VOTE:**           **4-0-1** (Jeffrey L. Hinkle, Marnique Y. Heath, Lloyd J. Jordan, and Robert E. Miller, 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 order.

**FINAL DATE OF ORDER:** February 20, 2015

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.

BZA APPLICATION NO. 18865

PAGE NO. 3

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

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

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.



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

**Application No. 18876 of Habitat for Humanity of Washington, DC**, pursuant to 11 DCMR §§ 3103.2 and 3104.1 for variances from the off-street parking requirements under subsection 2101.1,<sup>1</sup> the floor area ratio requirements under subsection 402.4, and the lot occupancy requirements under subsection 403.2, and a special exception from the new residential development provisions under subsection 353, to allow the construction of five new residential row dwellings in the R-5-A District at premises 23 46th Street, S.E. (Square 5346, Lot 4).

**HEARING DATE:** February 10, 2015

**DECISION DATE:** February 10, 2015

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 33.)

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”) 7E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7E, which is automatically a party to this application. ANC 2F submitted a report dated November 26, 2013 in support of the application. The ANC did not submit a resolution on the application. However, the ANC commissioner for the Single Member District in which the site is located testified at the public hearing that the Applicant had engaged with the ANC on multiple occasions, but that the ANC had not held a formal meeting for over four months. The Office of Planning (“OP”) submitted a timely report on February 3, 2015, recommending approval of the application (Exhibit 47) and testified in support of the application at the hearing. The District Department of Transportation (“DDOT”) submitted a timely report on February 3, 2015, indicating that it had no objection to the Applicant’s requests for variance and special exception relief (Exhibit 48), and testified in support of the application at the hearing.

**Variance Relief:**

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from the off-street parking requirements under subsection 2101.1, the floor area ratio requirements under subsection 402.4, and the lot occupancy requirements under subsection

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<sup>1</sup> The Applicant originally filed an application on September 9, 2014, seeking an area variance from the off-street parking requirements and a special exception under section 353 to permit construction of a ten-unit apartment house building on the subject site (Exhibits 1-14). On November 18, 2014, the Applicant submitted a request to postpone the public hearing (Exhibit 29), originally scheduled for December 9, 2014. On December 17, 2014, the Applicant submitted a revised application and self-certification form (Exhibits 30-42), which requested the relief described herein.

**BZA APPLICATION NO. 18876**  
**PAGE NO. 2**

403.2. 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 variances from §§ 2101.1, 402.4, and 403.2, 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.

**Special Exception Relief:**

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception for the new residential development under subsection 353. 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 the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 411.11, 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 46E – Revised Drawings, be **GRANTED**.

**VOTE: 4-0-1** (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath, and Robert E. Miller to APPROVE; one Board seat vacant.)

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

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

**FINAL DATE OF ORDER:** February 20, 2015

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-

**BZA APPLICATION NO. 18876**  
**PAGE NO. 3**

YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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. 18890 of Rock Creek-650 LLC**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the parking requirements under § 2101.1, the parking space size requirements under § 2115.2, and the loading requirements under § 2201.1, and a special exception from the HS Overlay special exception requirements under § 1325.1 to allow an addition that increases the gross floor area of an existing building by more than 50% on a lot that has 6,000 square feet or more of land area in the HS-H/C-2-B District at premises 646-654 H Street, N.E. (Square 858, Lots 1, 2, 800, 801, and 802).

**HEARING DATE:** February 10, 2015

**DECISION DATE:** February 10, 2015

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3.)

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”) 6C, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a report dated January 20, 2015 in support of the application. The ANC report indicated that at a regularly scheduled and duly noticed meeting on January 14, 2015, with a quorum present, the ANC voted to support the Applicant’s request. (Exhibit 31.) The Office of Planning (“OP”) submitted a report in support (Exhibit 33), and testified at the hearing in support of the application. The District Department of Transportation (“DDOT”) submitted a report stating that it had no objections to the requested relief, subject to conditions. (Exhibit 29.)

**Variance Relief:**

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from the parking requirements under subsection 2101.1, the parking space size requirements under subsection 2115.2, and the loading requirements under subsection 2201.1. 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 and ANC reports filed in this case, the Board concludes that in seeking variances from §§ 2101.1, 2115.2, and 2201.1, 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

**BZA APPLICATION NO. 18890**  
**PAGE NO. 2**

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

Special Exception Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception for the HS overlay provisions under subsection 1325.1. 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 and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 1325.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibits 32C1-32C2 – Revised Drawings, be **GRANTED WITH THE FOLLOWING CONDITIONS:**

**1. Transportation Management Coordinator (TMC):**

- a. A member of the property management group shall be a point of contact and shall be responsible for coordinating, implementing, and monitoring the TMP strategies.
- b. This shall include the development and distribution of information and promotional brochures to residents, visitors, patrons, and employees regarding transit facilities and services, pedestrian and bicycle facilities and linkages, ridesharing (carpool and vanpool) and car sharing.
- c. The TMC shall be responsible for ensuring that loading and trash activities are properly coordinated and do not impede the pedestrian, bicycle, or vehicular lanes adjacent to the development.
- d. The contact information for the TMC shall be provided to DDOT/Zoning Enforcement with annual contact updates.

**2. On-Site Services:**

- a. A TransitScreen shall be installed in the residential lobby to keep residents and visitors informed on all available transportation choices and provide real-time transportation updates.
- b. The TMC shall make printed materials related to local transportation alternatives available to residents and employees upon request and at move-in for new tenants.

**BZA APPLICATION NO. 18890**  
**PAGE NO. 3**

3. Marketing Program:
  - a. The TMC shall establish a TDM marketing program that provides detailed transportation information and promotes walking, cycling, and transit.
  - b. An effective marketing strategy shall consist of a multi-modal access guide that provides comprehensive transportation information. This information shall be compiled in a brochure for distribution.
  - c. The marketing program shall also utilize and provide website links to CommuterConnections.com and goDCgo.com, which provide transportation information and options for getting around the District of Columbia.
4. Transportation Incentives:
  - a. The Applicant shall provide the first occupant of each residential unit with a one-time annual car sharing membership or a one-time annual Capitol Bikeshare membership to help alleviate the reliance on personal vehicles.
  - b. These incentives in condition No. 4a shall be included in a move-in transportation package that includes brochures for transit facilities as well as bicycle and car sharing services for the first occupant of each residential unit.
5. Bicycle Amenities:

The Applicant shall encourage all alternative transportation modes including bicycling. Bicycling shall be promoted with the provision of on-site bicycle parking spaces as described above. The marketing program will include brochures on bicycling in the District and for Capital Bikeshare.
6. Ride-matching/Ridesharing Program:

Retail employees and residents who wish to carpool shall be provided detailed carpooling information as part of the marketing effort, and shall be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments.
7. The Applicant shall reorient the compact car parking spaces from east to west in order to discourage back-in maneuvering.

**VOTE: 4-0-1** (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Robert E. Miller to APPROVE; one Board seat vacant.)

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

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

**FINAL DATE OF ORDER:** February 20, 2015

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

**BZA APPLICATION NO. 18890****PAGE NO. 4**

WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

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. 18920 of Richard S. Parnell**, as amended,<sup>1</sup> pursuant to 11 DCMR §3104.1, for a special exception under §223, not meeting the lot occupancy requirements under § 403, and the rear yard requirements under § 404, to construct a two-story addition to an existing single-family dwelling in the R-4 District at premises 750 9th Street, S.E. (Square 950, Lot 65).

**HEARING DATE:** February 10, 2015

**DECISION DATE:** February 10, 2015

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2 (Exhibit 3).

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report of support for the application. In its letter the ANC indicated that at a regularly scheduled, duly noticed public meeting on January 13, 2015, with a quorum present, the ANC voted 10-0-0 to support the application (Exhibit 27).

The Office of Planning ("OP") submitted a timely report recommending approval of the relief requested (Exhibit 29). The District Department of Transportation ("DDOT") submitted a timely report of no objection to the application (Exhibit 30).

Four letters of support were filed by neighbors (Exhibits 10 and 23).

**Special Exception Relief**

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under § 223, not meeting the lot occupancy (§403) requirements or the rear yard (§ 404) requirements, to allow the construction of a third-story addition to an existing single-family dwelling in the R-4 District. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

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<sup>1</sup> The Applicant amended the application to eliminate the special exception under § 2500 (Exhibit 33) and this amendment is reflected in the caption.



**BZA APPLICATION NO. 18920**  
**PAGE NO. 2**

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 403, and 404, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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

It is therefore **ORDERED THAT THIS APPLICATION IS HEREBY GRANTED SUBJECT TO THE APPROVED PLANS IN THE RECORD AT EXHIBIT 26.**

**VOTE: 4-0-1** (Lloyd J. Jordan, Robert E. Miller, Marnique Y. Heath, and Jeffrey L. Hinkle 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 order.

**FINAL DATE OF ORDER:** February 20, 2015

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

**BZA APPLICATION NO. 18920****PAGE NO. 3**

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

Public Employee Relations Board

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| In the Matter of:                               |             | ) |
|   |             | ) |
| Fraternal Order of Police/Metropolitan Police   |             | ) |
| Department Labor Committee (on behalf of        |             | ) |
| José Nieves-Campos, Tiffiony Wells, and         |             | ) |
| Kim Miller),                                    |             | ) |
|   |             | ) |
|   | Petitioner, | ) |
|   |             | ) |
|   |             | ) |
|   | v.          | ) |
|   |             | ) |
| District of Columbia Fraternal Order of Police/ |             | ) |
| Metropolitan Police Department,                 |             | ) |
|   |             | ) |
|   | Respondent. | ) |
| <hr/>   |             | ) |

PERB Case No. 14-A-11  
Opinion No. 1495

**DECISION AND ORDER**

On September 10, 2014, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“Union”) filed the above-captioned Arbitration Review Request (“Request”). The Union petitions the Board to review an arbitration award (“Award”). Pursuant to section 1-605.02(6) of the D.C. Official Code and Board Rule 538.3, the Union appeals the Award on the basis that, on its face, it is contrary to law and public policy. Specifically, the Union requests that the Board overturn and remand the Award because it fails to provide a complete resolution of a back-pay issue. The Respondent, District of Columbia Metropolitan Police Department, (“Department”) opposes the Request contending that it does not identify a specific law or public policy that was contravened by the Arbitrator’s decision and therefore must be denied.

The Board is authorized pursuant to D.C. Official Code section 1-605.2(6) to modify, set aside, or remand an award if “the award on its face is contrary to law and public policy. . . .” For the reasons provided herein below, the Board finds no basis to set aside or remand the award, and the Union’s Request is denied.

Decision and Order  
PERB Case No. 14-A-11  
Page 2

## I. Statement of the Case

The Award in this case arises from a grievance by the Union that the Department assigned certain officers to do investigative work that would entitle them to a higher rate of pay under the parties' collective bargaining agreement ("CBA").

Article 26, section 2 of CBA provides that an employee who is assigned or detailed for more than 90 days to a position carrying additional compensation "shall receive the higher rate of pay beginning the first full pay period following the 90-day period." (Request, Ex. 2 at 28.) The Union invoked this provision in a first step grievance it filed May 29, 2009, on behalf of Officers José Nieves-Campos, Tiffiony Wells, and Kim Miller ("Grievants"). In the grievance the Union asserted that after the Grievants were assigned to the Department's Domestic Violence Intake Center ("DVIC") they did the work of investigators/detectives. The Award states that the grievance sought the higher rate of compensation paid investigators/detectives from 2002 to the present, the time frame that they allege they were assigned duties of the higher paying job. (Award 2, 4.) The Award also states that the Grievants "cite August 1, 2007 as the date that the violation of the CBA began." (Award 4.) A letter dated April 7, 2009, advised the Grievants that as of April 12, 2009, investigative assignments in the Sixth and Seventh districts would be discontinued.

In view of the April 7, 2009 notice and the April 12, 2009 discontinuance of assignments, the Department contended that the May 29, 2009 grievance was untimely as it was not "presented by the employee to management at the Oral Step of this process not later than ten (10) business days from the date of the occurrence giving rise to the grievance or within ten (10) business days of the employee's knowledge of the occurrence" as stated in article 19, section 2 of the CBA. The arbitrator held that the Union did not prove that the grievance was filed within ten days of the Grievants' knowledge of the occurrence. (Award 13-14.) He held that the grievance would be timely as to any underpayment that occurred within ten days of the filing of the grievance or thereafter. (Award 18.)

The Arbitrator made the following findings regarding the merits of the grievance.

Based on an analysis of the record the undersigned arbitrator is persuaded that the work done at DVIC by the grievants between 2007 and 2009 was clearly and substantially in the nature of investigative work not normally done by officers. For two years the employees were directed to take on significant additional investigative assignments. The work assigned from the Sixth and Seventh districts was clearly not voluntary in nature. . . . The work was withdrawn because the Employer concluded that the grievants should not be doing investigative work. The clear inference is that they obviously had been doing investigative work prior to that time.

Decision and Order  
PERB Case No. 14-A-11  
Page 3

(Award 17.) As to the period after assignments from the Sixth and Seventh districts were withdrawn, the arbitrator stated that he was “persuaded that activities commensurate with that of an investigator’s job duties did in fact continue to be carried out even after the assignments to the Sixth and Seventh districts had ceased.” (Award 19.)

Turning to the remedy, the arbitrator denied the Union’s request for a retroactive promotion of the Grievants but stated that he was authorized to award retroactive compensation. (Award 17.) The arbitrator determined that the award of retroactive compensation must be limited by the ten-day rule:

Since a first step oral grievance was filed on May 29, 2009, any violations of the CBA from May 19, 2009 forward are clearly covered by the grievance filed as of May 19, 2009. Consistent with the authorities cited, back pay for such a continuing grievance would only be awarded going forward from the date 10 days prior to the grievance being filed and not retroactively prior to that time.

(Award 18.)

As noted, a month before the compensable period began, the Department stopped assigning the Grievants cases from the Sixth and Seventh districts. The arbitrator opined that the amount of detective and investigative work the Grievants did subsequently required further clarification. For that reason, the arbitrator ordered the Department to have its Human Resources Classification Specialist perform a desk audit of the Grievants’ work during the compensable period—May 19, 2009 to the present. “If the audit determines that the DVIC officers have been performing work commensurate with that of an investigator then they are entitled to a higher level of pay consistent with Article 26 of the CBA,” the arbitrator wrote. (Award 19-20.) The coverage of any award to Officer Nieves-Campos would be limited to the period before he was promoted to investigator in June 2009. (Award 20.)

## **II. Discussion**

The Union’s arbitration review request contends that the Award is contrary to law and public policy for two reasons. First, the Union objects that the Award does not completely resolve the issue of back pay and due to its incompleteness the Board should remand the Award back to the arbitrator. Even more objectionable from the Union’s perspective, the Award makes completion of the back pay issue depend upon a desk audit by the Department, “a party adverse to the Grievants . . . with a clear conflict of interest.” (Request 8.) Second, the Union contends that a grievance involving unpaid compensation is a continuing violation, and a continuing compensation violation “is an exception to time limitations of grievances.” (Request 8.) Because of this alleged exception, the arbitrator’s limitation of the remedy to May 19, 2009 and thereafter is, the Union contends, contrary to law and public policy.

### **A. Alleged Incompleteness of the Award**

Notwithstanding the Union’s claim that the Award is incomplete, the Award does not ignore any issue presented to the arbitrator. The arbitrator devised a remedy involving a process

Decision and Order  
PERB Case No. 14-A-11  
Page 4

for determination of the amount of back pay compensation due the Grievants during which the arbitrator would retain jurisdiction. That remedy does not mean the Award incomplete; it means that the Award is interim or interlocutory. An interlocutory award is appealable through an arbitration review request, *D.C. Department of Consumer and Regulatory Affairs v. AFGE, Local 2725*,<sup>1</sup> but is not reversible simply because it is interlocutory. An arbitrator's wide latitude in drafting awards includes the authority to retain jurisdiction. See *AFGE, Local 1000 v. D.C. Dep't of Employment Servs.*, 60 D.C. Reg. 5247, Slip Op. No. 1368 at p. 2, PERB Case No. 13-U-15 (2013).

The Union cited no specific law and public policy that an arbitrator would violate by retaining jurisdiction or by directing an agency that was a party to the arbitration to perform an audit or analysis. In *AFGE, Local 2725 v. D.C. Housing Authority*,<sup>2</sup> the Board upheld as within an arbitrator's jurisdiction and not contrary to law or public policy an award directing an agency to ascertain whether there were mitigating circumstances it should have considered in assessing the appropriate penalty in that case and to provide written results of its assessment to the union. Similarly, neither the interim nature of this Award nor the participation of the Department in the remedy renders the Award contrary to law and public policy.

#### **B. Temporal Limitation on the Remedy**

The Union erroneously claims that at page 8 of the Award the "arbitrator acknowledged that a continu[ing] compensation violation is an exception to time limitations of grievances." (Request 8.) The arbitrator did not so acknowledge in the Award, nor does he state that time limitations are inapplicable to a continuing compensation violation. Rather, he described how they have applied to continuing violations:

In the leading treatise on arbitral matters the authors state "Many arbitrators have held that 'continuing' violations of the agreement . . . give rise to 'continuing' grievances in the sense that the act complained of may be said to be repeated from day to day, with each day treated as a new 'occurrence.' . . . For example, where the agreement provided for filing 'within ten working days of the occurrence,' it was held that where employees were erroneously denied work, each day lost was considered to be an 'occurrence' and that a grievance presented within 10 working days of any such day lost would be timely." However, any back pay is generally held to accrue from on or after the date the grievance is filed and not from the time frame previous to that.

(Award 10) (quoting Elkouri & Elkouri, *How Arbitration Works* 218-19 (6th ed. 2003)).

The Arbitrator's holding that the Grievants will be compensated with back pay beginning ten days before the grievance was filed is consistent with those principles. The Union objects that the Award is inconsistent with the alleged rule that a continuing compensation violation falls

<sup>1</sup> Slip Op. No. 1249 at pp. 3-4, PERB Case No. 10-A-06 (Mar. 27, 2012).

<sup>2</sup> 61 D.C. Reg. 9071, Slip Op. No. 1481, PERB Case No. 13-A-11 (2014).

Decision and Order  
PERB Case No. 14-A-11  
Page 5

into an exception to time limitations of grievances: “[T]he arbitrator issued a ruling that flatly circumvents well established precedent and is contrary to the law and to public policy when he limited the remedy for the Award to May 19, 2009 and forward.” (Request 8-9.) Despite the claim of well-established precedent, the Union cites no precedent other than arbitration awards. An allegation of a failure to follow arbitration awards—which do not create binding precedent even with respect to the same collective bargaining agreement—does not satisfy a petitioner’s burden to cite specific law and public policy in support of a claim that an arbitration award is contrary to law and public policy. *See F.O.P./Metro. Police Dep’t Labor Comm. (on behalf of Micciche) v. Metro. Police Dep’t*, 59 D.C. Reg. 3892, Slip Op. No. 913 at pp. 8-9, PERB Case No. 04-A-19 (2007).

The arbitrator construed and applied to the facts the time limitation provision in article 19, section 2 of the CBA. In so doing, he did not disregard the continuing nature of the compensation violation. Because the compensation violation was continuing, the arbitrator found the grievance timely even though it was filed more than ten days after the assignment of detective duties began and more than ten days after the April 7, 2009 letter “that alerted the Union to the possibility of a grievance.” (Award 12.) Instead of construing the time limit to begin at either of those times (thereby barring the grievance entirely), he construed the time limit to begin at each underpayment or the discovery of each underpayment. The parties bargained for the arbitrator’s interpretation of the CBA. As no violation of law is evident on the face of the Award, neither the Board nor a court has authority to substitute its interpretation of the CBA for the arbitrator’s. *See D.C. Metro. Police Dep’t v. D.C. Pub. Employee Relations Bd.*, 901 A.2d 784, 789 (D.C. 2006).

In conclusion, the Union has failed to show that the Award is contrary to law and public policy. Accordingly, the Board sustains the Award.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Award is sustained. Therefore, the Union’s arbitration review request is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

#### **BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairperson Charles Murphy and Members Donald Wasserman and Keith Washington

Washington, D.C.  
November 20, 2014

Decision and Order  
PERB Case No. 14-A-11  
Page 6

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision in PERB Case No. 13-A-06 was transmitted to the following parties on this the 3d day of December 2014.

Anthony M. Conti  
36 South Charles St., suite 2501  
Baltimore, MD 21201

**via File&ServeXpress**

Mark Viehmeyer  
Metropolitan Police Department  
300 Indiana Ave. NW, room 4126  
Washington, DC 20001

**via File&ServeXpress**

/s/ Sheryl V. Harrington  
Sheryl V. Harrington  
Secretary



Government of the District of Columbia  
Public Employee Relations Board

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| In the Matter of:                            |  | ) |                       |
|  |  | ) |                       |
| American Federation of Government Employees, |  | ) |                       |
| Local 2978,                                  |  | ) |                       |
|  |  | ) |                       |
| Complainant,                                 |  | ) |                       |
|  |  | ) | PERB Case No. 14-U-14 |
| v.   |  | ) |                       |
|  |  | ) | Opinion No. 1499      |
| District of Columbia Department of           |  | ) |                       |
| Health,                                      |  | ) | Motion to Dismiss     |
|  |  | ) |                       |
| Respondent.                                  |  | ) |                       |
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**DECISION AND ORDER**

The District of Columbia Department of Health, respondent, (“Department”) has moved to dismiss an unfair labor practice complaint (“Complaint”) filed by the American Federation of Government Employees, Local 2978, complainant, (“Union”). As the Complaint fails to state an unfair labor practice claim, the motion to dismiss is granted.

**I. Statement of the Case**

The Complaint alleges that the Department changed without bargaining a past practice regarding leave to attend union-sponsored programs. The Union alleges the Department changed its practice from one of granting administrative leave to attend union-sponsored programs to a practice beginning February 2014 of granting administrative leave for only half of the time the program is taking place.

The Complaint states that the parties’ collective bargaining agreement (“CBA”) provides that employees may be granted administrative leave to attend union-sponsored programs and training if the Office of Labor Relations and Collective Bargaining (“OLRCB”) approves such leave. (Complaint ¶ 4.) The Union alleges that until recently the Department’s management and OLRCB “routinely granted paid administrative leave for the entirety of time an employee attends an approved program.” (Complaint ¶ 5.) The Union alleges that the routine granting of administrative leave for the duration of union-sponsored programs is a past practice “with respect to a mandatory subject of bargaining.” (Complaint ¶ 7.) Starting in February 2014 and continuing to the present, the Department and OLRCB allegedly changed that practice. The

Decision and Order  
PERB Case No. 14-U-14  
Page 2

Union alleges that they still approve leave for attendance at union-sponsored programs but have “refused to pay administrative leave for the entirety ordering that employees must instead use their annual leave for half of the time that the program is taking place.” (Complaint ¶ 6.) “By unilaterally ceasing its past practice of granting paid administrative leave to employees for the duration of their attendance at approved union sponsored programs,” the Complaint alleges, “management has committed an unfair labor practice in violation of D.C. Code §§ 1-617.01(b) and (c) and 1-617.04(a)(1) and (5).” (Complaint ¶ 8.)

The Department moved to dismiss the Complaint, arguing that a unilateral change in bargainable terms and conditions of employment is not an unfair labor practice where, as here, the collective bargaining agreement specifically covers such terms and conditions. The Department’s motion is before the Board for disposition.

## II. Discussion

Generally, a unilateral change in employees’ existing terms and conditions of employment is a violation of an employer’s bargaining obligation under the Comprehensive Merit Personnel Act. *Dist. Council 20, AFSCME Locals 1200, 2776, 2401 & 2087 v. D.C. Gov’t*, 46 D.C. Reg. 6513, Slip Op. No. 590 at 3-4, PERB Case No. 97-U-15A (1999). *See also AFGE, Local 2978 v. D.C. Dep’t of Health*, 59 D.C. Reg. 10736, Slip Op. No. 1275 at 3, PERB Case No. 11-U-12 (2012) (holding that a unilateral change in a past practice is an unfair labor practice (citing *Dist. Council 20 AFSCME Locals 1200, 2776, 2401 & 2087*, 46 D.C. Reg. 6513, Slip Op. No. 590, PERB Case No. 97-U-15A)).

The Board has recognized a pertinent exception to that general rule. A unilateral change in established and bargainable terms and conditions of employment does not constitute an unfair labor practice when such terms and conditions are specifically covered by the parties’ collective bargaining agreement. *Univ. of D.C. Faculty Ass’n/NEA v. Univ. of D.C.*, 43 D.C. Reg. 5594, Slip Op. No. 387 at 2, PERB Case Nos. 93-U-22 and 93-U-23 (1994). A past practice is an unwritten term and condition of employment. *F.O.P./Metro. Police Dep’t Labor Comm. v. D.C. Metro. Police Dep’t*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at 22, PERB Case Nos. 09-U-52 and 09-U-53 (2013). Therefore, a unilateral change in a past practice does not constitute an unfair labor practice when such terms and conditions are specifically covered by the parties’ collective bargaining agreement. The resolution of an issue regarding a change in a past practice covered by a contractual provision “is subject to the contractual grievance procedure.” *Univ. of D.C. Faculty Ass’n/NEA*, 43 D.C. Reg. 5594, Slip Op. No. 387 at 3 n.1, PERB Case Nos. 93-U-22 and 93-U-23.

The Union erroneously seems to regard a past practice as a special case that is not subject to the principles that apply to other terms and conditions of employment. In its opposition, the Union stresses that it has pleaded and can prove a unilateral change in a past practice but does not dispute the Department’s claim that the CBA specifically covers that past practice. The Union asserts that *AFGE, Local 2978 v. D.C. Department of Health*, 59 D.C. Reg. 10736, Slip Op. No. 1275, PERB Case No. 11-U-12 (2012), is an analogous case that establishes that the

Decision and Order  
PERB Case No. 14-U-14  
Page 3

Complaint alleges a statutory violation. In that case, which involved the same parties as the present case, the Board held that the Department committed an unfair labor practice by unilaterally changing its past practice of allowing its employees more administrative leave for voting than required by the District Personnel Manual. The Department did not file an answer or otherwise assert that the alleged past practice was specifically covered by the parties' contract, and the Board did not address that issue in its opinion. Thus, the case stands for the general proposition that a unilateral change in a past practice is an unfair labor practice, *see supra* p. 2, but does not address the exception that applies where a collective bargaining agreement covers the past practice, which is the issue raised by the Department's motion to dismiss.

For purposes of the Department's motion to dismiss, we take all allegations pleaded in the Complaint as true and view the pleadings in the light most favorable to the complainant. *See Alston v. AFSCME Local 1959*, 61 D.C. Reg. 9771, Slip Op. No. 1485 at p. 3, PERB Case No. 13-U-27 (2014); *Washington Teachers' Union, Local 6 v. D.C. Pub. Schs.*, 45 D.C. Reg. 5075, Slip Op. No. 552 at p. 1, PERB Case No. 98-U-07 (1998). Thus, for present purposes we accept as true that the Department had a past practice of "routinely granting paid administrative leave to employees for the duration of their attendance at approved union sponsored programs" (Complaint ¶ 7) and that the Department unilaterally ended that past practice. (Complaint ¶ 8). Rule 520.10 permits the Board to render a decision upon the pleadings if its investigation reveals that there is no issue of fact to warrant a hearing. The parties' CBA was attached to the Complaint as an exhibit and thus is among the pleadings filed in the case.

The issue presented by the pleadings is whether the CBA specifically covers the Department's past practice of granting administrative leave for the duration of union-sponsored programs. Article 6, section 4 of the CBA provides, "Administrative leave shall be granted in accordance with Article 34, Section 4B(2)." (Complaint, Ex. at 6.) In turn, article 34, section 4B(2) provides, "Attendance at Union sponsored programs will be on approved annual leave or leave without pay unless Administrative Leave has been approved by the Office of Labor Relations and Collective Bargaining." (Complaint, Ex. at 29.) The CBA thus establishes that the general rule is that employees take annual leave or leave without pay for union-sponsored training and that use of administrative leave is the exception. The two provisions of the CBA together provide, in mandatory terms, the condition and the procedures for granting administrative leave to attend union-sponsored training. Those provisions specifically cover the past practice that the Department allegedly ended.

Therefore, the Complaint's allegations do not constitute violations of rights protected under the Comprehensive Merit Personnel Act as unfair labor practices or other causes of action within the Board's jurisdiction but instead concern matters governed by the parties' contract. A claim that is contractual in nature, though presented as an allegation of a unilateral change in a past practice or other terms and conditions of employment, is not within the statutory authority of the Board. *See Council of Sch. Officers, Local 4 v. D.C. Pub. Schs.*, 59 D.C. Reg. 6138, Slip Op. No. 1016, PERB Case No. 09-U-08 (2010); *Univ. of D.C. Faculty Ass'n/NEA v. Univ. of D.C.*, 43 D.C. Reg. 5594, Slip Op. 387 at 2-3, 3 n.1, PERB Case No. 93-U-22 (1994). Accordingly, the Complaint must be dismissed.

Decision and Order  
PERB Case No. 14-U-14  
Page 4

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The respondent's motion to dismiss is granted. The Complaint is dismissed.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairman Charles Murphy and Members Donald Wasserman, Keith Washington, Ann Hoffman, and Yvonne Dixon

Washington, D.C.

December 22, 2014

Decision and Order  
PERB Case No. 14-U-14  
Page 5

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order was served upon the following parties via File and ServeXpress on this the 23d day of December 2014.

Brenda C. Zwack, Esq.  
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Kevin Stokes Esq.  
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Office of Labor Relations and Collective  
Bargaining  
441 4th Street NW, Suite 820North  
Washington, D.C. 20001

/s/ Sheryl V. Harrington  
Sheryl V. Harrington  
Secretary

Government of the District of Columbia

Public Employee Relations Board

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| In the Matter of:                               |             | ) |                       |
|   |             | ) |                       |
| Fraternal Order of Police/                      |             | ) |                       |
| Metropolitan Police Department Labor Committee, |             | ) |                       |
|   |             | ) |                       |
|   | Petitioner, | ) | PERB Case No. 13-A-05 |
|   |             | ) |                       |
|   | v.          | ) | Opinion No. 1500      |
|   |             | ) |                       |
|   |             | ) |                       |
| District of Columbia Metropolitan               |             | ) |                       |
| Police Department,                              |             | ) |                       |
|   |             | ) |                       |
|   | Respondent. | ) |                       |
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**DECISION AND ORDER**

Before the Board is a petition filed by Petitioner Fraternal Order of Police/Metropolitan Police Department Labor Committee (“Union”) requesting the Board to review an arbitration award (“Award”) issued by Arbitrator Joel S. Trosch. The Union bases its Request upon the Board’s authority to modify, set aside, or remand an award where “the award on its face is contrary to law and public policy.” D.C. Official Code § 1-605.02(6). Specifically, the Union claims in its arbitration review request (“Request”) that the arbitrator’s award of overtime to the Union’s members was not in accordance with how the Fair Labor Standards Act (“FLSA”) measures such compensatory awards. (Request 5.) As the Board finds that the Union’s position and Request are merely a disagreement with the arbitrator’s interpretation of the parties’ contract, the Board denies the Request and sustains the Award.

**I. Statement of the Case**

The Union appeals from an Award that sustained the Union’s grievance but did not award to the Union the liquidated damages that the Union had requested. The Union’s grievance alleged that the Department’s issuance of teletypes in 2011 implementing an initiative called “All Hands on Deck” (“AHOD”) violated the parties’ collective bargaining agreement (“CBA”). AHOD involved temporarily changing officers’ tours of duty in order to deploy a greater number of officers to patrolling and to other duties dealing with the public during several three-day weekends.

Decision and Order  
PERB Case No. 13-A-05  
Page 2

The remedies the Union requested included time and a half compensation for officers who were required to work as a consequence of schedule changes caused by AHOD and an equal amount of penalty damages. (Award 11.) In support of that request, the Union relied upon article 24, section 1 of the CBA and its reference to the FLSA. That section of the CBA provides in part:

If notice is not given of changes [to a member's days off or tour of duty] fourteen (14) days in advance the member shall be paid, at his or her option, overtime pay or compensatory time at the rate of time and one half, in accordance with the Fair Labor Standards Act.

(Award 7; Request Ex. 4 at 27.) "Looking to the FLSA," the arbitrator wrote, the Union "argues that in order to avoid the imposition of penalty or liquidated damages, there is a substantial burden on MPD to establish that it attempted, in good faith, to comply with the law and demonstrate a reasonable basis for believing its action complied with its Article 24 obligations. The MPD failed, alleges the Union, to meet that burden." (Award 11.)

The arbitrator found that the implementation of AHOD violated several provisions of the CBA including Article 24. The arbitrator sustained the grievance and directed the Department to rescind the teletypes announcing AHOD weekends for 2011 and restricting leave thereto. Further, the Award ordered the Department to cease and desist from changing schedules unless done in compliance with articles 4, 24, and 49 of the CBA and directed the Department to compensate officers covered by the CBA at a rate of time and one-half for all days on which their schedules were improperly changed. (Award 20.) The arbitrator found that although an award of time and an half "seems to be a reasonable remedy for a violation of article 24's posting provision, the imposition of a penalty in addition based on the reference to the FLSA in Article 24 is a reach beyond the agreement and will not be awarded." (Award 20.)

Both parties appealed from the Award. The Department's arbitration review request contended that the Award's finding of a violation of the CBA by the Department was contrary to law and public policy. The Board denied the Department's arbitration review request. *D.C. Metro. Police Dep't v. F.O.P./Metro. Police Dep't Labor Comm.*, Slip Op. No. 1494, PERB Case No. 13-A-06 (Nov. 20, 2014). The Union's Request, which is now before the Board, appeals from the remedy for the violation. The Union contends that its "members are entitled to time-and-one half compensation (which was ordered by Arbitrator Trosch), plus an equal amount of liquidated damages (which was denied by Trosch)" (Request 10-11) and that the award is contrary to law and public policy due to the denial of liquidated damages. The law to which the Union calls the Board's attention is the FLSA, which provides for liquidated damages at 29 U.S.C. § 216(b) and is specifically referenced in article 24 of the CBA. The Department in its opposition asserts that the authorities interpreting the FLSA cited by the Union, while not relevant to the Union's claim that the Award must be overturned, recognize that awarding double damages under the FLSA is discretionary. The Department characterizes the Union's position as a disagreement with the arbitrator's interpretation of the CBA.

Decision and Order  
PERB Case No. 13-A-05  
Page 3

## II. Discussion

The Union's argument for the Department's liability for liquidated damages is as follows:

(1) The CBA calls for "overtime pay or compensatory time at the rate of time and one half, in accordance with the Fair Labor Standards Act."

(2) "The FLSA provides . . . as a remedy for wage or hour violations, '*an additional equal amount as liquidated damages.*' 29 U.S.C. § 216(b)." (Request 8.)

(3) "Thus, in addition to the undisputed amount owed, time-and-one-half for each day of AHOD scheduling violations incurred, the MPD is liable for liquidated damages in the same amount." (Request 8.)

Although the Request asserts in a heading that "The Award is Contrary to Law and Public Policy" (Request 7), it contains no argument in support of that assertion. Nor does it repeat that assertion. The Request reviews the history that led to the inclusion of a reference to the FLSA in article 24 of the CBA. In this review, the Union asserts, as it did at the hearing (Award 18), that Arbitrator Joseph A. Sickles awarded time and a half for a violation of members' scheduling rights. (Request 6-7.) At the arbitration, the Union's chairman testified, "I think the message was pretty clear [that] you need to get something in your contract that provides this because the Arbitrator said I'm going to fashion this remedy but that's not a guarantee that the next Arbitrator would fashion the same remedy." (Request Ex. 3 at 31). The FLSA language was added to the contract, and the next arbitrator did indeed fashion the same remedy. The Request states, "The provisions were in place when the parties arbitrated before Arbitrator Truesdale and Arbitrator Truesdale found that AHOD violated D.C. Police Union members' scheduling rights and awarded D.C. Police Union members time-and-one-half compensation in accordance with the Fair Labor Standards Act." (Request 7-8.) As the Union's statement indicates, Arbitrator Truesdale did not supplement his award of time and a half with liquidated damages of an equal amount. (Request Ex. 14 at 27.) In the present case, Arbitrator Trosch made the very same award as the award that the contract amendment sought to codify as well as the award made after that amendment, and yet the Union claims Arbitrator Trosch's award is contrary to law and public policy.

The Request's discussion of the FLSA is no more persuasive than its review of the history that led to the reference to the FLSA in article 24. The Request notes that liquidated damages is the general rule under the FLSA, and it claims that the "remedy provisions of the FLSA are often employed for violations of other laws." (Request 9.) However, all the cases that the Union cites in support of that claim are Equal Pay Act cases.<sup>1</sup> The Equal Pay Act is a part of the Fair Labor Standards Act. 29 C.F.R. § 1620.1. The remainder of the Request consists of reasons the Union believes the Department's bad faith meets the requirements for being assessed liquidated damages under the FLSA.

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<sup>1</sup> *Laffey v. Nw. Airlines, Inc.*, 740 F.2d 1071, 1097 (D.C. Cir. 1984); *Thompson v. Sawyer*, 678 F.2d 257, 278 (D.C. Cir. 1982); *Cody v. Private Agencies Collaborating Together, Inc.*, 911 F. Supp. 1, 5 (D.D.C. 1995).



Decision and Order  
PERB Case No. 13-A-05  
Page 4

The FLSA's authorization of liquidated damages for violations of its provisions regarding minimum wages, overtime, and equal pay cannot be stretched into a public policy requiring liquidated damages for a contractual violation merely because the contract refers to the FLSA in connection with payment of time and a half. As the arbitrator observed, "The contract violation here is not a violation of FLSA's requirement of time and one-half of regular rate for those hours worked in excess of 40 hours in a work week." (Award 19.)

The issue before the arbitrator was what aspects of the FLSA are incorporated by reference in article 24, section 1. The Award's reasonable analysis of the issue leaves no doubt that the arbitrator's decision was based upon his interpretation of the contract.

This record is not at all clear that the reference to the FLSA in Article 24 was intended to incorporate the liquidated damages concept in that Article. The reference can be easily read to refer simply to the calculation of time and one-half as compensatory damages. Had the parties intended to inject the FLSA's liquidated damages penalty, there were far less obscure ways of doing so. Although the Arbitrator Sickles' award of overtime pay for hours worked in the event of a violation of Article 24 seems to be a reasonable remedy for a violation of the posting provision, the imposition of a penalty in addition based on the reference to the FLSA in Article 24 is a reach beyond the agreement and will not be awarded.

(Award 19-20.)

The Board finds that the Union's position and Request are merely a disagreement with the arbitrator's interpretation of the contract. The Union's disagreement with the arbitrator's interpretation of the contract does not render the award contrary to law and public policy. *See D.C. Dep't of Corrs. v. F.O.P./Dep't of Corrs. Labor Comm.*, 60 D.C. Reg. 7185, Slip Op. No. 1380 at 6, PERB Case No. 10-A-03 (2013). Therefore, the Union's Request is denied.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The arbitration review request is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

#### **BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairman Charles Murphy and Members Donald Wasserman, Keith Washington, Ann Hoffman, and Yvonne Dixon

Washington, D.C.  
December 22, 2014

Decision and Order  
PERB Case No. 13-A-05  
Page 5

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 13-A-05 was transmitted to the following parties on this the 24th day of December 2014.

Anthony M. Conti  
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**via File&ServeXpress**

Mark Viehmeyer  
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**via File&ServeXpress**

/s/ Sheryl V. Harrington  
Sheryl V. Harrington  
Secretary

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:
Fraternal Order of Police/Metropolitan Police Department Labor Committee
Complainant,
v.
District of Columbia Metropolitan Police Department,
Respondent.
PERB Case Nos. 11-U-38 (R)
Opinion No. 1501

DECISION AND ORDER ON REMAND

I. Statement of the Case

This matter comes before the Board on remand from the Superior Court pursuant to its order in District of Columbia Metropolitan Police Department v. Public Employee Relations Board, No. 2014 CA 005330 (D.C. Super. Ct. Nov. 17, 2014). The case was before the Superior Court upon a petition for judicial review brought by the D.C. Metropolitan Police Department ("MPD").

MPD petitioned for judicial review of a decision and order that ruled upon motions for reconsideration filed by both parties in the above-captioned matter. On July 24, 2014 the Board issued the following order:

IT IS HEREBY ORDERED THAT:

- 1. FOP's motion for reconsideration is granted.
2. MPD's motion for reconsideration is denied.
3. Paragraphs 1 and 3 of the Order issued with Opinion No. 1370 are vacated.

Decision and Order  
PERB Case Nos. 11-U-38  
Page 2

4. FOP's unfair labor practice Complaint will be referred to a hearing examiner for an unfair labor practice hearing.
5. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

*F.O.P./Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't*, 61 D.C. Reg. 9056, Slip Op. No. 1479 at 5, PERB Case No. 11-U-38 (2014) ("Opinion No. 1479").

The Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP") intervened and moved the Superior Court to dismiss MPD's petition for judicial review. FOP argued that the Board's order refers FOP's complaint to a hearing. Consequently, the order is not final but interlocutory and MPD failed to exhaust its administrative remedies, i.e., the procedures involved in an unfair labor practice hearing. MPD responded that the order itself in its fifth paragraph states that it is final. Because Board Rule 559.4 provides that "[a]dministrative remedies are considered exhausted when a Decision and Order becomes final in accordance with this section," MPD asserted that it had exhausted its administrative remedies and properly filed its petition for judicial review.

The court averred:

Petitioner and Intervenor have highlighted an apparent conflict in PERB's July 24 Order. The body of the Decision and other paragraphs of the Order plainly direct the parties to further action, therefore indicating that administrative remedies have not been exhausted. The last sentence of the Order, however, announces its finality in accordance with Rule 559.1. This Court cannot resolve the conflict. Accordingly, it **REMANDS** this matter back to the PERB for clarification of its July 24, 2014 Order.

*D.C. Metro. Police Dep't v. Pub. Employee Relations Bd.*, No. 2014 CA 005330, slip op. at 3 (D.C. Super. Ct. Nov. 17, 2014).

## II. Discussion

The following Board rules are pertinent to the court's remand:

Rule 559.1 The Board's Decision and Order shall become final thirty (30) days after issuance unless the order specifies otherwise.

Rule 559.3 Upon the issuance of an Opinion on any motion for reconsideration of a Decision and Order, the Board's Decision and Order shall become final.

Rule 559.4 Administrative remedies are considered exhausted when a Decision and Order becomes final in accordance with this section.

Decision and Order  
PERB Case Nos. 11-U-38  
Page 3

The Board's rules contemplate that only final orders of the Board resolving the entire matter, not its interlocutory orders, are appealable. In this case, MPD's administrative remedies have not been exhausted. Rather, the Board intended that there would be further proceeding before the Board including but not limited mediation, hearings and resolution of the unfair labor practice charge. The efficient use of administrative and judicial resources would require PERB to decide the entire matter before any appeal is taken. As such, the Board finds that Opinion No. 1479 is interlocutory and the appeal was premature. The statement in the Opinion No. 1479 that the "Decision and Order is final upon issuance" was in error.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Decision and Order issued in Opinion No. 1479 was not final upon issuance.
2. Pursuant to paragraph 4 of the order issued with Opinion No. 1479, FOP's unfair labor practice Complaint will be promptly referred to a hearing examiner for an unfair labor practice hearing.

#### **BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairman Charles Murphy and Members Donald Wasserman, Keith Washington, Ann Hoffman and Yvonne Dixon

Washington, D.C.

December 22, 2014

Decision and Order  
PERB Case Nos. 11-U-38  
Page 4

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 11-U-38 was transmitted to the following parties on this the 24th day of December 2014.

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**via File&ServeXpress**

/s/ Sheryl V. Harrington  
Sheryl V. Harrington  
Secretary

**Government of the District of Columbia**

**Public Employee Relations Board**

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| _____   |             | ) |                       |
| In the Matter of:                               |             | ) |                       |
|   |             | ) |                       |
| District of Columbia Water and Sewer Authority, |             | ) |                       |
|   |             | ) |                       |
|   | Petitioner, | ) | PERB Case No. 15-A-01 |
|   |             | ) |                       |
|   | v.          | ) | Opinion No. 1502      |
|   |             | ) |                       |
| American Federation of Government Employees,    |             | ) |                       |
| Local 2091,                                     |             | ) |                       |
|   |             | ) |                       |
|   | Respondent. | ) |                       |
| _____   |             | ) |                       |

**DECISION AND ORDER**

The Petitioner District of Columbia Water and Sewer Authority (“Authority”) filed a timely arbitration review request (“Request”) appealing an award issued in a grievance arbitration brought by the Respondent American Federation of Government Employees, Local 2091 (“Union”). The Authority bases its request upon the Board’s authority to modify, set, aside, or remand an award where the arbitrator exceeded his jurisdiction. D.C. Official Code § 1-605.02(6). The Authority contends that the arbitrator exceeded his jurisdiction by modifying a provision in the parties’ collective bargaining agreement (“CBA”) concerning the time for filing grievances. As we find that the arbitrator did not exceed his jurisdiction, we deny the Request.

**I. Statement of the Case**

The grievance before the arbitrator was filed with the Authority as a Step 3 grievance on April 24, 2014. The grievance alleged that the Authority (referred to in the Award as “the Company”) violated and was continuing to violate the CBA by failing to pay employees in the bargaining unit for one hour of travel when they are called back to work. (Award 2.) The Authority moved that the arbitrator dismiss the grievance as untimely. The Arbitrator found the grievance timely and sustained it. The Authority then filed its Request, arguing that in finding the grievance timely the arbitrator exceeded his jurisdiction by modifying the CBA. The

Decision and Order  
PERB Case No. 15-A-01  
Page 2

Authority requests that the award be vacated. The Union did not file an opposition. The Authority's Request is before the Board for disposition.

## II. Discussion

In its Request, the Authority contends that the arbitrator exceeded his jurisdiction. That is one of the three narrow grounds upon which the Board may modify, set aside, or remand an arbitration award.<sup>1</sup>

The Authority contends that the arbitrator exceeded his jurisdiction by modifying a provision of the parties' CBA that limits the time within which the Union may file a grievance. Article 17, section G of the CBA states in pertinent part, "If a grievance is filed directly at Step 3, it shall be filed within fifteen (15) workdays from the time the Union becomes aware of the occurrence or issue giving rise to the grievance." (Request Ex. 2 at 30.) Article 17, section D(3) adds, "All time limits shall be strictly observed unless the parties mutually agree in writing to extend the time limits." (Request Ex. 2 at 28.)

At the hearing, the Authority contended "that since there were a number of call-backs from November 2013 onward and employees were paid pursuant to the Company's interpretation, the Union was therefore aware of the issue months before it filed the grievance" on April 24, 2014. (Award 3.) The Union's chief shop steward "testified that it was not until the meeting [with the Authority's manager of labor relations and compliance] on April 11, 2014 that it became apparent to the Union that the parties could not resolve their differing interpretations of the new call-back provision." (Award 4.) The arbitrator held:

The Company may be correct that "the collective bargaining agreement requires the Union to grieve after becoming aware of the issue giving rise to the grievance, not upon reaching an understanding of the Authority's position." But here the evidence is not sufficient to show the Union truly became aware of the Company's position before April 11, 2014. At the arbitration hearing the Company's explanation of how it applied the new call-back provision was murky and confused so it is not unreasonable that the Union was not aware of the Company's actual position till mid-April 2014. The language of Article 17 refers to when "the Union becomes aware of the occurrence or issue giving rise to the grievance," rather than when it reasonably becomes aware. I believe the evidence was insufficient to show the grievance was untimely.

(Award 4.)

In appealing this holding of the arbitrator, the Authority notes that the CBA states "[t]hat the arbitrator shall not have power to add to, subtract from or modify the provisions of this Agreement through the award." (Art. 17, § H(8), Complaint Ex. 2 at 31.) The Authority

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<sup>1</sup> D.C. Official Code § 1-605.02(6); PERB R. 538.3. The other grounds, which are not alleged, are that "the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means."



Decision and Order  
PERB Case No. 15-A-01  
Page 3

contends that the arbitrator modified the agreement—and thus exceeded his jurisdiction—by replacing the CBA’s standard for when the time to file a grievance begins to run with a standard of the arbitrator’s own invention.

The Authority acknowledges that the Board has adopted the test expressed in *Michigan Family Resources, Inc. v. SEIU Local 517M*, 475 F.3d 746 (6th Cir. 2007), which asks, “in resolving any legal or factual disputes in the case, was the arbitrator ‘arguably construing or applying the contract’? So long as the arbitrator does not offend any of these requirements, the request for judicial intervention should be resisted even though the arbitrator made ‘serious,’ ‘improvident’ or ‘silly’ errors in resolving the merits of the dispute.” *Id.* at 753 (quoting *United Paperworkers Int’l Union, AFL-CIO v. Misco*, 484 U.S. 29, 38-39 (1987)). The Authority argues that the Arbitrator decided that the standard for when a grievance accrued was when the Union “truly became aware of the Company’s position” and not when the Union “became aware of ‘the occurrence o[r] issue giving rise to the grievance’ as required by the terms of the CBA.” (Request 11.)

The arbitrator’s holding clearly satisfies the test set forth above. The arbitrator was not substituting a new standard; rather, he was interpreting “occurrence or issue” and applying that standard to the facts of the case in order to specify what it was that the Union needed to become aware of in this case before it had to file its grievance.

The Authority further argues that “even by the standard created by the Arbitrator, the Respondent failed to submit its grievance within the 15-day time-limit set forth in the CBA.” (Request 7.) In support of this position, the Authority discusses testimony and exhibits that it contends refute the arbitrator’s conclusion that “the evidence was insufficient to show the grievance was untimely.” The Authority’s disagreement with that conclusion does not present the Board with grounds to conclude that the arbitrator exceeded his jurisdiction. “The Board does not act as a finder of fact nor does it substitute its judgment for that of the arbitrator on credibility determinations and the weight attributed to the evidence.” *Metro. Police Dep’t and F.O.P./Metro. Police Dep’t*, 61 D.C. Reg. 11295, Slip Op. No. 1491 at 4, PERB Case No. 09-A-14 (R) (2014) (on remand).

In view of the above, we can find no basis for the Authority’s contention that the arbitrator exceeded his jurisdiction. Therefore, the Authority has not presented a statutory basis for review.

Decision and Order  
PERB Case No. 15-A-01  
Page 4

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The arbitration review request is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairman Charles Murphy and Members Donald Wasserman, Keith Washington, Ann Hoffman, and Yvonne Dixon

Washington, D.C.

December 22, 2014

Decision and Order  
PERB Case No. 15-A-01  
Page 5

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 15-A-01 is being transmitted to the following parties on this the 23d day of December, 2014.

Moustaafa Dozier  
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**VIA FILE &SERVEXPRESS**

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**VIA U.S. MAIL AND E-MAIL**

/s/ Sheryl V. Harrington  
Sheryl V. Harrington  
Secretary

**Government of the District of Columbia  
Public Employee Relations Board**

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| In the Matter of:                       |  | ) |                       |
|   |  | ) |                       |
| District of Columbia Housing Authority, |  | ) |                       |
|   |  | ) |                       |
| Petitioner,                             |  | ) |                       |
|   |  | ) | PERB Case No. 14-A-07 |
| v.                                      |  | ) |                       |
|   |  | ) |                       |
| AFGE, Local 2725,                       |  | ) |                       |
|   |  | ) | Opinion No. 1503      |
| Respondent.                             |  | ) |                       |
| <hr/>                                   |  | ) |                       |

**DECISION AND ORDER**

The Petitioner District of Columbia Housing Authority (“Authority”) has brought an arbitration review request that raises the question of whether the Authority is subject to the Federal Back Pay Act, 5 U.S.C. § 5596, pursuant to which the arbitrator awarded attorneys’ fees to the Respondent AFGE, Local 2725 (“Union”). We find that the Authority is subject to the Back Pay Act and accordingly sustain the Award. For the reasons explained below, however, we remand the matter to the arbitrator for resolution of attorneys’ fees pursuant to D.C. Official Code § 6-215(e).

**I. Statement of the Case**

On behalf of two employees of DCHA, the Union brought a grievance claiming that the Authority had violated the principle of equal pay for substantially equal work recognized in Article 27E of the parties’ collective bargaining agreement. The arbitrator held that the employees were denied equal pay for work substantially equal to that performed by gardeners employed by DCHA. The arbitrator awarded the employees back pay and retained jurisdiction to entertain a petition from the Union for attorneys’ fees. Following the filing of the application for attorneys’ fees by the Union and the filing of an opposition by the Authority, the arbitrator issued an Opinion and Award (“Award”) finding the Authority subject to the fee provisions of the Back Pay Act and on the authority of that act awarding to the Union fees for the work of its counsel in the course of the arbitration in the amount requested by the Union, \$76,592.25.

Decision and Order  
PERB Case No. 14-A-07  
Page 2

On May 19, 2014, the Authority filed with the Board an arbitration review request (“Request”) arguing that the arbitrator “had no contractual, statutory, or regulatory authority to award attorney fees, and the Fee Award is contrary to law and public policy.” (Request 2.) The *Union’s Opposition to Agency’s Arbitration Review Request* (“Opposition”) notes that the Authority attached to its Request a fee award from a different case. The Union argues that as the Request did not comply with Board Rule 538.1’s requirement that an arbitration review request contain a copy of the award, the Board should not entertain the merits of DCHA’s allegations. Concerning the merits, the Union contended that the Back Pay Act authorized the arbitrator to award the Union attorneys’ fees and that the Award was fully consistent with that law.

DCHA then filed a reply attaching the correct award and marking it exhibit 7. The Authority argued that it had complied with Rule 538.1 because that rule does not require a copy of the award if the petitioner files a proof of service of the award, as the Authority had done. The Authority contends that “Rule 538.1 expressly permits a Petitioner to file either ‘[a] copy of the award and affidavit’ or ‘other proof of the date of service of the award’ ‘not later than twenty (20) days after service of the award.’ See Rule 538.1(e).” Alternatively, the Authority argues that if its Request was deficient then it is entitled to an opportunity to cure the deficiency through its attachment of the Award, which was already in the record as exhibit A to the Opposition.

## II. Analysis

### A. Deficiency of the Request

Rule 538.1(e) provides, “A copy of the award and affidavit or other proof of the date of service of the award shall accompany the arbitration review request.” Notwithstanding DCHA’s creative deconstruction of that sentence, “other proof of the date of service” is clearly an alternative to “affidavit,” which can be one type of proof of the date of service. “[O]ther proof” is not an alternative to “[a] copy of the award and affidavit” and does not suffice as a substitute for both. Rather, “[a] copy of the award,” a document the Board needs to review, is a stand-alone item in the list of necessary attachments. See *D.C. Metro. Police Dep’t v. F.O.P/Metro. Police Dep’t Labor Comm.*, 45 D.C. Reg. 4950, Slip Op. No. 548 at 2, PERB Case No. 98-A-04 (1998), *rev’d on other grounds*, *D.C. Metro. Police Dep’t v. D.C. Pub. Employee Relations Bd.*, No. 98-MPA-16 (D.C. Super. Ct. Apr. 13, 1999).

Therefore, omitting the Award was a deficiency, but “[i]n view of the fact that the Board did not notify Petitioner of the deficiency in its initial filing in accordance with Board Rule 510.15, the Board accepts” DCHA’s subsequent filing of exhibit 7 “as a timely cure of its deficient [May 19, 2014] Request.” *Univ. of D.C. v. Univ. of D.C. Faculty Ass’n/NEA*, 41 D.C. Reg. 3830, Slip Op. No. 321 at 2 n.2, PERB Case No. 92-A-05 (1992).

### B. Applicability of the Back Pay Act to Employees of DCHA

DCHA’s challenge to the arbitration award in this case centers on whether the attorneys’ fees provisions of the Back Pay Act, 5 U.S.C. § 5596(b)(1)(A)(ii), apply to DCHA employees.

Decision and Order  
PERB Case No. 14-A-07  
Page 3

The arbitrator engaged in an extensive analysis of the applicability of the Back Pay Act to DCHA employees and concluded, based on his interpretation of the statutory scheme, that the Back Pay Act does apply to DCHA employees. Under the CMPA, D.C. Official Code § 1.605.02(6),<sup>1</sup> PERB may only disturb the arbitrator's award if it is "on its face contrary to law and public policy." The Board holds that DCHA has not shown the Award is contrary to law and public policy, and, indeed, finds that the arbitrator's legal conclusion is sound.

The CMPA places specific, narrow, limits on PERB's review of arbitration awards. D.C. Official Code § 1-605.02(6); *FOP/Dep't of Corrs. Labor Comm. v. D.C. Pub. Employee Relations Bd.*, 973 A.2d 174, 176 (2009); *Metro. Police Dep't. v. D.C. Pub. Employee Relations Bd.*, 901 A.2d 784, 789 (2006). When an arbitrator is called upon to apply external laws like the Back Pay Act and the myriad statutes governing the application of the Back Pay Act to District and DCHA employees, the Board examines the award to determine if it is contrary to those provisions "on their face." *FOP/Dep't of Corr. Labor Comm.*, 973 A.2d at 176; *Metro. Police Dep't.*, 901 A.2d at 788. If a party must engage in "a comprehensive analysis" to interpret a statute, an arbitrator's differing interpretation of the statute is not "contrary 'on its face' to any law. *Metro. Police Dep't.*, 901 A.2d at 788.

DCHA's burden, therefore, is to demonstrate that there is a law and public policy that prohibited the arbitrator from applying the Back Pay Act to DCHA employees and from awarding attorney's fees. This it has not done. Instead, the Authority challenges the arbitrator's legal reasoning with respect to the application of the Back Pay Act in this case but has not identified any law and public policy preventing the arbitrator from awarding fees.

The Federal Back Pay Act provides that an "employee of an agency" who has been found "to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay . . . of the employee" is entitled, among other things, to "reasonable attorney fees related to the personnel action. . . ." 5 U.S.C. § 5596(b)(1)(A)(ii). Section 5596(a)(5) defines "agency" to include "the government of the District of Columbia."

In the Home Rule Act of 1973, the Council of the District of Columbia purportedly superseded application of the Back Pay Act for all employees of the District of Columbia Government. D.C. Official Code § 1-632.02(a)(5)(G). The CMPA also states, however, that "Until such time as a new compensation system is approved, the compensation system . . . in effect on December 31, 1979, shall continue in effect." D.C. Official Code § 1-611.04(e). The Court of Appeals has wrestled with the issue of whether and how the Federal Back Pay Act applies to District employees and independent District authorities no less than eight times. See *District of Columbia v. Hunt*, 520 A.2d 300 (D.C. 1987); *Zenian v. District of Columbia Office of Employee Appeals*, 598 A.2d 1161 (D.C. 1991); *Kennedy v. District of Columbia*, 654 A.2d 847,

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<sup>1</sup> D.C. Official Code § 1.605.02(6) applies to DCHA employees under D.C. Official Code § 6-215(a)(1), which explicitly states that "[s]ubchapters V and XVII [of the CMPA] shall apply to the labor-management relationship between the Authority and its employees."

Decision and Order

PERB Case No. 14-A-07

Page 4

862 (D.C. 1994); *Surgent v. District of Columbia*, 683 A.2d 493 (D.C. 1996); *Mitchell v. District of Columbia*, 736 A.2d 228 (D.C. 1999); *District of Columbia v. Brown*, 739 A.2d 832 (D.C. 1999); *AFGE v. District of Columbia Water & Sewer Auth.*, 942 A.2d 1108 (D.C. 2007); *White v. D.C. Water & Sewer Auth.*, 962 A.2d 258, 259 n.2 (D.C. 2008). Broadly speaking, the Court has found that the Back Pay Act, in the form that it existed in 1979, does apply to District employees and that the 1979 Back Pay Act provided for attorneys' fees. *Hunt*, 520 A.2d 304.

The general determination of the Court that the Back Pay Act ordinarily applies to District employees does not resolve the issue of whether DCHA employees in particular are covered by the Act. DCHA is now an independent Authority. D.C. Official Code section 6-215(a) provides that "[n]o provision of Chapter 6 of Title 1 [the CMPA] shall apply to employees of the Authority." D.C. Official Code § 6-215(a). Most parts of the CMPA, therefore, simply do not apply to DCHA employees. By the terms of D.C. Official Code § 6-215(a), neither § 1-632.02 (purporting to supersede the Back Pay Act) nor § 1-611.04(e) (providing the grounds to apply the Back Pay Act to District employees despite that supersession) applies to DCHA employees.

Whether or not the Back Pay Act applies to DCHA employees then turns on whether it is a general law "applicable to public employers in the District of Columbia." D.C. Official Code § 6-215(d) provides that "Except as specifically provided in this chapter, the Authority shall be subject to all general laws applicable to public employers in the District of Columbia, including laws concerning human rights, wages and hours, and occupational safety and health."

By the terms of the Back Pay Act, the Act applies to the government of the District of Columbia. 5 U.S.C. § 5596(a)(5). Although the Act was purportedly superseded and reestablished as law applicable to the government of the District of Columbia by the CMPA, neither the supersession nor re-implementation applies because those provisions of the CMPA do not apply to DCHA employees. After those considerations are removed, the Back Pay Act's own provisions state that it applies to District government employees. The Back Pay Act is, thus, a general law applicable to public employers in the District of Columbia. As the Back Pay Act also specifically concerns employees' wages and hours, it is among the laws that apply to DCHA employees by virtue of D.C. Official Code § 6-215(d). Although D.C. Official Code § 6-215(a) provides, "[a]ll employees hired by the Authority after May 9, 2000, shall be employees of the Authority and not of the District," suggesting that the Back Pay Act would not apply directly to DCHA employees, D.C. Official Code § 6-215(d) nevertheless provides firm grounds for the application of the Back Pay Act to the Authority and its employees.

Under a different statutory scheme, the Court of Appeals, in *White v. D.C. Water & Sewer Auth.*, 962 A.2d 258 (D.C. 2008), found that the Back Pay Act did not apply to D.C. Water & Sewer Authority (WASA) employees. Similar to DCHA, WASA employees were statutorily exempted from the merit personnel system. Due to that exemption from the statutory scheme, the Court held that "the CMPA-and with it, the counsel fees provision included in its compensation system-no longer applies to WASA employees." *Id.* at 259 (citing D.C. Code § 34-2202.17(b); § 34-2202.15). This exemption from the CMPA was predicated on WASA's

Decision and Order  
PERB Case No. 14-A-07  
Page 5

implementation of its own personnel system as provided for in D.C. Official Code § 34-2202.17(b), which it had accomplished. *White*, 962 A.2d at 259-60.

Relying on *White*, the Authority notes that it too has established a personnel system, and thus should also be free from the counsel-fee provision in the compensation system under the District of Columbia. The fact that the Authority has also implemented a personnel system has no bearing on whether the Back Pay Act applies to its employees. That issue was important in *White* only because the statute governing WASA's transition to an independent authority stated that the CMPA—and the attorney's fees provisions that apply to District employees under the Back Pay Act by virtue of D.C. Official Code § 1-611.04(e)—would continue to apply until WASA had established its own personnel regulations. *White*, 962 A.2d at 259-60. Under D.C. Official Code § 6-215, there is no similar trigger for the exemption of DCHA from the general provisions of the CMPA and therefore the Authority's implementation of its own regulations is of little consequence.

What is important is that the WASA statute, unlike the DCHA statute, does not include a provision incorporating “all general laws applicable to public employers in the District of Columbia, including laws concerning human rights, wages and hours, and occupational safety and health” as are applicable to DCHA employees. D.C. Official Code § 6-215(d). The absence of a parallel provision in the WASA statute makes *White* of limited guidance.

While the Back Pay Act continues to apply generally to District employees by virtue of the CMPA, it itself is not a provision in the CMPA. The exemption of DCHA from the application of most provisions of the CMPA under D.C. Official Code § 6-215(a) does not preclude the application of the Back Pay Act under D.C. Official Code § 6-215(d). As the Back Pay Act itself states, it applies to District employees. *See* 5 U.S.C. § 5596(a)(5). Otherwise the Back Pay Act is a general law applicable to District public employers. *See* 5 U.S.C. § 5596(a)(5).

Consistent with the arbitrator's conclusions, the Back Pay Act applies to DCHA employees. This collection of statutes does not clearly prohibit the result ordered by the Award. Indeed, the parties have bargained for the arbitrator's interpretation of the Back Pay Act and underlying statutory scheme and are bound by that interpretation. The arbitrator's interpretation of the law thereby became part of the parties' agreement and thereby is part of the private law governing the parties. *Metro. Police Dep't*, 901 A.2d at 789 (quoting *Am. Postal Workers*, 789 F.2d at 6). As the resolution of the issue requires an arbitrator to apply an external law, the Board may not engage in a *de novo* review under the CMPA. *Metro. Police Dep't*, 901 A.2d at 789 (courts do not employ “the normal tools of statutory construction to decide objectively what the legislature or rule-making body intended” when a “case involves the decidedly different setting of a collective bargaining agreement between parties”.) While the Authority's position with regards to whether the Back Pay Act applies is not without some merit, some merit is not sufficient to modify or set aside an arbitration award under the CMPA as no law specifically precludes the result found by the arbitrator. To the contrary, the applicable statutes support the arbitrator's decision that the Back Pay Act applies.



Decision and Order  
PERB Case No. 14-A-07  
Page 6

Having found that the Award is not “on its face contrary to law and public policy,” by virtue of its application of the Back Pay Act, the Board also finds that the Back Pay Act provides independent authority for an arbitrator’s award of attorneys’ fees. *AFGE, Local 2725 v. D.C. Dep’t of Consumer & Regulatory Affairs*, 61 D.C. Reg. 7565, Slip Op. 1444 at pp. 12-14, PERB Case No. 13-A-13 (2013). Therefore, in ordering the Authority to pay the Union’s attorneys’ fees pursuant to the Back Pay Act, the arbitrator neither exceeded his authority nor issued an award contrary to law and public policy.

### C. Arguments Waived by DCHA

DCHA notes that the Back Pay Act requires payment of attorneys’ fees where an individual is “affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowance or differentials of the employee.” 5 U.S.C. § 5596(b)(1). The Authority argues that the grievance in question did not involve that type of personnel action and, as a result, the Back Pay Act is inapplicable. (Request 5) (citing *United States v. Testan*, 424 U.S. 392 (1976); *Woolf v. Bowles*, 57 F.3d 407 (4th Cir. 1995)). In addition, the Authority argues that the arbitrator erred in relying upon 5 U.S.C. § 7701(g) and the standards governing appeals to the Merits Systems Protection Board. (Request 5.)

The Union replies to these arguments substantively but also asserts that the Board should not consider the arguments because they were not presented to the arbitrator in the *District of Columbia Housing Authority’s Opposition to Union Attorney’s Petition for Attorney Fees*. The Union attached that document to its Opposition as exhibit E, and the Authority attached it to its Request as exhibit 5.

A review of the document reveals that it contains neither of the arguments that the Union asserts the Authority waived. An argument may not be raised for the first time in an arbitration review request. *AFGE Local 3721 (on behalf of Chasin) v. D.C. Fire & Emergency Med. Servs. Dep’t*, 59 D.C. Reg. 7288, Slip Op. No. 1251 at p. 8, PERB Case No. 10-A-13 (2012). While the Board has exclusive jurisdiction to consider appeals from grievance-arbitration awards, it does not have original jurisdiction over such matters. *F.O.P./Metro. Police Dep’t Labor Comm. v. D.C. Metro. Police Dep’t*, 59 D.C. Reg. 14896, Slip Op. No. 1332 at p. 3, PERB Case No. 08-U-35 (2012). Accordingly, the Authority waived its arguments that (1) the Back Pay Act does not apply to the type of grievance in question and (2) that the arbitrator should not have relied upon 5 U.S.C. § 7701(g) or standards of the Merit Systems Protection Board.

In conclusion, the Authority has not demonstrated that a statutory basis exists for its Request that the Award be set aside. Therefore, DCHA’s arbitration review request is denied.

Decision and Order  
PERB Case No. 14-A-07  
Page 7

#### **D. Attorneys' Fees for Proceedings before the Board**

In its Opposition, the Union makes a new request for attorneys' fees for proceedings before the Board. The Union requested that the Board award attorneys' fees in accordance with § 6-215(e) of the D.C. Official Code in the event that the Board were to deny DCHA's arbitration review request. (Opposition 22 n.2.) The Board will remand the appellate fees issue to the arbitrator for his resolution.

D.C. Official Code § 6-215(e) provides, "If the Authority applies to the PERB for review of an arbitration award in accordance with § 1-605.02 and the PERB denies review, the PERB shall enter an order requiring the Authority to comply with the award and the Authority shall be liable to the labor organization for its litigation expenses, including attorneys' fees, in connection with the arbitration proceedings and the proceedings before the PERB." As the Board has denied the Authority's petition for review, D.C. Official Code § 6-215(e) provides the explicit statutory basis for an award of all litigation expenses for both the arbitration proceedings and the proceedings before the Board.

The Back Pay Act, like D.C. Official Code § 6-215(e), provides an entitlement for litigation expenses for a prevailing party. The Federal Labor Relations Authority ("FLRA") has found that attorneys' fees are available under the Back Pay Act for work done defending an award against an appellate challenge. *See U.S. Dep't of the Navy, Naval Undersea Warfare Ctr., Newport, R.I.*, 57 F.L.R.A. 32 (2001) (arbitrator awarded fees for work done opposing exceptions to award); *FAA, Wash. Flight Serv. Station*, 27 F.L.R.A. 901, 902 (1987) (arbitrator's failure to award fees for work defending position on exceptions contrary to law). The FLRA, however, declines to determine attorneys' fees itself. *U.S. Dep't of the Navy, Naval Undersea Warfare Ctr., Newport, R.I.*, 57 F.L.R.A. 32. In the FLRA's view, "a motion for attorney fees related to an unjustified or unwarranted personnel action must be determined by the 'appropriate authority,'" and "that when an arbitrator has resolved a grievance over an unjustified or unwarranted personnel action, the arbitrator, not the Authority, is the 'appropriate authority' for resolving the request for an award of attorney fees." *Id.*

D.C. Official Code § 6-215(e) likewise requires the Authority to pay litigation expenses if the Board denies its petition for review. Section 6-215(e), however, does not state explicitly that the Board itself is to award appellate fees, rather it states only that the Authority shall be liable for such fees. The Board is unaware of any decisions applying § 6-215(e) and thus, this is a matter of first impression. Although the statutory schemes are not precisely parallel, the Board is persuaded that it should follow the lead of the FLRA and remand the appellate attorneys' fees matter to the arbitrator for his resolution.<sup>2</sup>

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<sup>2</sup> Because the Award that the Board has sustained in this opinion had already ordered attorneys' fees "in connection with the arbitration proceedings," that part of the Union's request is moot. An order to comply with that Award, which section 6-215(e) requires the Board to issue, is an order to pay attorneys' fees in connection with the arbitration proceedings.

Decision and Order  
PERB Case No. 14-A-07  
Page 8

Accordingly, the Union's request for an award of attorneys' fees pursuant to § 6-215(e) from PERB is remanded to the arbitrator for his determination.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Arbitration Review Request is denied.
2. DCHA shall comply with the Award.
3. The issue of attorneys' fees for proceedings before the Board is remanded to the arbitrator for a determination.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairman Charles Murphy and Members Donald Wasserman, Keith Washington, Ann Hoffman, and Yvonne Dixon

Washington, D.C.

December 22, 2014

Decision and Order  
PERB Case No. 14-A-07  
Page 9

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 14-A-07 was transmitted to the following parties on this the 29th day of December 2014.

David R. Warner  
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**via File&ServeXpress**

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/s/ Sheryl V. Harrington  
Sheryl V. Harrington  
Secretary

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:
Fraternal Order or Police/Metropolitan Police
Department Labor Committee,
Complainant,
v.
District of Columbia
Office of Unified Communications,
and
District of Columbia
Office of Labor Relations and Collective
Bargaining,
Respondents.
PERB Case No. 13-U-10
Opinion No. 1505
Decision and Order

DECISION AND ORDER

I. Statement of the Case

On December 18, 2012, Complainant Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP") filed an Unfair Labor Practice Complaint against the District of Columbia Office of Unified Communications ("OUC") and the District of Columbia Office of Labor Relations and Collective Bargaining ("OLRCB") (collectively, "Respondents"). The Complaint alleges that Respondents violated D.C. Official Code §§ 1-617.04(a)(1) and (5) by refusing and failing to produce information requested by FOP. Respondents categorically deny the allegations and seek an administrative dismissal<sup>1</sup> of the Complaint in its entirety.

The issue before the Board is whether OUC, a non-signatory to FOP's collective bargaining agreement with the District of Columbia Metropolitan Police Department ("MPD"), committed an unfair labor practice when it refused to produce information requested by FOP under Article 10 of that collective bargaining agreement and D.C. Official Code § 1-617.04(a)(5). Based on PERB's previous holdings on this issue, which have been affirmed by

<sup>1</sup> Filed on May 28, 2013.

Decision and Order  
PERB Case No. 13-U-10  
Page 2

the D.C. Superior Court, the Board finds that there is no privity of contract between FOP and OUC, and that OUC therefore had no obligation to produce the requested information. Accordingly, FOP's Complaint is dismissed with prejudice.

## II. Background

FOP is the certified exclusive representative of a unit of sworn officers and other designated personnel employed by MPD. As the authorized bargaining agent, FOP is entitled to act for or on behalf of the unit in all matters subject to collective bargaining, and to seek information relevant and necessary to the execution of its duties.<sup>2</sup> On September 27, 2012, and again on October 5, 2012, FOP sent formal information requests to the Director of OUC. In its first request, FOP sought copies of any Standard Operating Procedure Manuals, lesson plans, or other manuals used for training dispatchers, and call takers within the OUC. In its second request, FOP sought a copy of the audio tape of a specified recorded landline.

OUC responded to the requests stating that it had consulted with OLRCB and determined that it would not produce the requested information.

FOP filed the instant complaint against both OUC and OLRCB asserting that they collectively committed an unfair labor practice when OUC refused to produce the information FOP had requested.

On May 28, 2013, Respondents filed a Motion to Administratively Dismiss the Complaint, arguing that this case is nearly identical to *Fraternal Order of Police v. District of Columbia Office of Police Complaints, et al.*, 60 D.C. Reg. 3041, Slip Op. 1364, PERB Case No. 12-U-16 (2013), in which PERB administratively dismissed an unfair labor practice complaint filed by FOP against the Office of Police Complaints ("OPC") for failing to comply with an information request.

On June 4, 2013, FOP filed an Opposition to Respondents' Motion arguing that in *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Office of Police Complaints*, 59 D.C. Reg. 5510, Slip Op. No. 994, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28 (2009), the Board held that FOP's collective bargaining agreement with MPD is a contract with the entire District and not just with MPD.<sup>3</sup> FOP asserts that the D.C. Superior Court upheld the Board's holding in that case and that, as a result, OPC—as a District of Columbia agency that acts on behalf of the Mayor—is bound by the terms and conditions of the collective bargaining agreement, including the duty to provide information requested under Article 10 of the agreement.<sup>4</sup> Therefore, FOP argues PERB must deny Respondents' Motion.<sup>5</sup>

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<sup>2</sup> See *American Federation of Government Employees, Local 631 v. District of Columbia Water and Sewer Authority*, 59 D. C. Reg. 3948, Slip Op. No. 924 at p. 5-6, PERB Case No. 08-U-04 (2007).

<sup>3</sup> (Opposition to Motion for Administrative Dismissal at 4-6).

<sup>4</sup> *Id.* (citing *Office of Police Complaints v. D.C. Public Employee Relations Board*, Case No. 2009 CA 008122 P(MPA) (D.C. Super. Ct., Apr. 12, 2011)).

Decision and Order  
PERB Case No. 13-U-10  
Page 3

### III. Analysis

#### A. Decision on the Pleadings

PERB Rule 520.8 states: “[t]he Board or its designated representative shall investigate each complaint.” PERB Rule 520.10 states that “[i]f the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument.” However, PERB Rule 520.9 states that in the event “the investigation reveals that the pleadings present an issue of fact warranting a hearing, the Board *shall* issue a Notice of Hearing and serve it upon the parties”.<sup>6</sup>

Here, Respondents generally denied FOP’s legal conclusions, but did not dispute the Complaint’s alleged underlying facts, which are the following: (1) FOP sent OUC two information requests; and (2) OUC denied those requests.<sup>7</sup> Therefore, because these facts are undisputed by the parties, leaving only legal questions to be resolved, the Board finds it can properly decide this matter based upon the pleadings in the record in accordance with Rule 520.10.<sup>8</sup>

Furthermore, in *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Public Employee Relations Board and District of Columbia Office of Police Complaints*, Civ. Case No. 2013 CA 002120 P(MPA) (D.C. Super. Ct. Aug. 21, 2014), the D.C. Superior Court held that PERB does not need to hold a hearing where, as a matter of law, the complaining party lacks standing to bring the claims stated in the complaint.<sup>9</sup> In this case, because of the Board’s finding below that FOP lacks standing as a matter of law to bring its complaint against OUC, it is not necessary to hold a hearing in this matter.<sup>10</sup>

#### B. Decision

##### 1. PERB Slip Op. No. 1364, PERB Case No. 12-U-16 is Directly on Point with the Facts of this Case

The facts of this case are nearly identical to those in *FOP v. OPC, et al., supra*, Slip Op. 1364, PERB Case No. 12-U-16. In both cases, (1) FOP requested information from a District agency with which it did not represent any employees or have a collective bargaining agreement; (2) FOP made the requests under the authority of D.C. Official Code § 1-617.04(a)(5) and Article 10 of FOP’s collective bargaining agreement with MPD; (3) the agencies denied FOP’s

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<sup>5</sup> *Id.* at 6.

<sup>6</sup> (Emphasis added).

<sup>7</sup> (Complaint at 4); (Answer and 3-4).

<sup>8</sup> See *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 60 D.C. Reg. 5337, Slip Op. No. 1374 at p. 11, PERB Case No. 06-U-41 (2013); see also *American Federation of Government Employees, AFL-CIO Local 2978 v. District of Columbia Department of Health*, 60 D.C. Reg. 2551, Slip Op. No. 1356 at p. 7-8, PERB Case No. 09-U-23 (2013).

<sup>9</sup> P. 4.

<sup>10</sup> *Id.*

Decision and Order  
PERB Case No. 13-U-10  
Page 4

requests; and (4) FOP filed unfair labor practice complaints alleging that the refusing agencies violated D.C. Official Code §§ 1-617.04(a)(1) and (5) when they respectively refused to produce the requested information on grounds that FOP's collective bargaining agreement with MPD was binding on the entire District, not just MPD. PERB's reasoning in PERB Case No. 12-U-16 is therefore directly on point with this case.

In *FOP v. OPC, et al., supra*, Slip Op. 1364, PERB Case No. 12-U-16, PERB administratively dismissed FOP's unfair labor practice complaint against OPC. PERB found that OPC was not a party to FOP's collective bargaining agreement with MPD, and therefore it did not have a duty under Article 10 of that agreement or under D.C. Official Code § 1-617.04(a)(5) to provide FOP with the requested information.

2. OUC Was Not Obligated Under Article 10 of FOP's Collective Bargaining Agreement with MPD to Provide the Information FOP Requested

Just as OPC was not obligated under Article 10 of FOP's collective bargaining agreement with MPD to produce the information FOP requested in PERB Case No. 12-U-16, OUC is likewise not obligated under Article 10 of that same agreement in this case.

In PERB Case No. 12-U-16, PERB rejected FOP's argument that OPC was bound by Article 10 of its collective bargaining agreement with MPD on grounds that: (1) the title page and Article 1, Section 1 of the agreement stated it was the collective bargaining agreement between FOP and MPD; (2) the terms of the agreement were specific to FOP and MPD; and (3) FOP's and MPD's representatives were the only signers of the agreement.<sup>11</sup> As such, PERB found it was reasonable to conclude that the only entities on which the agreement bestowed any rights or obligations were FOP and MPD.<sup>12</sup> PERB stated:

Erroneously, FOP claims that Article 10 of the CBA empowers it to seek and receive information from OPC. (Complaint at 3, 5-7, and Exhibit #2). Section 1 of Article 10 states, "[t]he Parties shall make available to each other's duly designated representatives, upon reasonable request, any information, statistics and records relevant to negotiations or necessary for proper administration of the terms of this Agreement." (Complaint, Exhibit #2 at 8) (emphases added). In the instant matter, "the Parties" and "to each other" are the legally operative terms. They plainly dictate, without ambiguity, that the obligation to exchange information only applies between MPD and FOP. [*Mittal Steel USA ISG, Inc. v. Bodman*, 435 F.Supp.2d 106, 108-09 (Dist. Court, Dist. of Columbia 2006)]; [*Charlton v. Mond*, 987 A.2d 436, 441 (D.C. 2010)]; and [*YA Global Investments, L.P. v. Cliff*, 15 A.3d 857, 862

<sup>11</sup> *FOP v. OPC, et al., supra*, Slip Op. 1364 at ps. 6-7, PERB Case No. 12-U-16 (internal citations omitted).

<sup>12</sup> *Id.*



Decision and Order  
PERB Case No. 13-U-10  
Page 5

(N.J. Super. Ct. App. Div. 2011)]. Furthermore, there is nothing in the four (4) corners of Article 10 or the CBA to demonstrate that the CBA imposes any contractual requirement to request or disclose information on anyone who is not MPD or FOP. *Mittal Steel USA ISG, Inc. v. Bodman. supra*; and *Charlton v. Mond, supra*.

In its Complaint, FOP contends that its CBA is between it and the entire District of Columbia government, not just between it and MPD. (Complaint at 3, 5-7). However, such an argument cannot be squared with the CBA's plain and unambiguous identification of the parties, noted above, and therefore must fail. *See Mittal Steel USA ISG, Inc. v. Bodman. supra*; *see also American Federation of Government Employees, Local 2924 v. Federal Labor Relations Authority*, 470 F. 3d 375, 377 & 381 (D.C. Cir. 2006) (internal citations omitted). The only proper and legally sound reading of the CBA is that its terms only apply between FOP and MPD, not FOP and all other District agencies. *Mittal Steel USA ISG, Inc. v. Bodman. supra*; and *Charlton v. Mond, supra*; and *YA Global Investments, L.P. v. Cliff, supra*. To say otherwise would be to imply that a union's agreement with one (1) agency in the District is a binding contract upon all of the District's agencies. Simply put, at best, such an argument is unwarranted and ethereal. Basic contract law dictates that such is not the case. *Id.* OPC is not bound by the terms of the CBA between FOP and MPD any more than the Department of Health or some other non-party agency is. *Id.*<sup>13</sup>

FOP appealed PERB's dismissal of PERB Case No. 12-U-16 to the D.C. Superior Court. The Court, in its August 21, 2014 Order, affirmed PERB's dismissal, stating:

[The argument that Article 10 applies to agencies other than MPD] has already been presented to PERB, which thoroughly explained in its ten-page Administrative Dismissal why the CBA does not extend to OPC. Taking [FOP] through the basic concepts of contract law, PERB explained that to apply the CBA to OPC would "imply that a union's agreement with one (1) agency in the District is a binding contract upon all of the District's agencies ... OPC is not bound by the terms of the CBA between FOP and MPD any more than the Department of Health or some other non-party agency." To find otherwise would be overbroad and, moreover, it is clear from the PERB decision citing to the specific language of

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<sup>13</sup> *Id.* at 7-8.

Decision and Order  
PERB Case No. 13-U-10  
Page 6

the CBA that there is no privity of contract between FOP and OPC. The CBA includes numerous explicit references to the parties bound by it, naming only FOP and MPD. It was thus reasonable for PERB to find that the CBA only applied to FOP and MPD and reject [FOP's] argument that the OPC is additionally bound by its terms.<sup>14</sup>

Collective bargaining agreements are negotiated between particular agencies and unions with specific agency processes and specific bargaining units in mind.<sup>15</sup> While certain statutory rights (i.e. *Weingarten* rights) apply to all District agencies regardless of their respective agreements, the obligation to produce information is imposed by the collective bargaining agreement, not by a statute.<sup>16</sup> That right therefore does not apply to agencies that are not parties to a particular agreement.<sup>17</sup> In this case, the plain language of Article 10 in the agreement between FOP and MPD “defines and establishes a right to seek and receive information [only] between FOP and MPD.”<sup>18</sup> Accordingly, it is unreasonable for FOP to now seek enforcement of that provision against OUC, which was not present during negotiations, did not have the benefit of making proposals or counterproposals, and was not a signer of the final agreement.<sup>19</sup>

Therefore, based on the foregoing, the Board rejects FOP's argument in this case that Article 10 of its collective bargaining agreement with MPD obligated OUC to produce the requested information.<sup>20</sup>

3. OUC Was Not Obligated Under D.C. Official Code § 1-617.04(a)(5) to Provide the Information FOP Requested

The Board similarly rejects FOP's contention that OUC had an obligation to provide the requested information under D.C. Official Code § 1-617.04(a)(5).

In its dismissal of PERB Case No. 12-U-16, PERB noted that, normally, agencies are obligated to provide documents to the exclusive representatives of their employees.<sup>21</sup> Moreover, the United States Supreme Court has held that an employer's duty to disclose information “unquestionably extends beyond the period of *contract negotiations* and applies to labor-

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<sup>14</sup> *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Public Employee Relations Board and District of Columbia Office of Police Complaints*, Civ. Case No. 2013 CA 002120 P(MPA) at p. 7 (D.C. Super. Ct. Aug. 21, 2014) (internal citations omitted).

<sup>15</sup> *Mittal Steel USA ISG, Inc. v. Bodman*, *supra*.

<sup>16</sup> See *FOP v. OPC, et al., supra*, Slip Op. 1364 at p. 9, PERB Case No. 12-U-16 (holding that “[t]he object that establishes and defines...the authority to seek and receive information...is the collective bargaining agreement”); see also *FOP v. OPC, supra*, Slip Op. No. 994 at ps. 19-20, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at ps. 6, 9.

<sup>20</sup> *Id.*

<sup>21</sup> P. 8 (citing *AFGE v. DC WASA, supra*, Slip Op. No. 924 at p. 5-6, PERB Case No. 08-U-04).

Decision and Order  
PERB Case No. 13-U-10  
Page 7

management relations *during the term of an agreement*.<sup>22</sup> Based on these authorities, PERB has held that when an agency fails, without a viable defense, to provide information requested by its employees' exclusive representative, that agency violates its duty under D.C. Official Code § 1-617.04(a)(5) to “bargain collectively in good faith *with the exclusive representative*”, and further derivatively violates its counterpart duty under D.C. Official Code §1-617.04(a)(1) to not interfere with its employees' “statutory rights to organize a labor union free from interference, restraint or coercion; to form, join or assist any labor organization or to refrain from such activity; and to bargain collectively through representatives *of their own choosing*.”<sup>23</sup>

Applying these authorities to FOP's allegations in PERB Case No. 12-U-16, PERB stated:

The object that establishes and defines the obligation to “bargain collectively”—and in this case, the authority to seek and receive information—is the collective bargaining agreement. The CBA cited and relied upon by FOP in its November 3, 2011, request for information and in its Complaint defines and establishes a right to seek and receive information between FOP and MPD, but it does not establish rights between FOP and OPC. Indeed, FOP and OPC have not engaged in any “contract negotiations” regarding information requests. *NLRB v. Acme Industrial, supra*. Likewise, FOP and OPC are not currently in the “term [(time period)] of an agreement” governing information requests. *Id.* As such, OPC was not obligated to “bargain collectively in good faith” with FOP and was not obligated to provide FOP with the information it requested under D.C. [Official] Code § 1-617.04(a)(5), as no collective bargaining agreement or requirement to bargain existed between FOP and OPC. *Id.*

Therefore, FOP lacks standing to allege under D.C. [Official] Code § 1-617.04(a)(5) that OPC failed to bargain with it in good faith.<sup>24</sup>

In its affirmation of PERB's administrative dismissal, the D.C. Superior Court agreed, stating:

PERB acknowledged that generally agencies are obligated to provide documents in response to a request by a union. PERB cites to the United States Supreme Court in *National Labor Relations Board v. Acme Industrial Co.*, 385 U.S. 432, 436-37

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<sup>22</sup> *National Labor Review Board v. Acme Industrial Co.*, 385 U.S. 32, 36 (1967)) (emphases added).

<sup>23</sup> *American Federation of Government Employees, Local 2725 v. District of Columbia Department of Health*, 59 D.C. Reg. 5996, Slip Op. No. 1003 at ps. 4-5, PERB Case 09-U-65 (2009) (internal citations omitted) (emphases added).

<sup>24</sup> *FOP v. OPC, et al., supra*, Slip Op. 1364 at p 9, PERB Case No. 12-U-16.

Decision and Order  
PERB Case No. 13-U-10  
Page 8

(1967) for the proposition that the duty to disclose information applies to both contract negotiations and labor management relations during the term of a collective bargaining agreement. PERB explained, however, that OPC is simply not an employer of FOP, has never entered into contract negotiations, and is not a party to any agreements with OPC. Therefore, PERB held that FOP did not have standing under the CMPA to compel compliance with its request for information.<sup>25</sup>

In this case, FOP is similarly not the “exclusive representative” of any of OUC’s employees as required by the express language of D.C. Official Code § 1-617.04(a)(5). Further, none of OUC’s employees have “chosen” FOP to be their representative as required by the stated language of PERB’s holding in *AFGE, Local 2725 v. DCDOH, supra*, Slip Op. No. 1003 at ps. 4-5, PERB Case 09-U-65. Additionally, FOP and OUC have never engaged in “contract negotiations”, nor have they been parties to “the term of an agreement” as envisioned by the U.S. Supreme Court’s holding in *NLRB v. Acme, Industrial Co., supra*.<sup>26</sup> As stated in the dismissal of PERB Case No. 12-U-16, “[t]he object that establishes and defines the obligation to ‘bargain collectively’—and in this case, the authority to seek and receive information—is the collective bargaining agreement.”<sup>27</sup>

In this case, because there is no “collective bargaining agreement” between FOP and OUC, and based on the plain meaning of D.C. Official Code § 1-617.04(a)(5), which only establishes a duty to bargain collectively in good faith “with the exclusive representative”, the Board finds that the only statutory obligation Article 10 created was between FOP and MPD, not between FOP and all other District agencies.<sup>28</sup> As such, OUC had no obligation under D.C. Official Code § 1-617.04(a)(5) to provide the information FOP requested.<sup>29</sup>

4. *FOP v. OPC, Supra*, Slip Op. No. 994, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28 Did Not Hold That FOP’s Collective Bargaining Agreement With MPD is Binding On All District Agencies

The Board rejects FOP’s contention in its Opposition to OUC’s Motion for Administrative Dismissal in this case that PERB found in *FOP v. OPC, supra*, Slip Op. No. 994, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28 that the parties to the collective bargaining agreement were FOP and the District of Columbia, and that the agreement’s terms and conditions are therefore binding on all other District agencies.<sup>30</sup> A plain reading of Slip Op. No. 994 demonstrates that such is not what the Board held.

<sup>25</sup> *FOP v. PERB and OPC, supra*, Civ. Case No. 2013 CA 002120 P(MPA) at p. 5 (internal citations omitted).

<sup>26</sup> See also *FOP v. PERB and OPC, supra*, Civ. Case No. 2013 CA 002120 P(MPA) at p. 5.

<sup>27</sup> *FOP v. OPC, et al., supra*, Slip Op. 1364 at p. 9, PERB Case No. 12-U-16.

<sup>28</sup> *Id.*; see also *FOP v. PERB and OPC, supra*, Civ. Case No. 2013 CA 002120 P(MPA).

<sup>29</sup> *Id.*

<sup>30</sup> (Opposition to Motion for Administrative Dismissal at 4-6).

Decision and Order  
PERB Case No. 13-U-10  
Page 9

In PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28, the Board adopted a hearing examiner's report and recommendation which found that "the parties to the Labor Agreement [between MPD and FOP] are the District of Columbia and [FOP]."<sup>31</sup> Notwithstanding, the hearing examiner expressly rejected the notion that that meant all District agencies and officials were therefore bound by all of the agreement's terms.<sup>32</sup> The hearing examiner stated: "[t]he fact that the District of Columbia is a party to the [collective bargaining agreement] does not by itself mean that all definitions, provisions, and requirements of a particular collective bargaining agreement are automatically transmuted or otherwise modified or redefined to fit the organizational arrangements or circumstances of agencies other than the one that [employs] the affected employees."<sup>33</sup> The hearing examiner further reasoned that determining which provisions applied to other agencies and which ones did not required an interpretation of the contract, and that such determinations should therefore be deferred to the parties' grievance and arbitration process.<sup>34</sup> The Board agreed and dismissed FOP's allegations.<sup>35</sup> FOP appealed PERB's Decision to the D.C. Superior Court, which affirmed the Board's findings as rationally defensible.<sup>36</sup> The Board notes, however, that the Superior Court's affirmation of Slip Op. 994 was later vacated and dismissed by the D.C. Court of Appeals for lack of jurisdiction.<sup>37</sup>

Notwithstanding PERB's unambiguous holding in Slip Op No. 994 that not all of the terms of FOP's collective bargaining agreement with MPD apply to other agencies, FOP still advanced its argument that the agreement is binding on all other District agencies in its appeal of PERB's dismissal of PERB Case No. 12-U-16 before the D.C. Superior Court. The Court, rejecting FOP's argument, stated:

[FOP] argues that PERB and the D.C. Superior Court have previously held that OPC must bargain collectively in good faith with FOP. In turn, then, [FOP] argues that PERB has consistently held that a request for information constitutes a request for

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<sup>31</sup> *FOP v. OPC*, *supra*, Slip Op. No. 994 at p. 13, 26, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28.

<sup>32</sup> (Opposition to Motion for Administrative Dismissal, Exhibit 1 at 25-27).

<sup>33</sup> *Id.* at 27. As an example, the hearing examiner noted that even though the agreement requires the District to provide FOP with bulletin board space, it would not be reasonable to require every agency in the District to comply with that provision.

<sup>34</sup> *Id.* at 27-29.

<sup>35</sup> *FOP v. OPC*, *supra*, Slip Op. No. 994 at ps. 26-27, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28.

<sup>36</sup> *OPC v. PERB*, Case No. 2009 CA 008122 P(MPA) (D.C. Super. Ct., Apr. 12, 2011).

<sup>37</sup> *See D.C. Office of Police Complaints v. D.C. Public Employee Relations Board*, 11 CV-621 (D.C., Aug. 5, 2011). Even though the Superior Court's affirmation of Slip Op. 994 was later vacated, the Superior Court's reasoning still demonstrates that the Court had rejected FOP's argument that its collective bargaining agreement with MPD applied to all agencies in the District. Indeed, the Court expressly stated that "not all of the terms of the collective bargaining agreement necessarily applied to OPC" and that "OPC *could have been*, but was not necessarily, a party to the agreement that was ratified by the Mayor." *OPC v. PERB*, *supra*, 2009 CA 008122 at ps.5-7 (emphasis in original). Further, the Court found that PERB has the authority to determine, on a case by case basis, "whether the Mayor as the employer of all public employees is the agent for collective bargaining purposes, or whether the other statutorily designated candidate, an 'appropriate personnel authority' pursuant to [D.C. Official Code § 1-617.01(c) of the CMPA], is the agent for collective bargaining." *Id.* at 6.

Decision and Order  
PERB Case No. 13-U-10  
Page 10

bargaining. In support of its position, [FOP] cites a vacated opinion in a dismissed Superior Court case [*OPC v. PERB, supra*, 2009 CA 008122] and claims that OPC had a bargaining obligation with FOP that “creates certain rights, the violation of which *could* constitute a ULP complaint even absent a collectively bargained agreement.” In this instance, there is no privity of contract between OPC and FOP; OPC is not FOP’s employer and OPC was not subject to any management obligations or duties provided for in the CMPA. [FOP’s] cited case does not explicitly hold that OPC is definitively required to bargain “collectively in good faith” as required by the CMPA statute, but suggested that certain bargaining rights *may* exist in the absence of a CBA. The sole case cited by [FOP] does not explicitly hold that OPC has a duty to collectively bargain with FOP but merely raises the possibility. Also, given that that case was dismissed for want of jurisdiction ... on September 30, 2011 [*OPC v. PERB, supra*, 11 CV-621], the Court does not place much weight on its conclusions.<sup>38</sup>

If every collective bargaining agreement in the District was binding on all District agencies, there would be nothing to prevent FOP from enforcing against MPD a provision articulated in an agreement between another agency and another union that it (FOP) failed to bargain for in its own negotiations with MPD. Reason and established contract law dictate that such cannot be the case.<sup>39</sup> Therefore, based on PERB’s and the Superior Court’s clear and unambiguous findings that FOP’s agreement with MPD was not binding on OPC under the facts alleged in PERB Case No. 12-U-16, the Board finds that that same agreement was likewise not binding on OUC under the nearly identical facts of this case.<sup>40</sup>

## 5. Conclusion

When considering a motion to dismiss, the Board views the facts in the light most favorable to the Complainant.<sup>41</sup> Nevertheless, even when viewing the facts of this case in the light most favorable to FOP, the Board still cannot conclude that OUC repudiated a contract to

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<sup>38</sup> *Id.* (internal citations omitted) (emphases in original).

<sup>39</sup> See *FOP v. OPC, et al., supra*, Slip Op. 1364 at p. 6-8, PERB Case No. 12-U-16; see also *Charlton v. Mond, supra* (holding that non-parties owe no contractual duty to contracting parties); and *Fort Lincoln Civic Ass’n, Inc. v. For Lincoln New Town Corp.*, 944 A.2d 1055, 1063 (D.C. 2008) (holding that generally a stranger to a contract may not bring a claim on the contract).

<sup>40</sup> *Id.*

<sup>41</sup> *Osekre v. American Federation of State, County, and Municipal Employees, Council 20, Local 2401*, 47 D.C. Reg. 7191, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04 (1998) (citing *Doctor’s Council of District of Columbia General Hospital v. District of Columbia General Hospital*, 49 D.C. Reg. 1237, Slip Op. No. 437, PERB Case No. 95-U-10 (1995); and *JoAnne G. Hicks v. District of Columbia Office of the Deputy Mayor for Finance, Office of the Controller and American Federation of State, County and Municipal Employees, District Council 20*, 40 D.C. Reg. 1751, Slip Op. No. 303, PERB Case No. 91-U-17 (1992)).

Decision and Order  
PERB Case No. 13-U-10  
Page 11

which it was not a party.<sup>42</sup> Therefore, based on the reasoning and authority stated in *FOP v. OPC, et al., supra*, Slip Op. 1364, PERB Case No. 12-U-16, and based on the D.C. Superior Court's affirmation of that dismissal in *FOP v. PERB and OPC, supra*, Civ. Case No. 2013 CA 002120 P(MPA), and in consideration of the arguments presented by the parties in their pleadings, the Board finds that there was no privity of contract between FOP and OUC that required OUC to provide FOP with the information it requested under Article 10 of its collective bargaining agreement with MPD, or under D.C. Official Code § 1-617.04(a)(5).<sup>43</sup>

This is not to say that FOP cannot request the information through other means. Since the collective bargaining agreement is between FOP and MPD, FOP may be able to request that MPD obtain the information from OUC. Furthermore, as PERB noted in its dismissal of PERB Case No. 12-U-16, FOP may also be able to obtain the information it seeks from OUC under the District of Columbia Freedom of Information Act (FOIA), D.C. Official Code §§ 2-531 *et seq.*

Based on the foregoing, Respondents' Motion to Administratively Dismiss the Complaint is granted, and FOP's Complaint is dismissed with prejudice.<sup>44</sup>

## ORDER

### IT IS HEREBY ORDERED THAT:

1. FOP's Complaint is dismissed with prejudice.
2. Pursuant to PERB Rule 559.1, this Decision and Order is final upon issuance.

### BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, and Members Donald Wasserman and Keith Washington.

August 21, 2014

Washington, D.C.

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<sup>42</sup> See *FOP v. OPC, et al., supra*, Slip Op. 1364, PERB Case No. 12-U-16; see also *FOP v. PERB and OPC, supra*, Civ. Case No. 2013 CA 002120 P(MPA); and *Mond, supra*.

<sup>43</sup> *Id.*

<sup>44</sup> As a result of the Board's dismissal of the Complaint, it is not necessary to address Respondents' affirmative defenses, Respondents' Motion to Dismiss OLRB as a party respondent, Respondents' arguments about whether or not the phrase "the Department" in the Complaint referred to the Respondents, or the parties' arguments about PERB's procedures concerning deficiencies in complaints.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 13-U-10, Opinion No. 1505 was transmitted *via* File & ServeXpress and Email to the following parties on this the 31<sup>st</sup> of December, 2014.

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PERB



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