

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council passes Law 21-271, New Columbia Statehood Initiative and Omnibus Boards and Commissions Reform Amendment Act of 2014
- D.C. Council passes Law 21-276, Sex Trafficking of Children Prevention Amendment Act of 2014
- D.C. Taxicab Commission increases the wait time rate
- University of the District of Columbia proposes adjustments in tuition rates for degree-granting programs for the fall semester of 2016
- Department of Behavioral Health announces funding availability for the Strategic Prevention Framework Partnership for Success High Need Communities Grant
- Department of Small and Local Business Development announces funding availability for the DC Clean Team Program

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MAYOR

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ADMINISTRATOR

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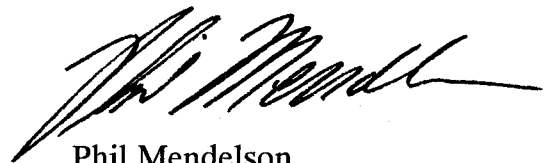
NOTICE

D.C. LAW 20-261

"Reproductive Health Non-Discrimination Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-790 on first and second readings October 28, 2014, and December 17, 2014, respectively. Following the signature of the Mayor on January 23, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-593 and was published in the January 30, 2015 edition of the D.C. Register (Vol. 62, page 1337). Act 20-593 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-593 is now D.C. Law 20-261, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

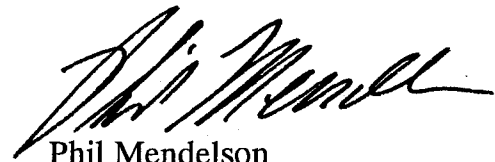
NOTICE

D.C. LAW 20-262

"U Street/14th Street, N.W., and Georgia Avenue Great Streets Neighborhood Retail Priority Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-721 on first and second readings December 2, 2014, and December 17, 2014, respectively. Following the signature of the Mayor on January 25, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-601 and was published in the February 6, 2015 edition of the D.C. Register (Vol. 62, page 1516). Act 20-601 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-601 is now D.C. Law 20-262, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 20-263

"Workforce Investment Implementation Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-773 on first and second readings November 18, 2014, and December 2, 2014, respectively. Following the signature of the Mayor on January 25, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-602 and was published in the February 6, 2015 edition of the D.C. Register (Vol. 62, page 1518). Act 20-602 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-602 is now D.C. Law 20-263, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 20-264

"Public Space Maintenance Contracting Authorization Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-796 on first and second readings November 18, 2014, and December 17, 2014, respectively. Following the signature of the Mayor on January 26, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-603 and was published in the February 6, 2015 edition of the D.C. Register (Vol. 62, page 1527). Act 20-603 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-603 is now D.C. Law 20-264, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

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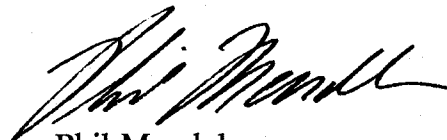
NOTICE

D.C. LAW 20-265

"Federal Health Reform Implementation and Omnibus Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-797 on first and second readings October 28, 2014, and November 18, 2014, respectively. Following the signature of the Mayor on January 25, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-604 and was published in the February 6, 2015 edition of the D.C. Register (Vol. 62, page 1529). Act 20-604 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-604 is now D.C. Law 20-265, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

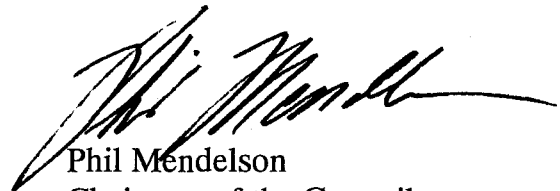
NOTICE

D.C. LAW 20-266

"Human Rights Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-803 on first and second readings October 28, 2014, and December 2, 2014, respectively. Following the signature of the Mayor on January 25, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-605 and was published in the February 6, 2015 edition of the D.C. Register (Vol. 62, page 1540). Act 20-605 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-605 is now D.C. Law 20-266, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

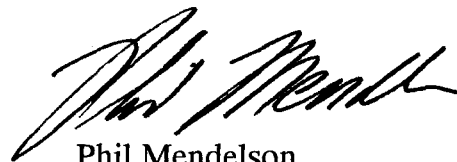
NOTICE

D.C. LAW 20-267

"Executive Service Compensation System Changes and Pay Schedule Approval Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-855 on first and second readings December 2, 2014, and December 17, 2014, respectively. Following the signature of the Mayor on January 25, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-606 and was published in the February 6, 2015 edition of the D.C. Register (Vol. 62, page 1543). Act 20-606 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-606 is now D.C. Law 20-267, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 20-268

"Office of Motion Picture and Television Development Establishment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-891 on first and second readings December 2, 2014, and December 17, 2014, respectively. Following the signature of the Mayor on January 25, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-607 and was published in the February 6, 2015 edition of the D.C. Register (Vol. 62, page 1549). Act 20-607 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-607 is now D.C. Law 20-268, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 20-269

"Adoption Fee Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-898 on first and second readings December 2, 2014, and December 17, 2014, respectively. Following the signature of the Mayor on January 25, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-608 and was published in the February 6, 2015 edition of the D.C. Register (Vol. 62, page 1551). Act 20-608 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-608 is now D.C. Law 20-269, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

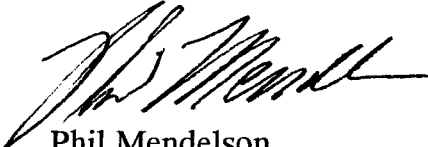
NOTICE

D.C. LAW 20-270

"Omnibus Alcoholic Beverage Regulation Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-902 on first and second readings December 2, 2014, and December 17, 2014, respectively. Following the signature of the Mayor on January 26, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-609 and was published in the February 13, 2015 edition of the D.C. Register (Vol. 62, page 1866). Act 20-609 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-609 is now D.C. Law 20-270, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

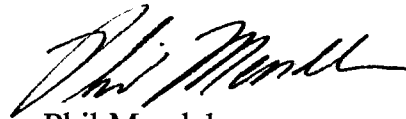
NOTICE

D.C. LAW 20-271

"New Columbia Statehood Initiative and Omnibus Boards and Commissions Reform Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-71 on first and second readings October 7, 2014, and October 28, 2014, respectively. This legislation was deemed approved without the signature of the Mayor on January 29, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-615 and was published in the February 13, 2015 edition of the D.C. Register (Vol. 62, page 1884). Act 20-615 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-615 is now D.C. Law 20-271, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

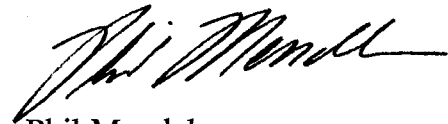
NOTICE

D.C. LAW 20-272

"Clinical Laboratory Practitioners Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-289 on first and second readings November 18, 2014, and December 2, 2014, respectively. Following the signature of the Mayor on February 2, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-618 and was published in the February 13, 2015 edition of the D.C. Register (Vol. 62, page 1911). Act 20-618 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-618 is now D.C. Law 20-272, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 20-273

"Primary Date Alteration Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-265 on first and second readings December 2, 2014, and December 17, 2014, respectively. Following the signature of the Mayor on February 6, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-620 and was published in the February 13, 2015 edition of the D.C. Register (Vol. 62, page 1938). Act 20-620 was transmitted to Congress on March 6, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 20-620 is now D.C. Law 20-273, effective May 2, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

March	6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 20-274

"Repeal of Prostitution Free Zones and Drug Free Zones Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-760 on first and second readings October 7, 2014, and October 28, 2014, respectively. Following the signature of the Mayor on November 12, 2014, as required by Section 404(e) of the Charter, the bill became Act 20-473 and was published in the November 28, 2014 edition of the D.C. Register (Vol. 61, page 12117). Act 20-473 was transmitted to Congress on January 26, 2015 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 20-473 is now D.C. Law 20-274, effective May 6, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Jan	26, 27, 28, 29, 30
Feb	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 17, 18, 19, 20, 23, 24, 25, 26, 27
March	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1, 4, 5

COUNCIL OF THE DISTRICT OF COLUMBIA

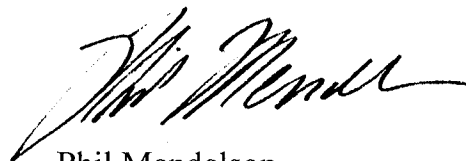
NOTICE

D.C. LAW 20-275

"Criminalization of Non-Consensual Pornography Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-903 on first and second readings November 18, 2014, and December 2, 2014, respectively. Following the signature of the Mayor on December 19, 2014, as required by Section 404(e) of the Charter, the bill became Act 20-534 and was published in the January 2, 2015 edition of the D.C. Register (Vol. 62, page 16). Act 20-534 was transmitted to Congress on January 27, 2015 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 20-534 is now D.C. Law 20-275, effective May 7, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Jan	27, 28, 29, 30
Feb	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 17, 18, 19, 20, 23, 24, 25, 26, 27
March	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6

COUNCIL OF THE DISTRICT OF COLUMBIA

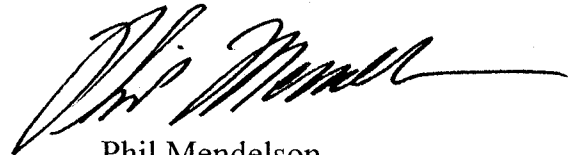
NOTICE

D.C. LAW 20-276

"Sex Trafficking of Children Prevention Amendment Act of 2014"

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 20-714 on first and second readings November 18, 2014, and December 2, 2014, respectively. Following the signature of the Mayor on January 6, 2015, as required by Section 404(e) of the Charter, the bill became Act 20-560 and was published in the January 16, 2015 edition of the D.C. Register (Vol. 62, page 479). Act 20-560 was transmitted to Congress on January 27, 2015 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 20-560 is now D.C. Law 20-276, effective May 7, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

Jan	27, 28, 29, 30
Feb	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 17, 18, 19, 20, 23, 24, 25, 26, 27
March	2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26
April	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6

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.

COUNCIL OF THE DISTRICT OF COLUMBIA**PROPOSED LEGISLATION****BILL**

B21-204 4095 Minnesota Avenue, N.E. Woodson School Lease Amendment Act of
2015

Intro. 5-13-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole with comments from the Committee on Education

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES ANNOUNCES A PUBLIC
HEARING**

ON

BILL 21-125, THE “CLINICAL RIGHT TO TRY ACT OF 2015”

**TUESDAY, JUNE 9, 2015
12:00 P.M., ROOM 500, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing on Bill 21-125, the “Clinical Right to Try Act of 2015.” The hearing will take place at 12:00 p.m. on Tuesday, June 9, 2015 in Room 500 of the John A. Wilson Building.

The purpose of this bill is to give patients with an advanced illness access to investigational products that have not been approved by the federal Food and Drug Administration that other patients have access to when they participate in clinical trials. It allows a manufacturer to provide an investigational drug, biological product, or device for a fee or free of charge to eligible patients. Hospitals and health care facilities may also make these investigational drugs available if procedures have been adopted and are in place to do so. The legislation authorizes health insurance providers and the District government to provide coverage for the cost of investigational drugs. The legislation also provides protection against liability except in cases of gross negligence or willful misconduct.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Friday, June 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 Friday, June 5, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350

Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Tuesday, June 23, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING
1350 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES ANNOUNCES A PUBLIC
HEARING**

ON

BILL 21-171, THE “HEALTH CARE DECISIONS ACT OF 2015”

**THURSDAY, JUNE 11, 2015
12:00 P.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing on Bill 21-171, the “Health Care Decisions Act of 2015.” The hearing will take place at 12:00 p.m. on Thursday, June 11, 2015 in Room 412 of the John A. Wilson Building.

The purpose of this bill is to create a Medical Orders for Scopes of Treatment Form (MOST) to document patients' wishes for medical intervention. The bill also outlines who is authorized to give consent to a MOST. It requires that the Department of Health (DOH) establish a MOST Advisory Committee. It requires that the MOST form be designed to provide information regarding the patient's care and medical condition. The MOST form must be kept in a prominent manner in a patient's records in paper and electronic form.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, June 9, 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 Tuesday, June 9, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Thursday, June 25, 2015.

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

John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite 119
Washington, DC 20004

**Councilmember Vincent B. Orange, Sr., Chair
Committee on Business, Consumer, and Regulatory Affairs**

Announces a Public Hearing

on

- **B21-196, the “Nightlife Regulation Amendment Act of 2015”**

**Thursday, July 9, 2015, 10:00 A.M.
John A. Wilson Building, Room 500
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004**

Councilmember Vincent B. Orange, Sr., announces the scheduling of a public hearing by the Committee on Business, Consumer, and Regulatory Affairs, on B21-196, the “Nightlife Regulation Amendment Act of 2015”. The public hearing is scheduled for Thursday, July 9, 2015 at 10:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Ave., NW, Washington, DC 20004.

B21-196, the “Nightlife Regulation Amendment Act of 2015”, would require establishments holding C/R, C/N, C/T and D/R, D/N, D/T liquor licenses to measure the noise levels coming from their establishments with a decibel meter approved by ABRA every day they are open from the hours of 9 p.m. to 4 a.m. in order to ensure that these establishments are conforming to the District’s noise restrictions. The bill will require establishments to report their actual noise readings to ABRA on a weekly basis on penalty of a fine, suspension or revocation of their license.

Individuals and representatives of organizations who wish to testify at the public hearing are asked to contact Faye Caldwell of the Committee on Business,

Consumer, and Regulatory Affairs at (202) 727-6683 or by email at fcaldwell@dccouncil.us and provide their name(s), address, telephone number, email address and organizational affiliation, if any, by close of business Monday, July 6, 2015. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Thursday, July 23, 2015. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

Bill 21-200, Closing of Public Streets adjacent to Squares S-603, N-661, 605, 661, 607 and 665, and in U.S. Reservations 243 and 244, S.O. 13-14605, Act of 2015

on

**Tuesday, June 9, 2015
1:30 p.m., Hearing Room 412, John A. Wilson Building
(or immediately following the preceding hearing)
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-200, the "Closing of Public Streets adjacent to Squares S-603, N-661, 605, 661, 607 and 665, and in U.S. Reservations 243 and 244, S.O. 13-14605, Act of 2015." The hearing will be held at 1:30 p.m. on Tuesday, June 9, 2015 in Hearing Room 412 of the John A. Wilson Building. (If the hearing on PR 21-112 runs late, the hearing will begin immediately after.)

The stated purpose of Bill 21-200 is to order the closing of Potomac Avenue, S.W., between 2nd Street, S.W. and R Street, S.W.; R Street, S.W., between Potomac Avenue, S.W., and Half Street, S.W.; 1st Street, S.W., between T Street, S.W. and Potomac Avenue, S.W.; and S Street, S.W., between 2nd Street, S.W. and approximately 230 feet west of Half Street, S.W.; all adjacent to Squares S-603, N-661, 605, 661, 607 and 665, and in U.S. Reservations 243 and 244 in Ward 6. The proposed street closures are within the footprint of the soccer stadium site in Southwest, and their closing is necessary to develop the site.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Cynthia LeFevre, Legislative Counsel, at clefevre@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, June 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 June 5, 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. A copy of Bill 21-200 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 Monday, June 22, 2015.

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

Reprog. 21-55: Request to reprogram \$458,653 of Fiscal Year 2015 Special Purpose Revenue funds budget authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Funds was filed in the Office of the Secretary on May 18, 2015. This reprogramming ensures that DDOT is able to support the cost of construction work for the 11th Street, SE Bridges related to the presence of the CSX Railroad.

RECEIVED: 14 day review begins May 19, 2015

Reprog. 21-56: Request to reprogram \$345,432 of Special Purpose Revenue funds budget authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Funds was filed in the Office of the Secretary on May 18, 2015. This reprogramming ensures that DDOT, on behalf of Florida Avenue Residential, LLC, is able to install a new traffic signal at the intersection of 8th Street and Florida Avenue, NW.

RECEIVED: 14 day review begins May 19, 2015

Reprog. 21-57:

Request to reprogram \$350,000 of Special Purpose Revenue funds budget authority from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Funds was filed in the Office of the Secretary on May 18, 2015. This reprogramming ensures that DDOT is able to hire in-house staff and consultants to review plans, reports and permits related to GSA-funded interchange improvements.

RECEIVED: 14 day review begins May 19, 2015

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015

License No.: ABRA-007792
Licensee: Bread & Chocolate, Inc.
Trade Name: Bread & Chocolate
License Class: Retailer's Class "C" Restaurant
Address: 5542 Connecticut Avenue, N.W.
Contact: Theodore Manousakis: 703-549-7524/Alex Jifar: 703-549-7524

WARD 3 ANC 3G SMD 3G06

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

New Sidewalk Café, with seating for 28.

PROPOSED HOURS OF OPERATION FOR SIDEWALK CAFE

Sunday through Saturday 7am-11pm

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFE

Sunday 10am-11pm, Monday through Saturday 9am-11pm

APPROVED HOURS OF OPERATION FOR PREMISES

Sunday through Saturday 7am-11pm

APPROVED HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday: 10am-11pm, Monday through Saturday: 9am-11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

**Posting Date: May 22, 2015
**Petition Date: June 6, 2015
**Hearing Date: July 20, 2015
**Protest Date: September 30, 2015

License No.: ABRA-098427
Licensee: Brick Lane DC, Inc.
Trade Name: Brick Lane Restaurant
License Class: Retailer’s Class “C” Restaurant
Address: 1636 17th Street, N.W.
Contact: Elalami Ikhlar: (202) 247-0526

WARD 2

ANC 2B

SMD 2B03

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 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for September 16, 2015 at 1:30 pm.

NATURE OF OPERATION

New restaurant with sidewalk café and a total occupancy load of 100.

HOURS OF OPERATION & ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES AND SIDEWALK CAFE

Sunday through Thursday 10 am – 1:30 am, Friday & Saturday 10 am – 2: 30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

**Posting Date: May 8, 2015
**Petition Date: June 22, 2015
**Hearing Date: July 6, 2015
**Protest Date: September 16, 2015

License No.: ABRA-098427
Licensee: Brick Lane DC, Inc.
Trade Name: Brick Lane Restaurant
License Class: Retailer’s Class “C” Restaurant
Address: 1636 17th Street, N.W.
Contact: Elalami Ikhlar: (202) 247-0526

WARD 2

ANC 2B

SMD 2B03

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 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for September 16, 2015 at 1:30 pm.

NATURE OF OPERATION

New restaurant with sidewalk café and a total occupancy load of 100.

HOURS OF OPERATION & ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES AND SIDEWALK CAFE

Sunday through Thursday 10 am – 1:30 am, Friday & Saturday 10 am – 2: 30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

***CORRECTION

Posting Date: May 1, 2015
Petition Date: June 15, 2015
Hearing Date: June 29, 2015
Protest Date: September 9, 2015

License No.: ABRA-098684
Licensee: DC Winery, LLC
Trade Name: District Winery
License Class: ***Retailer's Class "C" Tavern
Address: 385 Water Street, S.E.
Contact: Stephen O'Brien: 202-625-7700

WARD 6

ANC 6D

SMD 6D07

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 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on September 9, 2015.

NATURE OF OPERATION

***Tavern with 450 seats and a Total Occupancy Load of 750. Requesting an Entertainment Endorsement to include dancing, wine pub and summer garden with 100 seats.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR INSIDE PREMISES AND OUTDOOR SUMMER GARDEN

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

HOURS OF LIVE ENTERTAINMENT

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015

License No.: ABRA-090830
Licensee: Top Shelf Group LLC
Trade Name: Gryphon (The)
License Class: Retailer's Class "C" Tavern
Address: 1337 Connecticut Ave., N.W.
Contact: Anthony Hudgins 571-438-1159

WARD 2 ANC 2B SMD 2B07

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 Summer Garden with 9 seats.

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

Sunday through Thursday 10 am - 2 am, Friday & Saturday 10 am - 3 am

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: June 20, 2015

License No.: ABRA-000927
Licensee: Chowder House Inc.
Trade Name: Mr. Smith's of Georgetown
License Class: Retailer's Class "C" Tavern
Address: 3205 K Street, N.W.
Contact: Ernesto Carrasco: 202-333-3104

WARD 2

ANC 2E

SMD 2E05

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 an Entertainment Endorsement to allow live piano player performances.

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

Sunday 10 am – 2 am, Monday through Thursday 11:30 am – 2 am, Friday 11:30 am – 3 am,
Saturday 10 am – 3 am

PROPOSED HOURS OF LIVE ENTERTAINMENT BEGINNING AFTER 6:00 PM

Monday through Thursday 9 pm – 1:30 am, Friday & Sunday 8 pm – 2:30 am

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015
Protest Date: September 30, 2015

License No.: ABRA-098879
Licensee: Pennsylvania 6 DC, LLC
Trade Name: Pennsylvania 6 DC
License Class: Retailer's Class "C" Restaurant
Address: 1350 Eye Street, N.W.
Contact: A. Kline: 202-686-7600

WARD 2

ANC 2C

SMD 2C01

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 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 4:30 pm on September 30, 2015.

NATURE OF OPERATION

A restaurant serving American food, including a raw bar. Seating for 239 with Total Occupancy Load of 350 and Sidewalk Cafe. No nude performances. No dancing.

HOURS OF OPERATION FOR INSIDE PREMISES AND OUTSIDE SIDEWALK CAFÉ

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

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

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

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Roll Call Hearing Date: July 20, 2015
Protest Hearing Date: September 30, 2015

License No.:
Licensee: NYPA, LLC
Trade Name: Reliable Tavern & Hardware
License Class: Retailer's Class "C" Tavern
Address: 3655 Georgia Avenue, N.W.
Contact: C. Webb: 202-277-7461

WARD 1

ANC 1A

SMD 1A08

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 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for September 30, 2015 at 1:30 pm.

NATURE OF OPERATION

A neighborhood tavern with a warm atmosphere serving quality food, and drinks. Various activities, including comedy, trivia, and sports on television will be offered. Entertainment Endorsement. Total Occupancy Load of 109, inside seating for 99.

HOURS OF OPERATION

Sunday 11am-2am, Monday through Thursday 4pm-2am, Friday 4pm-3am, Saturday 11am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday 11am-1:45am, Monday through Thursday 4pm-1:45am, Friday 4pm-2:45am, Saturday 11am-2:45am

HOURS OF LIVE ENTERTAINMENT

Sunday through Saturday 6pm-11pm

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015
Protest Date: September 30, 2015

License No.: ABRA-098536
Licensee: Soundcheck, LLC
Trade Name: Soundcheck
License Class: Retailer's Class "C" Nightclub
Address: 1420 K Street, N.W.
Contact: Danielle Balmelle: 202-714-2976

WARD 2

ANC 2F

SMD 2F05

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 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 4:30 pm on September 30, 2015.

NATURE OF OPERATION

Late night lounge with DJ, dancing and cover charge. Small plates/appetizers to be served during hours of sales and service with a total occupancy load of 239.

HOURS OF OPERATION

Sunday through Saturday 11am – 5 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT

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

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015
Protest Date: September 30, 2015

License No.: ABRA-098866
Licensee: Sugar, LLC
Trade Name: Sugar
License Class: Retailer's Class "C" Tavern
Address: 2121 K Street, N.W.
Contact: Andrew Kline, Esq.: 202-686-7600

WARD 2

ANC 2A

SMD 2A06

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 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on September 30, 2015.

NATURE OF OPERATION

A restaurant serving American food with 26 seats and a Total Occupancy Load of 50. Sidewalk cafe with 30 seats. Entertainment Endorsement to include occasional karaoke and DJ, but no dancing or nude performances.

HOURS OF OPERATION FOR INSIDE PREMISES AND OUTSIDE SIDEWALK CAFE

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

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR INSIDE PREMISES AND OUTSIDE SIDEWALK CAFE

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

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015
Protest Hearing Date: September 30, 2015

License No.: ABRA-098888
Licensee: Suns Cinema Inc.
Trade Name: Suns Cinema
License Class: Retailer's Class "C" Tavern
Address: 3107 Mt. Pleasant Street, N.W.
Contact: Andrew Kline: 202-686-7600

WARD 1

ANC 1D

SMD 1D04

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 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for September 30, 2015 at 1:30 pm.

NATURE OF OPERATION

Assisted living, nursing and apartment facility with a café room serving cocktails, beer and wine to dining residents. Entertainment will include occasional parties that may have some live music. Total Occupancy Load of 325. 240 total seats. Summer Garden with 40 seats.

HOURS OF OPERATION

Sunday through Thursday 8am – 12am, Friday & Saturday 8am – 2am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 12pm – 12am, Friday & Saturday 12pm – 2am

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 12pm - 12am, Friday & Saturday 12pm – 2 am

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

Sunday through Saturday 10am – 12am

HOURS OF LIVE ENTERTAINMENT FOR SUMMER GARDEN

Sunday through Saturday 6pm - 12am

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

Posting Date: May 22, 2015
Petition Date: July 6, 2015
Hearing Date: July 20, 2015
Protest Date: September 30, 2015

License No.: ABRA-098780
Licensee: Andrew Keegan Theatre Company (The)
Trade Name: The Andrew Keegan Theatre Company
License Class: Retailer's Class "DX" Multi-Purpose Facility
Address: 1742 Church Street, N.W.
Contact: Jeffery Klein: 202-230-1429

WARD 2

ANC 2B

SMD 2B07

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 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for September 30, 2015 at 4:30 pm.

NATURE OF OPERATION

New live theatre with performances, candy and snack items, and beverages. Total Occupancy Load of 150, Seating for 125. Entertainment Endorsement.

HOURS OF OPERATION

Sunday through Saturday 9am-11:30pm

HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION

Saturday through Sunday 1pm-11:30pm, Monday through Friday 6pm-11:30pm

HOURS OF LIVE ENTERTAINMENT ENDORSEMENT

Sunday through Saturday, 6pm-11:30pm

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

The Board of Elections shall consider in a public hearing whether the proposed measure “Fair Minimum Wage Act of 2016” is a proper subject matter for initiative at its regular meeting on Wednesday, July 1, 2015 at 10:30 a.m., One Judiciary Square, 441 4th Street, NW, Suite 280 North, Washington, D.C.

The Board requests that written memoranda be submitted for the record no later than 4:00 p.m., Thursday, June 25, 2015 to the Board of Elections, General Counsel’s Office, One Judiciary Square, 441 4th Street, NW, Suite 270 North, Washington, D.C. 20001.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number, and name of the organization represented (if any) by calling the General Counsel’s office at 727-2194 no later than 4:00 p.m., Friday, June 26, 2015.

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

SHORT TITLE

Fair Minimum Wage Act of 2016

SUMMARY STATEMENT

This initiative would raise D.C.’s minimum wage to \$12.50 per hour in July 2017, and then raise it each year after that until it reaches \$15.00 per hour in July 2020; after that it would apply D.C.’s existing requirement that the minimum wage be adjusted each year to match the rising cost of living. It would also gradually raise the minimum wage employers have to pay employees who receive tips until it matches the full minimum wage by July 2025. These increased minimum wage levels would not apply to employees of the D.C. government or of D.C. government contractors

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this measure may cited as the “Fair Minimum Wage Act of 2016”

--D.C. Code §32-1003--

Section 1. Section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), as amended by the Minimum Wage Amendment Act of 2013 (D.C. Law 20-459) is further amended as follows:

(a) Paragraph (6) of subsection (a) is amended to read as follows:

“(6) Except as provided in subsections (h) and (i) of this section, as of July 1, 2017, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be not less than \$12.50 an hour.”

(b) Subsection (a) is further amended by adding new paragraphs (7), (8), (9) and (10) to read as follows:

“(7) Except as provided in subsections (h) and (i) of this section, as of July 1, 2018, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be not less than \$13.25 an hour.

“(8) Except as provided in subsections (h) and (i) of this section, as of July 1, 2019, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be not less than \$14.00 an hour.

“(9) Except as provided in subsections (h) and (i) of this section, as of July 1, 2020, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be not less than \$15.00 an hour.

“(10)(A) Except as provided in subsections (h) and (i) of this section, beginning on July 1, 2021 and no later than July 1 of each successive year, the minimum wage provided in this subsection shall be increased in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of \$.05.

(B) The Mayor shall publish in the District of Columbia Register and make available to employers a bulletin announcing the adjusted minimum wage rate as provided in this paragraph. The bulletin shall be published at least 30 days before the annual minimum wage rate adjustment.”

(c) Subsection (f) is amended by redesignating subsection (f) thereof as subsection (f)(1) and adding to subsection (f) the following new paragraphs (2), (3), (4), (5), (6), (7), (8), (9) and (10) to read as follows:

“(2) Except as provided in subsections (h) and (i) of this section, as of July 1, 2017, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$4.50 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(3) Except as provided in subsections (h) and (i) of this section, as of July 1, 2018, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$6.00 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(4) Except as provided in subsections (h) and (i) of this section, as of July 1, 2019, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$7.50 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(5) Except as provided in subsections (h) and (i) of this section, as of July 1, 2020, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$9.00 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(6) Except as provided in subsections (h) and (i) of this section, as of July 1, 2021, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$10.50 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(7) Except as provided in subsections (h) and (i) of this section, as of July 1, 2022, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$12.00 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(8) Except as provided in subsections (h) and (i) of this section, as of July 1, 2023, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$13.50 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(9) Except as provided in subsections (h) and (i) of this section, as of July 1, 2024, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than \$15.00 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference

between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

“(10) Except as provided in subsections (h) and (i) of this section, as of July 1, 2025, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be not less than the minimum wage as set by subsection (a) of this section.”

(d) A new subsection (i) is added to read as follows:

“(i) The provisions of paragraphs (6), (7), (8), (9) and (10) of subsection (a) of this section, and the provisions of paragraphs (2), (3), (4), (5), (6), (7), (8), (9) and (10) of subsection (f) of this section shall not apply to employees of the District of Columbia, or to employees employed to perform services provided under contracts with the District of Columbia. Such employees shall continue to be subject to the minimum wage requirements of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code §§ 32-1003, et. seq.), as amended by the Enhanced Professional Security Amendment Act of 2008, effective March 20, 2008 (D.C. Law 17-114), as amended by the Minimum Wage Amendment Act of 2013 (D.C. Law 20-459), as they existed prior to the effective date of the Fair Minimum Wage Act of 2016, and to the requirements of all other applicable laws, regulations or policies relating to wages or benefits, including but not limited to, the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code §§ 2-220.1, et seq.).”

Section 3. Nothing in this act shall be construed as preventing the Council of the District of Columbia from increasing minimum wages or benefits to levels in excess of those provided for in this Act for any category of employees, including but not limited to those employees described in D.C. Official Code section 32-1003(i) as added by this Act.

Section 4. If any section of this act or its application to any persons or circumstances is held invalid, the remainder of this measure, or the application of its provisions to other persons or circumstances, shall not be affected. To this end, the provisions of this act are severable.

Section 5. This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), approved December 24, 1971 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)).

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. 15-11: Tilden Hall
3945 Connecticut Avenue NW
Square 2234, Lot 1
Applicant: Tilden Hall Corporation (property owner)
Affected Advisory Neighborhood Commission: 3F

The hearing will take place at **9:00 a.m. on Thursday, June 25, 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 4th 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 application is currently on file and available for inspection. A copy of the staff report and recommendation 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 or 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.

**DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
NOTICE OF PUBLIC HEARING**

Notice is hereby given that, pursuant to the requirements of D.C. Official Code Section 42-3171.03 (a)(1), the District of Columbia Department of Housing and Community Development (DHCD) has scheduled a public hearing on Wednesday, July 8, 2015 at 6:30 p.m. at DHCD 1st Floor Conference Room, 1800 Martin Luther King Avenue, SE, Washington, DC 20020, to consider the proposed disposition of the following property.

Development Site:

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
0369, 0068	930 M ST NW	Residential Apartment	2	C-2-C	No	OLD CITY II	\$68,600,200

A copy of the Agreement of Purchase and Sale between DHCD and Mount Vernon Plaza Associates will be posted on the DHCD web site.

The public hearing is being conducted in order to assure that residents are informed about the selling of the properties identified above to the named buyer, and to ensure that all residents have the opportunity to present publicly their views concerning such sale.

If you would like to present oral testimony, you are encouraged to register in advance either by e-mailing Andrea Lee at Andrea.Lee@dc.gov or by calling 202-478-1355.

Please provide your name, address, telephone number, and organization affiliation, if any. Telecommunications Device for the Deaf (TDD) relay service is available by calling (800) 201-7165. A sign language interpreter and language translation services are available upon request by calling Pamela Hillsman at 202-442-7251. If you require language translation, please specify which language (Spanish, Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French). Language translation services will be provided to pre-registered persons only. Deadline for requiring services of an interpreter is 7 days prior to the hearing. Bilingual staff will provide services on an availability basis to walk-ins without registration.

Written statements may be submitted at the hearing, or until 4:45 p.m., Friday, July 10, 2015, and should be addressed to: Polly Donaldson, Director, DC Department of Housing and Community Development, ATTN: PADD, 1800 Martin Luther King Jr., Avenue, SE, 2nd floor, Washington, D.C. 20020.

**DISTRICT OF COLUMBIA
OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC
DEVELOPMENT
NOTICE OF OUR RFP COMMUNITY WORKSHOP FOR PARCEL 42**

ACTION: Notice of a community workshop to be held June 13, 2015 at the Howard Theater at 620 T Street, NW. The purpose of the meeting is to engage the public in a discussion of the future redevelopment of Parcel 42, a District owned property located in the Shaw neighborhood in Ward 6.

SUMMARY: The Deputy Mayor for Planning and Economic Development (DMPED) is hosting a community workshop to engage the public through a new initiative called “Our RFP.” In order to better understand community priorities, needs, concerns and aspiration for a development site before issuing a Request for Proposal (RFP), DMPED, in coordination with the Office of Planning (OP), is piloting “Our RFP” on Parcel 42, located in the Shaw Neighborhood, at the intersection of 7th Street NW and Rhode Island Avenue. The public input will be used to inform the RFP process and to better guide the development community in submitting proposals that are aligned with the public’s priorities.

The development parcels, in square 0442, consists of Lot 0106 (15, 317 square feet) and Lot 0803 (1,693 square feet). This Mayoral initiative seeks to engage affected and interested communities in the future redevelopment of District owned property.

DMPED, in coordination with OP, is hosting a community workshop on June 13, 2015 from 10:00am to 12:00pm at the Howard Theater located at 620 T Street NW, Washington, DC 20001. The meeting will be held on the main level of the theater.

If you need language translation or interpretation services, please notify Anna Shapiro at anna.shapiro@dc.gov or (202) 262-6401

For further information please contact:

**Anna Shapiro
Project Manager
Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue NW, Suite 317
Washington, DC 20004
Phone: (202) 724-8905
Fax: (202) 727-6703
Email: anna.shapiro@dc.gov**

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

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

The District will conduct a public meeting to receive public comments on the proposed surplus of District property. **Please note that written comments will be accepted until Friday, June 19th, 2015.** The date, time and location shall be as follows:

- Property:** “8th and O Streets, N.W.”
1336 8th Street, N.W., Washington D.C.
Lot 0068 in Square 0399
- Date:** Tuesday, June 16th, 2015
- Time:** 7:00 p.m.
- Location:** Immaculate Conception Church/Center City Public Charter School
711 N Street, N.W.
Washington, D.C. 20001
- Contact:** Joseph Lapan, Joseph.Lapan@dc.gov
202-727-6365

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**NOTIFICATION OF CHARTER AMENDMENT**

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice, dated Monday, May 11, 2015, of Creative Minds International Public Charter School’s request to amend its charter to relocate to a new facility located at 3700 North Capitol Street effective August 1, 2015. PCSB will hold a public hearing during the regularly scheduled board meeting on Monday, June 15, 2015 at 6:30pm. For further information, please contact Ms. Laterica Quinn, Equity and Fidelity Specialist, at 202-328-2660. Please contact 202-328-2660 or email public.comment@dcpsb.org to submit public comment; comments must be submitted on or before the conclusion of the public hearing on June 15, 2015.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, JULY 14, 2015
441 4TH 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 FOUR

19038
ANC-4C **Application of Murillo Malnati Group, LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow the construction of a new six-story, mixed-use building containing 20 dwelling units and ground floor retail in the GA/C-3-A District at premises 3831 Georgia Avenue N.W. (Square 3028, Lot 809).

WARD TWO

19039
ANC-2A **Application of Wiley Chambers**, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the floor area requirements under § 402, to construct a balcony with staircase to an existing one-family dwelling in the FB/R-3 District at premises 2536 Queen Annes Lane N.W. (Square 16, Lot 91).

WARD FIVE

19036
ANC-5E **Application of Jeanette M. Corley**, pursuant to 11 DCMR § 3103.2, for a variance from the use requirements under § 201.1(k), to allow the conversion of an existing one-family dwelling into a flat in the R-3 District at premises 17 Franklin Street N.E. (Square 3501, Lot 103).

WARD SEVEN

19040
ANC-7C **Application of District Properties.com Inc.**, pursuant to 11 DCMR § 3103.2, for variances from the lot area and width requirements under § 401, and the side yard requirements under § 405, to allow the construction of a new two-story, one-family dwelling on a vacant lot in the R-2 District at premises 6002 Clay Street N.E. (Square 5266, Lot 11).

WARD SEVEN

19041
ANC-7C **Application of District Properties.com Inc.**, pursuant to 11 DCMR § 3103.2, for variances from the lot area and width requirements under § 401, and

BZA PUBLIC HEARING NOTICE

JULY 14, 2015

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the side yard requirements under § 405, to allow the construction of a new two-story, one-family dwelling on a vacant lot in the R-2 District at premises 4926 Foote Street N.E. (Square 5180, Lot 3).

WARD EIGHT

19042 **Application of District Properties.com Inc.**, pursuant to 11 DCMR §
ANC-8D 3103.2, for variances from the lot area and width requirements under § 401, and
the side yard requirements under § 405, to allow the construction of a new two-
story, one-family dwelling on a vacant lot in the R-5-A District at premises 4275
6th Street S.E. (Square 6207, Lot 48).

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. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

LLOYD J. JORDAN, CHAIRMAN, MARNIQUE Y. HEATH, VICE CHAIRPERSON, JEFFREY L. HINKLE, ONE BOARD SEAT VACANT, AND A MEMBER OF THE ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), hereby gives notice of the adoption of the amended Chapter 83 (Rent and Housing Assistance Payments) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to amend the payment standard to one hundred thirty percent (130%) of the Fair Market Rents for all sized units in the District of Columbia.

An emergency and proposed rulemaking was published in the *D.C. Register* on March 20, 2015, at 62 DCR 3484. This rulemaking was adopted as final at the Board of Commissioners regular meeting on May 13, 2015. The final rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 83, RENT AND HOUSING ASSISTANCE PAYMENTS, of Title 14 DCMR, HOUSING, is amended as follows:

Section 8300, PAYMENT STANDARD AMOUNT, is amended as follows:

Subsection 8300.2(e) is amended to read as follows:

- (e) The Payment Standard is up to one hundred thirty percent (130%) of the Fair Market Rents for all size units in all areas of the District of Columbia. Any change to the Payment Standard shall be implemented by regulatory action of the Commission and shall apply to all vouchers issued after the date of the adoption of any regulation modifying the Payment Standard.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL 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 amendments to Chapter 8 raise the wait time rate in § 801.7(c)(1)(C) from the current amount of twenty five dollars (\$25) per hour to thirty five dollars (\$35) per hour to make it consistent with the other time-based taximeter rate (the hourly contract rate in § 801.7(b)). The amendments also make grammar, style, and technical corrections.

The proposed rulemaking was adopted by the Commission on January 14, 2015 and published in the *D.C. Register* on March 6, 2015 at 62 DCR 002780. The Commission did not receive any comments during the comment period which expired on April 6, 2015. No substantial changes were required and no substantial changes have been made.

The Commission voted to adopt this rulemaking as final on April 8, 2015, and it will become effective upon publication in the *D.C. Register*.

CHAPTER 8, OPERATION OF PUBLIC VEHICLES FOR HIRE, 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.

OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF PROPOSED RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06 (2012 Repl.)) (the “Act”), hereby gives notice of the intent to adopt final rulemaking to amend Chapter 20 (Special Contracting Methods) of Title 27 (Contracts and Procurement) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking updates Chapter 20 and implements the provisions in the Act that apply to special contracting methods, including multiyear contracts and contract options. The current Chapter 20 contains regulations that are outdated and inconsistent with the Act.

The CPO gives notice of intent to take final rulemaking action in not less than thirty (30) days from the date of publication in the *D.C. Register*.

Chapter 20, SPECIAL CONTRACTING METHODS, of Title 27 DCMR, CONTRACTS AND PROCUREMENTS is amended as follows:

Section 2000, MULTIYEAR CONTRACTS, is amended to read as follows:

2000 MULTIYEAR CONTRACTS

- 2000.1 Unless prohibited by an appropriations act, a contracting officer may enter into a multiyear contract to obtain goods and services for any period of time deemed to be in the best interest of the District, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting, and the contract is consistent with the requirement of § 2000.2 of this chapter. Payment and performance obligations for succeeding fiscal periods shall be subject to availability and appropriations of funds.
- 2000.2 A multiyear contract is authorized where the contracting officer determines that:
- (a) Estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - (b) The multiyear term would encourage effective competition, promote economies in District procurement, or otherwise be in the best interest of the District.
- 2000.3 Multiyear contracting may be used in a procurement by competitive sealed bids or competitive sealed proposals or in a sole source procurement.

2000.4 Budget authority to fund a multiyear contract shall be obligated on an annual basis. The initial obligation of funds shall be for the period between the date of contract award through the end of the fiscal year in which the contract award occurs. Thereafter, each subsequent obligation of funds shall be made one (1) fiscal year at a time and must cover the contract amount that will be incurred in the fiscal year in which the contract work will be performed. First fiscal year requirements of the contract, and funds for requirements in each subsequent contract term, shall be obligated one (1) fiscal year at a time.

Section 2001, CANCELLATION OF MULTIYEAR CONTRACTS, is amended to read as follows:

2001 CANCELLATION OF MULTIYEAR CONTRACTS

2001.1 At the end of each fiscal year, a multiyear contract shall be canceled if sufficient budget authority is not available to fund the contract during a subsequent fiscal year.

2001.2 If a multiyear contract is canceled due to unavailability of funds, the contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the goods delivered or services performed under the contract.

2001.3 If a multiyear contract is terminated for the convenience of the District, including items subject to cancellation, the District’s obligation shall not exceed the amount specified for contract performance plus the reasonable value of any nonrecurring costs incurred but not amortized in the price of the goods delivered or services performed under the contract.

2001.4 The costs of cancellation under §§ 2001.2 or 2001.3 may be paid from appropriations available for such purposes.

Section 2002, MULTIYEAR CONTRACT SOLICITATIONS, is amended to read as follows:

2002 MULTIYEAR CONTRACT SOLICITATIONS

2002.1 A solicitation for a multiyear contract shall include:

- (a) The amount of supplies or services required or the proposed contract period;
- (b) A unit price for each supply or service, which unit prices shall be the same throughout the contract (except to the extent price adjustments may be provided in the solicitation or resulting contract);

- (c) A clause stating that the multiyear contract will be cancelled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first and a statement that this clause does not affect either the District’s rights or the contractor’s rights under any termination clause in the contract; and
- (d) Whether bidders or offerors may submit prices for:
 - (1) The first fiscal period only;
 - (2) The entire time of performance only; or
 - (3) Both the first fiscal period and the entire time of performance.

Section 2003, LOWEST EVALUATED UNIT PRICE, is repealed and replaced with:

2003 [RESERVED]

Section 2004, CANCELLATION CEILING, is repealed and replaced with:

2004 [RESERVED]

Section 2005, USE OF OPTIONS, is amended to read as follows:

2005 USE OF OPTIONS

- 2005.1 The period within which an option may be exercised may extend beyond the date specified for completion of the services in a contract for services, but in no event shall the option be exercised after the contract term has expired.
- 2005.2 The base period in a contract for services or goods shall not exceed one (1) year, unless the contract is funded from an appropriation that is available for more than one (1) year or is a multiyear contract. The total of the base and option periods in a contract for services or goods shall not exceed five (5) years unless:
 - (a) Prior to solicitation, the Director determines in writing that it is in the best interest of the District, and the solicitation for the contract specifies the total of the base and option periods of the contract; or
 - (b) Prior to the expiration of a contract, the Director determines in writing that it is in the best interest of the District to extend the term beyond the total term specified in the contract and the contracting officer provides justification for using a sole source modification in accordance with Chapter 17 of this title.
- 2005.3 The price of each option shall be readily discernible from the contract provisions.

Section 2006, SOLICITATION OF CONTRACT WITH OPTIONS, is repealed and replaced with:

2006 [RESERVED]

Section 2007, EVALUATION OF OPTIONS, is repealed and replaced with:

2007 [RESERVED]

Section 2008, EXERCISE OF OPTIONS, is amended to read as follows:

2008 EXERCISE OF OPTIONS

2008.1 When exercising an option, the contracting officer shall provide written notice to the contractor within the time period specified in the contract.

Section 2099, DEFINITIONS, is amended to read as follows:

2099 DEFINITIONS

2099.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Director - the Director of the Office of Contracting and Procurement (OCP) or the District of Columbia Chief Procurement Officer (CPO).

Multiyear contract - as used in this chapter, a contract for a period longer than twelve (12) months that is funded by annual appropriations.

Nonrecurring costs - those production costs which are generally incurred on a one-time basis and include costs such as plant or equipment relocation, plant rearrangement, pre-production engineering, initial spoilage and rework, and specialized work force training.

Option - a unilateral right in a contract under which, for a specified time, the District may elect to extend the term of a contract.

Recurring costs - the production costs that vary with the quantity being produced, such as labor and materials.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments to the Chief Procurement Officer, 441 4th Street, 700 South, Washington, D.C. 20001. Comments may be sent by email to OCPRulemaking@dc.gov, by postal mail or hand delivery to the address above, or by calling (202) 727-0252. Comments must be received no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be requested at the same address, e-mail, or telephone number as above.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act), effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a); 38-1202.06)(3),(13) (2012 Repl.)), hereby gives notice of its intent to amend Chapter 7 (Admissions and Academic Standards) of Subtitle B (University of the District of Columbia), Title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed rule is to adjust tuition rates for degree-granting programs beginning in the fall semester of 2016.

The Board of Trustees will take final action to adopt these amendments to the University Rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 7, ADMISSIONS AND ACADEMIC STANDARDS, of Title 8-B, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

Section 728, TUITION AND FEES: DEGREE-GRANTING PROGRAMS, Subsection 728.1, is amended as follows:

728.1 The following tuition and fees have been approved by the Board of Trustees consistent with D.C. Official Code § 38-1202.06(8):

Subsection 728.2 is amended as follows:

728.2 COMMUNITY COLLEGE ASSOCIATE DEGREE-GRANTING PROGRAMS

	<u>Per Credit Hour</u>
Washington, D.C. Residents	\$105.00
Metropolitan Area Residents	\$177.00
All Other Residents	\$298.00

Subsection 728.3 is amended as follows:

728.3 FLAGSHIP BACCALAUREATE DEGREE-GRANTING PROGRAMS

	<u>Per Credit Hour</u>
Washington, D.C. Residents	\$291.00
Metropolitan Area Residents	\$336.00
All Other Residents	\$610.00

Subsection 728.4 is amended as follows:

728.4	FLAGSHIP GRADUATE DEGREE-GRANTING PROGRAMS	
		<u>Per Credit Hour</u>
	Washington, D.C. Residents	\$461.00
	Metropolitan Area Residents	\$521.00
	All Other Residents	\$886.00

Subsection 728.5 is amended as follows:

728.5	DAVID A. CLARKE SCHOOL OF LAW DEGREE-GRANTING PROGRAMS FULL TIME PROGRAM STUDENTS (FALL & SPRING SEMESTERS ONLY)	
		<u>Per Semester</u>
	Washington, D.C. Residents	\$5,585.00
	All Other Residents	\$11,169.00

Subsection 728.6 is amended as follows:

728.6	DAVID A. CLARKE SCHOOL OF LAW DEGREE-GRANTING PROGRAMS ALL OTHER STUDENTS	
		<u>Per Credit Hour</u>
	Washington, D.C. Residents	\$379.00
	All Other Residents	\$757.00

Subsection 728.7 is amended as follows:

- 728.7 DEFINITIONS
- (a) Full-Time Students. Any undergraduate or community student enrolled in at least twelve (12) credits hours per semester, or any graduate student enrolled in at least nine (9) credit hours per semester, shall be considered a full-time student for the purposes of calculation of tuition in accordance with this chapter. Full-time undergraduate and community college students shall be charged tuition for each semester in which they are enrolled in the amount of twelve (12) credit hours, regardless of the number of credit hours actually taken. Full-time graduate students shall be charged tuition for each semester in which they are enrolled in the amount of nine (9) credit hours, regardless of the number of credit hours actually taken.
 - (b) Metropolitan Area Residents. Any individual who can establish residency in one of the following counties shall be considered a Metropolitan Area Resident: Montgomery County, Maryland; Prince George’s County,

Maryland; Arlington County, Virginia; Alexandria County, Virginia; Fairfax County, Virginia. The standards used to establish residency shall be the same standards used to establish residency for District residents.

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of General Counsel, Building 39- Room 301-Q, University of the District of Columbia, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Comments may also be submitted by email to smills@udc.edu. Individuals wishing to comment by email must include the phrase "Comment to Proposed Rulemaking: Tuition" in the subject line.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.774; D.C. Official Code § 1-307.02 (2014 Repl.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of a new Section 988, entitled “Medicaid Fee Schedule,” of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

DHCF reimburses Medicaid providers, other than institutional providers, in accordance with the District’s approved State Plan for Medical Assistance. Medicaid rates are based upon a percentage of Medicare rates, and all rates are included on the Medicaid Fee Schedule, which is then posted on a website maintained by DHCF. The fee schedule requires periodic adjustments, when necessary, to reflect changes in: Federal rates; Federal and District policy requirements; nationally-recognized coding systems; medical practice, and the relative value of services. These rules will require DHCF to publish a notice in the *D.C. Register* at least thirty (30) days prior to the effective date of changes to the Medicaid fee schedule.

In order to prevent impediments that adversely affect access to quality Medicaid services and accurate reimbursements for services delivered by Medicaid providers, DHCF must have the ability to periodically update and adjust the fee schedule. Accordingly, emergency action is necessary for the immediate preservation of the health, safety and welfare of persons receiving these services.

The emergency rulemaking was adopted on May 14, 2015 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days until September 11, 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*.

A new Section 988, MEDICAID FEE SCHEDULE, is added to Chapter 9, MEDICAID PROGRAM, of Title 29 DCMR, PUBLIC WELFARE, to read as follows:

988 MEDICAID FEE SCHEDULE

- 988.1 The Medicaid fee schedule includes reimbursement rates for Medicaid covered services and is posted at www.dc-medicaid.com.
- 988.2 Medicaid covered services that are listed on the fee schedule include, but are not limited to, the following services:

- (a) Laboratory and x-ray services;
- (b) Physicians' services;
- (c) Medical care and other types of remedial care;
- (d) Home health services;
- (e) Dental services;
- (f) Durable Medicaid Equipment (DME);
- (f) Diagnostic, screening, preventive, and rehabilitative services; and
- (g) Hospice care.

988.3 DHCF shall review the Medicaid fee schedule periodically and may adjust the fee schedule where necessary to:

- (a) Comply with changes in federal or District rates, policies or requirements;
- (b) Comply with changes in nationally-recognized coding systems, such as Healthcare Common Procedure Coding System (HCPCS), Current Procedural Terminology (CPT), and Code on Dental Procedures and Nomenclature (CDT);
- (c) Establish an initial allowable amount for a new procedure or a procedure based on information that was not available when the fee schedule was established for the current calendar year; and
- (d) Adjust the allowable amount when DHCF determines that the current allowable amount is:
 - (1) Not appropriate for the service provided;
 - (2) Based on errors in data or calculation; or
 - (3) Ineffective for proper or efficient administration of the State Medicaid Program.

988.4 DHCF shall publish a Public Notice in the *D.C. Register* which informs the public of changes to the Medicaid fee schedule. The Public Notice shall be published at least thirty (30) calendar days in advance of the change. The Notice shall describe the type of change, the reason for the change, the effective date of the change, and the Medicaid reimbursement rate.

988.5 In those instances where the Medicaid fee is also included in a rule, DHCF shall amend and publish the revised rule in the *D.C. Register*.

999 DEFINITIONS

999.x For purposes of this section, the following terms shall have the meanings ascribed:

Medicaid Fee Schedule - a comprehensive list of fee maximums used to reimburse providers on a fee-for-service basis.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFpubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Section 1914, entitled “Vehicle Modification 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 for vehicle modification 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 (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Emergency Amendment Act of 2014, signed July 14, 2014 (D.C. Act 20-377; 61 DCR 007598 (August 1, 2014)). The amendment must also be approved by CMS, which will affect the effective date of for the emergency rulemaking.

Vehicle modifications are designed to help the person live his/her life with greater independence and to increase access to the community. The adaptations or modifications to a vehicle may include the installation of a lift or other adaptations to make the vehicle accessible to the person, or to enable the person to drive the vehicle. The current Notice of Final Rulemaking for 29 DCMR § 1914 (Vehicle Modification Services) was published in the *D.C. Register* on March 14, 2014, at 61 DCR 002108. These rules amend the previously published final rules by: (1) clarifying service definition exclusions; (2) clarifying service authorization requirements for vehicle modification services; (3) clarifying requirements to request additional services beyond the limitations or caps on a service; (4) removing the exclusion under the previous rule that prohibited caregivers who provide Host Home services from utilizing Vehicle Modifications; and (5) clarifying that the service may not be used with Supported Living with Transportation.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of waiver participants who are in need of vehicle modification services. The new requirements will enhance the quality of services. Therefore, in order to ensure that the person’s health, safety, and welfare are not threatened by lack of access to needed vehicle modification services provided pursuant to the updated delivery guidelines, it is necessary that these rules be published on an emergency basis.

The emergency rulemaking was adopted on May 8, 2015, but these rules shall become effective for services rendered on or after May 8, 2015, if the corresponding amendment to the ID/DD Waiver has been approved by CMS with an effective date of May 8, 2015, or on the effective date established by CMS in its approval of the corresponding ID/DD Waiver amendment, whichever is later. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until September 5, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. If approved, DHCF shall publish the effective date with the Notice of Final Rulemaking.

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*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Subsections 1914.3, 1914.9, 1914.12, 1914.13, and 1914.17 of Section 1914, VEHICLE MODIFICATION SERVICES, are amended to read as follows:

- 1914.3 In order to be eligible for reimbursement, each Medicaid provider must obtain prior authorization from the Department on Disability Services (DDS) before providing VM services. The request for prior authorization shall include a written justification demonstrating how the services will help the person to function with greater independence and increase his/her access to the community. The vehicle being serviced shall be owned by the person or the person's family, guardian, or other primary caretaker who is not providing Residential Habilitation Services, Supported Living Services or Supported Living Services with Transportation.
- 1914.9 Before pre-authorization of any VM services, the vehicle owner shall submit at least two (2) written bids from providers for the service to the DDS service coordinator for comparison, in order to determine the most cost efficient use of Medicaid waiver funding for the service.
- 1914.12 Medicaid reimbursable VM services shall be available for modification of no more than two (2) vehicles over the course of five (5) years and shall not exceed a total of ten thousand dollars (\$10,000), unless the person receives service authorization from DDS through the exception process in § 1914.13.
- 1914.13 Exceptions to the ten thousand dollar (\$10,000) limit and/or the two (2) vehicle limit over the course of five (5) years may be approved by DDS on a case-by-case basis by the DDS Medicaid Waiver Supervisor or a designated Developmental Disabilities Administration (DDA) staff member for persons who demonstrate need. The request for exception must be in writing and must specify the amount

requested above the \$10,000 limit; describe the demonstrated need for the exception; and include supporting documentation.

- 1914.17 Medicaid reimbursable VM services shall not be provided to those persons receiving residential supports through Residential Habilitation, Supported Living, or Supported Living with Transportation.

Comments on these emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF THIRD EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 1919, entitled “Behavioral Support 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 third emergency and proposed rules establish standards governing reimbursement of behavioral support services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and conditions of participation for providers.

The Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services for a five- (5) year period beginning November 20, 2012. The current Notice of Final Rulemaking for 29 DCMR § 1919 (Behavioral Support Services) was published in the *D.C. Register* on February 28, 2014, at 61 DCR 001655. A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on October 3, 2014, at 61 DCR 010394. DHCF received and considered comments in response to the first emergency and proposed rules and promulgated a Notice of Second Emergency and Proposed Rulemaking, which was published in the *D.C. Register* on March 13, 2015, at 61 DCR 003143. The second emergency and proposed rules amended the previously published emergency and proposed rules by: (1) increasing the rate for one-to-one behavioral support services provided by Direct Support Professionals, using the approved rate methodology, to reflect the anticipated increase in the D.C. Living Wage for 2015 and 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.)); (2) adding language in Subsection 1919.5(b) to specify that a person can qualify for Medicaid reimbursable one-to-one behavioral supports if the person exhibits self-injurious behavior that poses a serious risk to the person’s safety; (3) adding language to Subsection 1919.7(d) clarifying that day service staff are members of a person’s support team and that training of those staff is a Medicaid reimbursable behavioral support service; (4) clarifying that functional assessments shall be performed in the residential community settings, as applicable; (5) modifying the responsibilities of a Direct Support Professional who is providing one-to-one supports; and (6) adding a definition of “Mental Health Rehabilitation Services.” The second emergency and proposed rules were adopted on January 7, 2015, became effective on that date, and will remain in effect until May 7, 2015. DHCF did not receive written comments to the second emergency and proposed rulemaking but is promulgating this Notice of Third Emergency and Proposed Rulemaking to continue the changes reflected in the first two notices of emergency and proposed rulemaking described above.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of behavioral support 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 these rules be published on an emergency basis.

The emergency rulemaking was adopted on May 11, 2015 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until September 8, 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*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 1919, BEHAVIORAL SUPPORT SERVICES, is amended to read as follows:

1919 BEHAVIORAL SUPPORT SERVICES

- 1919.1 The purpose of this section is to establish standards governing Medicaid eligibility for behavioral support services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver), and to establish conditions of participation for providers of behavioral support services.
- 1919.2 Behavioral support services are designed to assist persons who exhibit behavior that is extremely challenging and frequently complicated by medical or mental health factors.
- 1919.3 To qualify for Medicaid reimbursable behavioral support services, the person shall have specific behavioral support needs that jeopardize their health, safety, and wellbeing and/or interfere with their ability to gain independence and acquire community living skills.
- 1919.4 Medicaid reimbursable behavioral support services shall:
- (a) Be recommended by the person's support team;
 - (b) Be identified in the person's ISP and Plan of Care;
 - (c) Be prior authorized by DDS before the commencement of services; and

- (d) Be recommended by a physician or Advanced Practice Registered Nurse (APRN) if the services are one-to-one behavioral supports related to a medical condition.

1919.5 To qualify for Medicaid reimbursable one-to-one behavioral supports, a person shall meet one (1) of the following characteristics:

- (a) Exhibit elopement resulting in serious risk to the safety of self or others;
- (b) Exhibit behavior that is life threatening to self and others;
- (c) Exhibit destructive behavior causing serious property damage;
- (d) Exhibit sexually predatory behavior;
- (e) Exhibit self-injurious behavior that poses a serious risk to the person's safety; or
- (f) Have a medical condition that requires one-to-one services.

1919.6 In order to be eligible for Medicaid reimbursement, a physician or APRN shall issue an order for one-to-one behavioral supports associated with a medical condition which shall meet the requirements of DDS's policies and procedures and shall include and not be limited to the following information:

- (a) A specific time period or duration for the delivery of services;
- (b) A description of the medical condition that causes the person's health or safety to be at risk; and
- (c) The responsibilities of each staff person delivering supports; and
- (d) A justification for the need for one-to-one behavioral supports.

1919.7 Medicaid reimbursable behavioral support services shall consist of the following activities:

- (a) Development of a Diagnostic Assessment Report (DAR) in accordance with the requirements described under Subsection 1919.16;
- (b) Development of a Behavior Support Plan (BSP) in accordance with the requirements described under Subsections 1919.17 through 1919.19;
- (c) Implementation of positive behavioral support strategies and principles based on the DAR and BSP;

- (d) Training of the person, their family, their support team, and the providers of their day services, to implement the BSP;
 - (e) Evaluation of the effectiveness of the BSP by monitoring the plan at least monthly, developing a system for collecting BSP-related data, and revising the BSP;
 - (f) Counseling and consultation services for the person and their support team; and
 - (g) Participating in the person's quarterly medication review.
- 1919.8 Within ninety (90) days of service authorization, a provider of Medicaid reimbursable behavioral supports services shall:
- (a) Administer the diagnostic assessment;
 - (b) Complete the DAR based on the results of the diagnostic assessment and the accompanying behavioral support referral worksheet ("worksheet"); and
 - (c) Complete the BSP when recommended by the DAR.
- 1919.9 The DAR shall be effective for three (3) years except as indicated in Subsection 1919.10, or for persons receiving one-to-one behavioral supports, which shall be updated annually. The behavioral supports provider shall submit a diagnostic update to amend the DAR and accompanying worksheet to the Department on Disability Services (DDS) Service Coordinator.
- 1919.10 When a person experiences changes in psychological or clinical functioning, the behavioral supports provider shall submit a diagnostic update to amend the DAR and accompanying worksheet to the DDS Service Coordinator at any time during the three- (3) year period, upon the recommendation of the support team.
- 1919.11 The worksheet accompanying the DAR shall include the number of hours requested for professional and paraprofessional staff services to address recommendations in the DAR.
- 1919.12 The diagnostic update shall include a written clinical justification supporting the reauthorization of services.
- 1919.13 The diagnostic update shall be reviewed by the person and their support team in consultation with behavioral supports staff.

- 1919.14 The BSP shall be effective for one (1) calendar year which shall correspond with the person's ISP year, unless revised or updated in accordance with the recommendations of the DAR and accompanying worksheet.
- 1919.15 To be eligible for Medicaid reimbursement, the diagnostic assessment shall include the following activities:
- (a) Direct assessment techniques such as observation of the person in the setting in which target behaviors are exhibited, and documentation of the frequency, duration, and intensity of challenging behaviors;
 - (b) Indirect assessment techniques such as interviews with the person's family members and support team, written record reviews, and questionnaires; and
 - (c) A written evaluation of the correlation between the person's environmental, psychological, and medical influences and the occurrence of behavioral problems.
- 1919.16 To be eligible for Medicaid reimbursement, the DAR shall include the following:
- (a) The names of individuals to contact in the event of a crisis;
 - (b) A summary of the person's cognitive and adaptive functioning status;
 - (c) A full description of the person's behavior including background, and environmental contributors;
 - (d) The counseling and problem-solving strategies used to address behavioral problems and their effectiveness;
 - (e) A list of less restrictive interventions utilized, the results, and an explanation of why the interventions were unsuccessful;
 - (f) A list of proposed goals for achieving changes in target behaviors; and
 - (g) The recommendations to initiate, continue, or discontinue behavioral support services.
- 1919.17 In order to be eligible for Medicaid reimbursement, the BSP shall be developed utilizing the following activities:
- (a) Interviews with the person and their support team;
 - (b) Observations of the person at his/her residence and in the community, if applicable; and

- (c) Review of the person's medical and psychiatric history including laboratory and other diagnostic studies, and behavioral data.

1919.18 In order to be eligible for Medicaid reimbursement, the behavioral supports staff that develops the BSP shall be responsible for:

- (a) The coordination of the delivery of behavioral support services in the person's residential and day activity settings; and
- (b) Obtaining the person's written informed consent and the approval of the person's substitute decision-maker, the support team, the provider's human rights committee, and DDS, when required by DDS's policies and procedures.

1919.19 In order to be eligible for Medicaid reimbursement, the BSP shall include the following:

- (a) A clear description of the targeted behavior(s) that is consistent with the person's diagnosis;
- (b) The data reflecting the frequency of target behaviors;
- (c) A functional behavioral analysis of each target behavior;
- (d) A description of techniques for gathering information and collecting data;
- (e) The proactive strategies utilized to foster the person's positive behavioral support;
- (f) The measurable behavioral goals to assess the effectiveness of the BSP;
- (g) If restrictive techniques and procedures are included, the rationale for utilizing the procedures and the development of a fade-out plan; and
- (h) Training requirements for staff and other caregivers to implement the BSP.

1919.20 Each provider of behavioral support services shall comply with Sections 1904 (Provider Qualifications) and 1905 (Provider Enrollment) of Chapter 19 of Title 29 DCMR and consist of one (1) of the following provider types:

- (a) A professional service provider in private practice as an independent clinician, as described in Section 1904 (Provider Qualifications) of Chapter 19 of Title 29 DCMR;

- (b) A Mental Health Rehabilitation Services agency (MHRS) certified in accordance with the requirements of Chapter 34 of Title 22-A DCMR;
- (c) A home health agency as described in Section 1904 (Provider Qualifications), of Chapter 19 of Title 29 DCMR; or
- (d) A HCBS Provider, as described under Section 1904 (Provider Qualifications), of Chapter 19 of Title 29 DCMR.

1919.21 In order to be eligible for Medicaid reimbursement, each MHRS shall agency serve as a clinical home by providing a single point of access and accountability for the provision of behavioral support services and access to other needed services.

1919.22 Individuals authorized to provide professional behavioral support services without supervision shall consist of the following professionals:

- (a) A psychiatrist;
- (b) A psychologist;
- (c) An APRN or a Nurse-Practitioner (NP) ; and
- (d) A Licensed Independent Clinical Social Worker (LICSW).

1919.23 Individuals authorized to provide paraprofessional behavioral support services under the supervision of qualified professionals described under Subsection 1919.22 shall consist of the following behavior management specialists:

- (a) Licensed Professional Counselor;
- (b) Licensed Social Worker (LISW);
- (c) Licensed Graduate Social Worker (LGSW);
- (d) Board Certified Behavior Analyst;
- (e) Board Certified Assistant Behavior Analyst; and
- (f) Registered Nurse.

1919.24 In order to receive Medicaid reimbursement, the minimum qualifications to draft a BSP shall be master's level degree psychologist working under the supervision of a psychologist or a LICSW.

- 1919.25 In order to receive Medicaid reimbursement, the minimum qualifications for providing consultation are a master's level psychologist, APRN, LICSW, LGSW or licensed professional counselor, with at least one (1) year of experience in serving people with developmental disabilities. Knowledge and experience in behavioral analysis shall be preferred.
- 1919.26 In order to receive Medicaid reimbursement, a LGSW may provide counseling under the supervision of an LICSW or a LISW in accordance with the requirements set forth in Section 3413 of Chapter 34 of Title 22-A DCMR.
- 1919.27 In order to receive Medicaid reimbursement, each DSP providing behavioral support services and/or one-to-one behavioral supports shall meet the following requirements:
- (a) Comply with Section 1906 (Requirements for Persons Providing Direct Services) of Chapter 19 of Title 29 DCMR;
 - (b) Possess specialized training in physical management techniques where appropriate, positive behavioral support practices, and all other training required to implement the person's specific BSP; and
 - (c) When providing one-to-one supports, the DSP shall provide exclusive supports to ensure the person's safety, health and well-being in addition to implementation of all habilitative supports and services.
- 1919.28 Each provider of Medicaid reimbursable behavioral support services shall meet the requirements established under Section 1908 (Reporting Requirements) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.
- 1919.29 In order to be eligible for Medicaid reimbursement, each provider of Medicaid reimbursable behavioral supports services shall maintain the following documents for monitoring and audit reviews:
- (a) A copy of the DARs and accompanying worksheets;
 - (b) A copy of the BSPs;
 - (c) A current copy of the behavioral support clinician's professional license to provide clinical services;
 - (d) The documentation and data collection related to the implementation of the BSP;
 - (e) The records demonstrating that the data was reviewed by appropriate staff; and

- (f) The documents required to be maintained under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR.

1919.30 Medicaid reimbursement for behavioral support services shall be limited on an annual basis as set forth below. Services provided that exceed the limitations shall not be reimbursed except as provided in Subsection 1919.31:

- (a) Development of a new BSP shall be limited to ten (10) hours;
- (b) Reviewing and updating the existing BSP shall be limited to six (6) hours;
- (c) Training of the person, their family, the support team, and residential and day staff, shall be limited to twelve (12) hours;
- (d) On-site counseling, consultation and observations shall be limited to twenty-six (26) hours;
- (e) Participation in behavioral review or treatment team meetings, delivering notes including emergency case conferences, hospital discharge meetings, interagency meetings, pre-ISP and ISP meetings, and human rights meetings shall be limited to twelve (12) hours;
- (f) Monitoring of quarterly medication reviews, reports and monthly data monitoring shall be limited to eight (8) hours; and
- (g) Participation in psychotropic medication review meetings to deliver notes shall be limited to three (3) hours.

1919.31 In order to be eligible for Medicaid reimbursement, requests for additional hours beyond the annual limits described in Subsection 1919.30 may be approved by the DDS upon the submission of a diagnostic update to amend the DAR and accompanying worksheet.

1919.32 In order to be eligible for Medicaid reimbursement, requests for counseling as a behavioral support service shall be approved by a DDS designated staff member and shall be limited to counseling services that are not available under the District of Columbia State Plan for Medical Assistance.

1919.33 Medicaid reimbursable one-to-one behavioral support services provided by a DSP shall not be provided concurrently with day habilitation one-to-one services.

1919.34 The Medicaid reimbursement rate for each diagnostic assessment shall be two-hundred and forty dollars (\$240.00) and shall be at least three (3) hours in duration, and include the development of the DAR and accompanying worksheet.

- 1919.35 The Medicaid reimbursement rate for behavioral support services provided by professionals identified in Subsection 1919.21 shall be one-hundred and three dollars and twenty cents (\$103.20) per hour. The billable unit for fifteen (15) minutes is twenty-five dollars and eighty cents (\$25.80) per fifteen (15) minute billable increment for at least eight (8) continuous minutes.
- 1919.36 The Medicaid reimbursement rate for behavioral support services provided by paraprofessionals identified in Subsection 1919.22 shall be sixty dollars (\$60.00) per hour. The billable unit for fifteen (15) minutes is fifteen dollars (\$15.00) for each fifteen- (15) minute billable increment for at least eight (8) continuous minutes.
- 1919.37 The Medicaid reimbursement rate for one-to-one behavioral support services provided by DSPs shall be twenty-three dollars and eighty-eight cents (\$23.88) per hour. The billable unit for fifteen (15) minutes is five dollars and ninety-seven cents (\$5.97) per fifteen (15) minute billable increment for at least eight (8) continuous minutes.

Section 1999, DEFINITIONS, is amended by adding the following:

Advance Practice Registered Nurse (APRN) or Nurse-Practitioner (NP) - An individual who is licensed to practice nursing pursuant to 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 *et seq.*), or licensed to practice nursing in the jurisdiction where the services are being provided.

Behavior Management Specialist - An individual who has the training and experience in the theory and technique of changing the behavior of individuals to enhance their learning of life skills and adaptive behaviors, and to decrease maladaptive behaviors, and who works under the supervision of a licensed practitioner.

Board Certified Behavior Analyst - An individual with at least a Master's Degree and a certificate from the Behavioral Analyst Certification Board (BCABA), in the jurisdiction where the credential is accepted.

Board Certified Assistant Behavior Analyst - An individual with at least a Bachelor's Degree and a certificate from the Behavioral Analyst Certification Board (BCABA), in the jurisdiction where the credential is accepted.

Fade-out plan - A plan used by providers to ensure that the restrictive technique or processes utilized are gradually and ultimately eliminated in the person's plan of care.

Functional Behavioral Analysis – A comprehensive and individualized process for identifying events that precede and follow a target behavior in order to develop hypotheses regarding the purpose of the target behavior and identify positive changes to be made.

Licensed Independent Clinical Social Worker - An individual who is licensed to practice social work pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1208 *et seq.*) or licensed to practice social work in the jurisdiction where the services are being provided.

Licensed Graduate Social Worker - An individual who is licensed to practice social work pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1208 *et seq.*) or licensed to practice social work in the jurisdiction where the services are being provided.

Licensed Independent Social Worker - An individual who is licensed to practice social work pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1208 *et seq.*) or licensed to practice social work in the jurisdiction where the services are being provided.

Licensed Professional Counselor - An individual who is licensed to practice counseling pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1207 *et seq.*) or licensed to practice counseling in the jurisdiction where the services are being provided.

Mental Health Habilitation Services – Mental health services provided by a Department of Behavioral Health (DBH) certified community mental health provider to consumers to assist consumers in partially or fully acquiring or improving skills and functioning in accordance with the District of Columbia State Medicaid Plan, the DHCF/DBH Interagency Agreement, and Chapter 34 of Title 22A DCMR.

Positive behavioral support strategies – An alternative to traditional or punitive approaches for managing challenging behaviors that focuses on changing the physical and interpersonal environment and increasing skills so that the person is able to get his/her needs met without having to resort to challenging behavior.

Proactive strategies – Specific interventions such as staff actions or environmental modifications that prevent the occurrence of target behaviors.

Psychiatrist - An individual licensed to practice psychiatry pursuant to 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 *et seq.*) or licensed as a psychiatrist in the jurisdiction where the services are being provided.

Psychologist - An individual licensed to practice psychology pursuant to 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 *et seq.*) or licensed as a psychologist in the jurisdiction where the services are being provided.

Registered Nurse - An individual who is licensed to practice nursing pursuant to 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 *et seq.*), or licensed to practice nursing in the jurisdiction where the services are being provided.

Sensorimotor - Functioning in both sensory and motor aspects of bodily activity.

Target behavior - The challenging behaviors to be addressed by staff.

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, 9th Floor, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF THIRD 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 third 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, Centers 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. The current Notice of Final Rulemaking for 29 DCMR § 993 (Supported Living Services) was published in the *D.C. Register* on March 28, 2014, at 61 DCR 002621. 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.)). DHCF received and considered comments in response to the first emergency and proposed rules and promulgated a Notice of Second Emergency and Proposed Rulemaking, which was published in the *D.C. Register* on March 6, 2015, at 62 DCR 002786. The second emergency and proposed rules amended 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. DHCF did not receive comments to the second emergency and proposed rulemaking but is promulgating this Notice of Third Emergency and Proposed Rulemaking to continue the changes reflected in the first two notices of emergency and proposed rulemaking described above.

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 cumulative changes include rate increase that are 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 May 8, 2015 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until September 5, 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*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 1934, SUPPORTED LIVING SERVICES, 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 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 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 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 19 of Title 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, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, 9th Floor, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Section 1936, entitled “Wellness 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 Register (DCMR).

These emergency rules establish standards governing reimbursement of wellness 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 (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. The corresponding amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Emergency Amendment Act of 2014, signed July 14, 2014 (D.C. Act 20-377; 61 DCR 007598 (August 1, 2014)). The amendment must also be approved by CMS, which will affect the effective date of the emergency rulemaking.

Wellness services are designed to promote and maintain good health and assist in increasing the person’s independence, participation, emotional well-being, and productivity in their home, work, and community. Wellness services consist of the following five (5) types of services: bereavement counseling, fitness training, massage therapy, nutrition evaluation/consultation, and sexuality education. The current Notice of Final Rulemaking for 29 DCMR § 1936 (Wellness Services) was published in the *D.C. Register* on December 13, 2013, at 60 DCR 016834. These rules amend the previously published final rules to: (1) clarify the purpose of wellness services; (2) add small group fitness services; (3) clarify the requirements for a person to receive bereavement services; (4) describe the requirements for an assessment, service plan, progress notes, and quarterly report; (5) clarify the provider’s role in the person’s support team; (6) eliminate language regarding Direct Support Professional requirements; (7) add provider qualifications for fitness; (8) require that the provider be chosen by the person and/or his substitute decision-maker; (9) clarify service limitations; (10) increase rates to reflect market research; and (11) add definitions for small group fitness and stages of change.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of waiver participants who are in need of wellness services. The new requirements will enhance the quality of these services. Therefore, in order to ensure that the person’s health, safety, and

welfare are not threatened by lack of access to wellness services provided pursuant to the updated delivery guidelines, it is necessary that these rules be published on an emergency basis.

The emergency rules were adopted on May 8, 2015, but these rules shall become effective for services rendered on or after May 8, 2015, if the corresponding amendment to the ID/DD Waiver has been approved by CMS with an effective date of May 8, 2015, or on the effective date established by CMS in its approval of the corresponding ID/DD Waiver, whichever is later. The emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until September 5, 2015, unless superseded by publication of the Notice of Final Rulemaking in the *D.C. Register*. If approved, DHCF shall publish the effective date with the Notice of Final Rulemaking.

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 1936, WELLNESS SERVICES, of Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is deleted in its entirety and amended to read as follows:

1936 WELLNESS SERVICES

1936.1 The purpose of this section is to establish standards governing Medicaid eligibility for wellness services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver), and to establish conditions of participation for providers of wellness services in order to receive reimbursement.

1936.2 Wellness services are designed to promote and maintain good health, The provision of these services shall be based upon what is important to and for the person as reflected in his or her Person-Centered Thinking tools and the goals in his or her Individual Service Plan (ISP). Wellness services assist in increasing the person's independence, participation, prevent further disability, maintain health and increase emotional well-being, and productivity in their home, work, and community.

1936.3 The wellness services eligible for Medicaid reimbursement are:

- (a) Bereavement Counseling;
- (b) Fitness Training;
- (c) Massage Therapy;
- (d) Nutrition Evaluation/Consultation; and

(e) Sexuality Education.

1936.4 Fitness training is available as either an individual service, or in small group 1:2 setting, based upon the recommendation of the person's support team. When a person is enrolled in small group fitness, efforts should be made to match the person with another beneficiary of his or her choosing, or, if not available, with a person who has similar skills and interests.

1936.5 To be eligible for Medicaid reimbursement of bereavement counseling:

- (a) The person must have experienced a loss through death, relocation, change in family structure, or loss of employment;
- (b) The service must be recommended by the person's support team; and
- (c) The service shall be identified as a need in the person's ISP and Plan of Care.

1936.6 To be eligible for Medicaid reimbursement of sexuality education, the services shall be:

- (a) Recommended by the person's support team; and
- (b) Identified as a need in the person's ISP and Plan of Care.

1936.7 To be eligible for Medicaid reimbursement of fitness training and massage therapy, the services shall be:

- (a) Recommended by the person's support team;
- (b) Identified as a need in the person's ISP and Plan of Care; and
- (c) Ordered by a physician.

1936.8 To be eligible for Medicaid reimbursement of nutritional evaluation/consultation services, each person shall meet one or more of the following criteria:

- (a) Have a history of being significantly above or below body weight;
- (b) Have a history of gastrointestinal disorders;
- (c) Have received a diagnosis of diabetes;
- (d) Have a swallowing disorder; or

- (e) Have a medical condition that can be a threat to health if nutrition is poorly managed.

1936.9 In addition to the requirements set forth in § 1936.8, nutritional evaluation/consultative services shall be:

- (a) Recommended by the person's support team;
- (b) Identified as a need in the person's ISP and Plan of Care based upon the Stage of Change the person is in;
- (c) Ordered by a physician; and
- (d) Targeted to the identified Stage of Change.

1936.10 The specific wellness service delivered shall be consistent with the scope of the license or certification held by the professional. Service intensity, frequency, and duration shall be determined by the person's individual needs and documented in the person's ISP and Plan of Care.

1936.11 In order to be eligible for Medicaid reimbursement, each professional providing wellness services shall:

- (a) Conduct an intake assessment within the first four (4) hours of service delivery with long term and short term goals;
- (b) Develop and implement a person-centered plan consistent with the person's choices, goals and prioritized needs that describes wellness strategies and the anticipated and measurable, functional outcomes, based upon what is important to and for the person as reflected in his or her Person-Centered Thinking tools and the goals in his or her ISP. The plan shall include treatment strategies including direct therapy, caregiver training, monitoring requirements and instructions, and specific outcomes;
- (c) Deliver the completed plan to the person, family, guardian, residential provider, or other caregiver, and the Department on Disability Services (DDS) Service Coordinator prior to the Support Team meeting;
- (d) Participate in the ISP and Support Team meetings, when invited by the person, to provide consultative services and recommendations specific to the wellness professional's area of expertise with the focus on how the person is doing in achieving the functional goals that are important to him or her;

- (e) Provide necessary information to the person, family, guardian, residential provider, or other caregivers and assist in planning and implementing the approved ISP and Plan of Care;
- (f) Record progress notes on each visit which contain the following:
 - (1) The person's progress in meeting each goal in the ISP;
 - (2) Any unusual health or behavioral events or change in status;
 - (3) The start and end time of any services received by the person; and
 - (4) Any matter requiring follow-up on the part of the service provider or DDS.
- (g) Submit quarterly reports in accordance with the requirements in Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR; and
- (h) Conduct periodic examinations and modify treatments for the person receiving services, as necessary.

1936.12

In order to be eligible for Medicaid reimbursement, each professional providing nutrition evaluation/consultation services shall comply with the following additional requirements, as needed:

- (a) Conduct a comprehensive nutritional assessment within the first four (4) hours of delivering the service;
- (b) Conduct a partial nutritional evaluation to include an anthropometric assessment;
- (c) Perform a biochemical or clinical dietary appraisal;
- (d) Analyze food-drug interaction potential, including allergies;
- (e) Perform a health and safety environmental review of food preparation and storage areas;
- (f) Assess the need for a therapeutic diet that includes an altered/textured diet due to oral-motor problems;
- (g) Conduct a needs assessment for adaptive eating equipment and dysphagia management;
- (h) Conduct a nutrition evaluation and provide consulting services on a variety of subjects, including recommendations for the use of adaptive

equipment, to promote improved health and increase the person's ability to manage his or her own diet or that of his or her child(ren) in an effective manner; and

- (i) Provide education to include menu development, shopping, food preparation, food storage, and food preparation procedures consistent with the physician's orders.

1936.13 Each professional providing wellness services shall be employed by a Home and Community-Based Services Waiver provider agency or by a professional service provider who is in private practice as an independent clinician as described in Subsection 1904.2 of Title 29 DCMR.

1936.14 Each provider shall comply with the requirements set forth under Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR.

1936.15 In order to be eligible for Medicaid reimbursement, professionals delivering wellness services shall meet the following licensure and certification requirements:

- (a) Bereavement counseling services shall be performed by a professional counselor licensed pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)) and certified by the American Academy of Grief Counseling as a grief counselor;
- (b) Fitness services shall be performed by professional fitness trainers who have been certified by the American Fitness Professionals and Associates, or who have a bachelor's degree in physical education, health education, exercise, science or kinesiology, or recreational therapists;
- (c) Dietetic and nutrition counselors shall be licensed pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)); and
- (d) Massage Therapists shall be licensed pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl. & 2014 Supp.)) and certified by the National Verification Board for Therapeutic Massage and Bodywork.

1936.16 In order to be eligible for Medicaid reimbursement, sexuality education services shall be delivered by:

- (a) A Sexuality Education Specialist who is certified to practice sexuality education by the American Association of Sexuality Educators, Counselors and Therapists Credentialing Board; or
- (b) Any of the following professionals with specialized training in Sexuality Education:
 - (1) Psychologist;
 - (2) Psychiatrist;
 - (3) Licensed Clinical Social Worker; or
 - (4) Licensed Professional Counselor.

1936.17 Each Wellness service provider, and professional, without regard to their employer of record, shall be selected by the person receiving services or his or her authorized representative, and shall be answerable to the person receiving services.

1936.18 Any provider substituting treating professionals for more than a two (2) week period or four (4) visits due to emergency or availability events shall request a case conference with the DDS Service Coordinator to evaluate the continuation of services.

1936.19 In order to be eligible for Medicaid reimbursement, services shall be authorized in accordance with the following requirements:

- (a) DDS shall provide a written service authorization before the commencement of services;
- (b) The provider shall conduct an intake assessment and develop a person-centered plan within the first four (4) hours of service delivery which: (1) describes wellness strategies and the anticipated and measurable, functional outcomes, based upon what is important to and for the person as reflected in his or her Person-Centered Thinking tools; and (2) includes training goals and techniques in the ISP that will assist the caregivers;
- (c) The service name and provider entity delivering services shall be identified in the ISP and Plan of Care; and
- (d) The ISP, Plan of Care, and Summary of Supports and Services shall document the amount and frequency of services to be received

1936.20 Each Provider shall comply with the requirements described under Section 1908 (Reporting Requirement), Section 1909 (Records and Confidentiality of

Information) and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.

- 1936.21 Wellness services shall be limited to one-hundred (100) hours per calendar year per service. Additional hours may be authorized before the expiration of the ISP and Plan of Care year and when the person's health and safety are at risk. Requests for additional hours may be approved when accompanied by a physician's order or if the request passes a clinical review by staff designated by DDS.
- 1936.22 The person may utilize one (1) or more wellness services in the same day, but not at the same time.
- 1936.23 The Medicaid reimbursement rate for wellness services shall be:
- (a) Sixty dollars and eighty cents (\$60.80) per hour for Massage Therapy;
 - (b) Seventy-five dollars and ninety-six cents (\$75.96) per hour for Sexuality Education;
 - (c) Seventy-five dollars (\$75.00) per hour for Fitness Training;
 - (d) Forty-five dollars (\$45.00) per hour for Small Group Fitness Training;
 - (e) Sixty-five dollars (\$65.00) per hour for Nutrition Counseling; and
 - (f) Sixty-five dollars (\$65.00) per hour for Bereavement Counseling.
- 1936.24 The billable unit of service for wellness services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.

Section 1999, DEFINITIONS, is amended by adding the following:

Small group fitness training – Exercise training designed to improve health and wellness delivered in small group settings at a ratio of one-to-two for people who want to exercise with a partner.

Comments on these emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington, D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes approved December 27, 1967 (81 Stat.774; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.), hereby gives notice of the adoption, on an emergency basis, of a new Chapter 98, entitled “Financial Eligibility for Long Term Care Services and Supports” of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

Long term care services and supports are available for individuals with long-term medical needs who also meet specific financial eligibility (income and resources) requirements. In accordance with 42 U.S.C. §§ 1396a and 1396r-5; 42 C.F.R. §§ 435.631, 435.726, 435.821, and 435.832, these emergency and proposed rules provide a comprehensive regulatory framework for: (1) the determination of financial eligibility for long term care services and supports; and (2) the amount a beneficiary shall contribute to the cost of care for long term care services and supports following a determination of financial eligibility. This framework will ensure that accurate determinations of financial eligibility and contributions to cost of care are made, enabling eligible individuals to access these crucial services provided under the Medicaid program.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of District residents by maintaining Medicaid program integrity and preserving access to vitally important long term care services and supports. Long term care services and supports provide beneficiaries with crucial services including assistance with basic tasks of everyday life. Medicaid beneficiaries may receive these services in institutional/facility based settings, in the community, and in their homes. Accordingly, these services and supports are provided to some of the District’s most vulnerable residents. As the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has promulgated new Medicaid financial eligibility rules, the District must adopt new methodologies for determining and renewing eligibility for long term care services and supports without delay to continue to provide these much-needed services and supports to vulnerable residents.

The emergency rulemaking shall be adopted on May 13, 2015 and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days until September 10, 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 rules not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

A new Chapter 98, FINANCIAL ELIGIBILITY FOR LONG TERM CARE SERVICES AND SUPPORTS, is added to Title 29 DCMR, PUBLIC WELFARE, to read as follows:

9800 GENERAL PROVISIONS

- 9800.1 This chapter establishes standards governing financial eligibility determinations and post-eligibility treatment of income for long term care services and supports (LTCSS), which include health-related care and services provided in a nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), or in a home or community setting through a Home and Community-Based Services Waiver (HCBS Waiver) program.
- 9800.2 Applicants and beneficiaries shall consist of the following three (3) eligibility groups:
- (a) Individuals who have been determined eligible for Social Security Income (SSI) by the U.S. Social Security Administration (SSA);
 - (b) Individuals who meet the income and resource requirements under the Special Income Standard (SIS), which is equal to three hundred percent (300%) of the SSI federal benefit rate (FBR); and
 - (c) Individuals whose gross countable income exceeds the SIS and who elect to spend their excess income down to the Medically Needy Income Level (MNIL) to become financially eligible for LTCSS.
- 9800.3 The Department of Health Care Finance (the Department) shall establish an applicant or beneficiary's financial eligibility for LTCSS after evaluating the applicant's or beneficiary's non-financial eligibility for LTCSS.
- 9800.4 A determination of non-financial eligibility for LTCSS shall include consideration of the following five (5) components:
- (a) District of Columbia residency, determined in accordance with Section 9502 of Title 29 DCMR;
 - (b) U.S. citizenship or satisfactory immigration status, determined in accordance with Section 9503 of Title 29 DCMR;
 - (c) Social Security number, determined in accordance with Section 9504 of Title 29 DCMR;
 - (d) Age (eighteen (18) years or older for all LTCSS applicants and beneficiaries, and sixty five (65) years or older for applicants and beneficiaries seeking LTCSS under the Elderly and Persons with Physical Disabilities (EPD) waiver program on the basis of advanced age); and

- (e) Clinical determination that the applicant or beneficiary requires an institutional level of care.
- 9800.5 Determinations of financial eligibility for LTCSS shall include those determinations made at the initial application, annual renewals, and periodic redeterminations.
- 9800.6 A determination of financial eligibility for LTCSS shall include the following:
- (a) An income test, as described at Subsection 9801.1; and
- (b) A resource test, as described at Subsection 9802.1.
- 9800.7 In calculating gross countable income and gross countable resources, the Department shall only count the income and resources available to the applicant or the applicant's spouse at the time of the initial eligibility determination.
- 9800.8 The Department shall redetermine financial eligibility for LTCSS every twelve (12) months, except for individuals referenced in Subsection 9800.2(c). Financial eligibility for these individuals shall be redetermined every six (6) months.
- 9800.9 A beneficiary shall immediately notify the Department of any change in circumstances that directly affects financial eligibility for LTCSS.
- 9800.10 The Department shall redetermine eligibility for beneficiaries identified at Subsection 9800.9 at the time the change is reported.
- 9800.11 After an applicant or beneficiary is determined financially eligible for LTCSS, the Department shall determine how much that individual shall contribute to the cost of care.
- 9801 INCOME TEST**
- 9801.1 In order to be eligible for LTCSS, an applicant or beneficiary shall have gross countable income at or below the Special Income Standard (SIS), which is equal to three hundred percent (300%) of the SSI federal benefit rate (FBR), except as identified at Subsection 9801.6.
- 9801.2 Individuals identified at Subsection 9800.2(a) shall be exempt from the income test in Subsection 9801.1.
- 9801.3 If an applicant or beneficiary has a community spouse, gross countable income shall be determined after spousal impoverishment protections for income have been applied.
- 9801.4 Gross countable income shall include the following:

- (a) Taxable income received from employment;
- (b) Income received from sources other than employment; and
- (c) Income from self-employment.

9801.5 Gross countable income shall exclude the following:

- (a) Earnings from an unmarried minor child who is living with an individual who provides care or supervision;
- (b) Adoption subsidies;
- (c) AmeriCorps/VISTA Income received under the National and Community Service Trust Act of 1993, effective September 21, 1993 (Pub.L. No. 103-82, 107 Stat. 787), as amended by the Serve America Act, effective April 21, 2009 (Pub.L. No. 111-13, 123 Stat. 1463; codified at 42 U.S.C. §§ 12501 *et seq.*);
- (d) Child Nutrition Payments;
- (e) Payments received under the Domestic Volunteer Service Act of 1973, effective October 1, 1973 (Pub.L. No. 93-113, 87 Stat. 396), as amended by the Domestic Volunteer Service Act Amendments of 1984, effective May 21, 1984 (Pub.L. No. 98-288, 98 Stat. 189), as amended by the National and Community Service Trust Act of 1993, effective September 21, 1993 (Pub.L. No. 103-82, 107 Stat. 899), as amended by the Serve America Act of 2009, effective April 21, 2009 (Pub.L. No. 111-13, 123 Stat. 1581; codified at 42 U.S.C. §§ 12501 *et seq.*);
- (f) Earned Income Tax Credits;
- (g) Educational benefits;
- (h) Energy assistance;
- (i) Foster care payments;
- (j) Housing assistance provided by the federal or District of Columbia government or non-profit organizations;
- (k) Incentive payments for Prenatal & Well-Baby Care and from the Work Incentive programs for current or former recipients of Temporary Aid to Needy Families (TANF) under the Personal Responsibility and Work

Opportunity Reconciliation Act of 1996, effective August 22, 1996 (Pub. L. 104-193, 110 Stat. 2105; as codified as 42 U.S.C. §§ 1305 *et seq.*)

- (l) Non-cash benefits in the form of voucher, commodity or service;
- (m) Jury duty payments;
- (n) Money received by a third party for an applicant, beneficiary, or community spouse, unless an applicant, beneficiary, or community spouse has or will have access to the funds;
- (o) Money received by an applicant, beneficiary, or community spouse, on behalf of any third party;
- (p) Nutrition payments;
- (q) Rehabilitation Services Administration (RSA) Payments received under the Rehabilitation Act of 1973, effective September 26, 1973 (Pub.L. No. 93-112, 87 Stat. 355);
- (r) Reimbursements received from an individual or organization to cover past, current, or future expenses, if all the following conditions are met:
 - (1) The reimbursement is for actual expenses;
 - (2) The reimbursement is earmarked to cover those expenses; and
 - (3) The reimbursement is paid or documented separately from any other payment such as wages;
- (s) Payments received from roommates to cover their share of household expenses such as rent and utilities and which are paid by the applicant or beneficiary to the landlord or utility company;
- (t) Senior Community Service Employment Program (SCSEP) Income received under the Older Americans Act of 1965, approved July 14, 1965 (Pub.L. No. 89-73, 79 Stat. 218), as amended by the Older Americans Act Amendments of 2000, approved November 13, 2000 (Pub.L. No. 106-501, 114 Stat. 2226), as amended by the Older Americans Act Amendments of 2006, approved October 17, 2006 (Pub.L. No. 109-365, 120 Stat. 2522);
- (u) TANF underpayments;
- (v) Training income, such as Training Expense Allowances/Stipends; and

- (w) Utility allowances received through a federal or District government housing assistance program.
- 9801.6 An applicant or beneficiary who has gross countable income exceeding the SIS shall be permitted to spend down the excess income to the MNIL, in accordance with 42 C.F.R. § 435.831, to become financially eligible for LTCSS.
- 9801.7 The following standards shall apply in determining the income allocated to an applicant or beneficiary with a spouse:
- (a) If there is no trust or other legally enforceable document establishing ownership of the income, one half (1/2) of the income shall be considered available to each spouse;
 - (b) If payment of income is provided for in a trust or other legally enforceable document, the income shall be considered available to each spouse in accordance with the allocation made in the document;
 - (c) If there is no trust or other legally enforceable document establishing ownership of the income and payment of income is made in the names of both spouses, one half (1/2) of the income shall be considered available to each spouse;
 - (d) If there is no trust or other legally enforceable document establishing ownership of the income and payment of income is made solely in the name of one spouse, the income shall be considered available only to that spouse; and
 - (e) If there is no trust or other legally enforceable document establishing ownership of the income and payment of income is made in the names of either spouse, or both, and to another individual or individuals, the income shall be considered available to each spouse in the proportion to the spouse's interest. If payment is made to both spouses and no other interest is specified, one half (1/2) of the joint interest shall be considered available to each spouse.
- 9801.8 Following an initial eligibility determination, no income of a community spouse shall be considered available to a beneficiary during any month in which the beneficiary receives LTCSS.
- 9801.9 A community spouse shall be entitled to retain a Community Spouse Allowance.
- 9801.10 A Community Spouse Allowance shall equal the minimum monthly maintenance needs allowance (MMMNA) plus any excess shelter allowance.

9801.11 A community spouse may retain an amount higher than the Community Spouse Allowance if either spouse demonstrates at a fair hearing that a higher amount is necessary due to exceptional circumstances resulting in severe financial duress. Exceptional circumstances may include but are not limited to:

- (a) Recurring or extraordinary non-covered medical expenses;
- (b) Amounts to preserve, maintain, or make major repairs to a home;
- (c) Transportation costs; and
- (d) Amounts necessary to preserve an income-producing resource.

9801.12 In accordance with 1 DCMR § 2970 and 42 C.F.R. § 431.200, an applicant, beneficiary, or community spouse may request a fair hearing to address the following matters:

- (a) The amount of the Community Spouse Allowance; or
- (b) The amount of income determined available to the community spouse.

9801.13 At the first annual renewal following the initial eligibility determination, the District shall verify that an institutionalized spouse has made available any amount of income under a Community Spouse Allowance to the community spouse.

9802 RESOURCE TEST

9802.1 In order to be eligible for LTCSS, an applicant or beneficiary shall not have gross countable resources that exceed four thousand dollars (\$4,000).

9802.2 Individuals identified at Subsection 9800.2(a) shall be exempt from the resource test in Subsection 9802.1.

9802.3 If an applicant or beneficiary has a community spouse, gross countable resources shall be determined after spousal impoverishment protections for resources have been applied.

9802.4 If an applicant or beneficiary's gross countable resources exceed four thousand dollars (\$4,000), the applicant or beneficiary may reallocate excess resources to excludable resource types without affecting eligibility for LTCSS.

9802.5 Gross countable resources shall exclude the following resource types:

- (a) The personal home of the applicant or beneficiary, if one (1) of the following conditions is met:

- (1) The home equity interest does not exceed the maximum home equity limit set annually by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) and available at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Spousal-Impoverishment-Page.html> (last visited March 25, 2015);
 - (2) The community spouse of the applicant or beneficiary resides in the home; or
 - (3) A child of the applicant or beneficiary who is under age twenty-one (21) or has a disability resides in the home;
- (b) Accounts receivable;
 - (c) Burial funds that are in a separate, designated account;
 - (d) Promissory notes, if the notes are not related to transfers of resources within the past sixty (60) months;
 - (e) Earned income tax credits;
 - (f) Energy assistance payments;
 - (g) Proceeds from a home sale, if the applicant or beneficiary purchases or intends to purchase a new home within the next twelve (12) months;
 - (h) Household and personal goods;
 - (i) Inaccessible resources, which the applicant or beneficiary can neither use for ongoing support nor sell;
 - (j) Indian lands;
 - (k) Jointly owned resources, if the owner is legally unable to liquidate the resources;
 - (l) Land contracts;
 - (m) Life insurance funded funerals;
 - (n) Resources used to secure a loan for business purposes;
 - (o) Resources not fit to sell or not capable of being sold;

- (p) Property pending sale;
- (q) U.S. Department of Housing and Urban Development (HUD) reimbursements;
- (r) One (1) vehicle per household (if there are multiple vehicles in the household, the vehicle with the highest value shall be excluded);
- (s) Higher education savings plans;
- (t) U.S. savings bonds, if penalties apply to early withdrawals or liquidations and they have not been renewed or reinvested during any immediately preceding period of Medicaid eligibility;
- (u) Individual Retirement Accounts;
- (v) Keogh accounts;
- (w) Other retirement accounts including, but not limited to, 401(k), 403(b), and 457 accounts; and
- (x) Funds or deposits with a Continuing Care Retirement Community (CCRC), unless all of the following conditions are met:
 - (1) The funds can be used to pay for care under the terms of the contract should other resources of the individual be insufficient;
 - (2) The entrance fee, or remaining portion, is refundable when the individual dies or leaves the community; and
 - (3) The fee confers no ownership interest in the community.

9802.6

When the personal home is excluded from gross countable resources in accordance with Subsection 9802.5(a), the Department may place a lien, in accordance with federal requirements, on the personal home of a beneficiary if:

- (a) The beneficiary has been institutionalized in a nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) for longer than six (6) months; and
- (b) The Department has determined, based on a physician's statement, that the beneficiary cannot reasonably be expected to be discharged from the institution and to return home, and has notified the beneficiary of this determination.

- 9802.7 In accordance with 1 DCMR § 2970 and 42 U.S.C. § 1396p(a)(1)(B)(ii), a beneficiary may request a fair hearing regarding the Department's determination that the beneficiary cannot reasonably be expected to be discharged from the institution and to return home.
- 9802.8 A lien shall not be imposed under Subsection 9802.6 if any of the following individuals are lawfully residing in the beneficiary's personal home:
- (a) The community spouse of the beneficiary;
 - (b) A child of the beneficiary who is under age twenty-one (21) or is permanently and totally disabled; or
 - (c) A sibling of the beneficiary who has an equity interest in the home and who had been residing in the home for at least one (1) year immediately before the date the beneficiary became institutionalized.
- 9802.9 Any lien imposed under Subsection 9802.6 shall be dissolved upon the beneficiary's discharge from the institution and return home.
- 9802.10 The Department shall apply methods used by the Social Security Administration (SSA), detailed at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0501130700> (last visited March 25, 2015), for counting resources in which countable and excluded resource types are comingled.
- 9802.11 The Department shall determine the total gross countable resources available to an institutionalized spouse and community spouse at the:
- (a) Time of the initial eligibility determination; or
 - (b) Request of either spouse during the institutionalized spouse's first period of institutionalization lasting thirty (30) or more consecutive days.
- 9802.12 Any countable resources held by the institutionalized spouse, the community spouse, or both spouses shall be considered available to the institutionalized spouse at the time of the initial eligibility determination, unless:
- (a) The institutionalized spouse has assigned to the District any rights to support from the community spouse;
 - (b) The institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment, but the District has the right to bring a support proceeding against the community spouse without such assignment; or

- (c) The District determines that the denial of eligibility would work an undue hardship.
- 9802.13 The Department shall determine the spousal share of resources allocated to each spouse either:
- (a) At the time of the initial eligibility determination; or
- (b) At the request of either spouse during the institutionalized spouse's first period of institutionalization lasting thirty (30) or more consecutive days.
- 9802.14 A community spouse shall be entitled to retain a Community Spouse Resource Allowance equal to the spousal share, unless the spousal share is less than the minimum amount or greater than the maximum amount established annually by CMS and available at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Spousal-Impoverishment-Page.html> (last visited March 25, 2015).
- 9802.15 If the spousal share is less than the minimum amount, the institutionalized spouse may transfer excess countable resources to the community spouse to raise the Community Spouse Resource Allowance to the minimum amount.
- 9802.16 If the spousal share is greater than the maximum amount, the community spouse may only retain the maximum amount.
- 9802.17 Where an institutionalized spouse is allowed to transfer excess countable resources following the initial eligibility determination to a community spouse, the institutionalized spouse shall reallocate excess countable resources before the first annual renewal.
- 9802.18 In accordance with 1 DCMR § 2970 and 42 C.F.R. § 431.200, an applicant, beneficiary, or community spouse may request a fair hearing to address the following matters:
- (a) The spousal share of resources;
- (b) The amount of the Community Spouse Resource Allowance; or
- (c) The amount of resources attributed to each spouse.
- 9802.19 At the first annual renewal following the initial eligibility determination, the District shall verify that a beneficiary has transferred excess countable resources to the community spouse

9803 IMPROPER RESOURCE TRANSFERS AND PENALTY PERIOD

9803.1 At the time of the initial eligibility determination, the Department shall conduct a review to determine whether the applicant, the applicant’s spouse, or an individual authorized to act for the applicant by a power of attorney executed in accordance with D.C. Official Code § 21-2101 or § 21-2102 has improperly transferred resources for less than fair market value within sixty (60) months prior to the date of an application for LTCSS.

9803.2 The Department shall impose a penalty period if the applicant, the applicant’s spouse, or an individual authorized to act for the applicant by a power of attorney has transferred resources for less than fair market value within sixty (60) months prior to the date of an application for LTCSS.

9803.3 The penalty period shall be the length of time during which an individual is ineligible for Medicaid coverage of LTCSS due to improper resource transfers made within sixty (60) months prior to the date of an application for LTCSS.

9803.4 The length of the penalty period shall be based on the following formula:

$$\begin{aligned} & \text{Total Uncompensated Value of All Transferred Resources} \\ & \qquad \div \\ & \text{Average Monthly Cost of a Private Nursing Facility Patient in the Community} \\ & \qquad = \\ & \text{Number of Months of Penalty Period.} \end{aligned}$$

9803.5 The Department shall determine the total uncompensated value of all transferred resources by subtracting the amount received by the individual for the improperly transferred resources from the fair market value of those resources.

9803.6 The Department shall determine the average monthly cost of a private nursing facility patient in the community on an annual basis, using a single standard figure for all LTCSS applicants.

9803.7 Where a partial month period exists at the end of the penalty period, the applicant is only eligible for LTCSS for the portion of the month after the penalty period ends.

9803.8 The Department may waive the penalty period if it could create an undue hardship. Undue hardship may exist:

- (a) For applicants in an institutional setting, if the individual has been threatened with eviction from a long-term care facility or medical institution and has exhausted all legal methods to prevent the eviction; or
- (b) For applicants eligible for Home and Community-Based Services (HCBS) Waiver, if the individual's service provider has threatened to terminate services; and

- (1) The individual to whom the resource was transferred is no longer in possession of the transferred resource and has no other resources of comparable value with which to pay the cost of care; and
- (2) There is no family member or other individual or organization able and willing to provide care to the individual; or
- (c) For all LTCSS applicants, if the applicant would be deprived of medical care that would endanger his or her life or health; or food, clothing, shelter, or other necessities of life; or
- (d) For all LTCSS applicants, if any other undue hardship or good cause exemption exists, as may be defined by the Secretary for the U.S. Department of Health and Human Services or the Secretary for the U.S. Department of Agriculture.

9803.9 Transfers of resources under the following circumstances shall not be subject to the penalty period described in Subsection 9803.3:

- (a) The resource that was transferred was the applicant's personal home, and title to the home was transferred to:
 - (1) The spouse of the applicant;
 - (2) A child of the applicant who:
 - (i) Was under the age of twenty-one (21);
 - (ii) Was blind or permanently and totally disabled; or
 - (iii) Had been residing in the home for at least two (2) years immediately before the date the applicant became institutionalized and who provided care to the applicant which permitted the applicant to reside at home, rather than in an institution; or
 - (3) A sibling of the applicant who had an equity interest in the home and who had been residing in the home for at least one (1) year immediately before the date the applicant became institutionalized.
- (b) Any type of resource that was transferred:
 - (1) To the applicant's spouse or to another for the sole benefit of the spouse;

- (2) From the applicant's spouse to another for the sole benefit of the spouse;
 - (3) To the applicant's child who is blind or permanently and totally disabled, or to a trust established for the sole benefit of such child; or
 - (4) To a trust established for the sole benefit of an individual under the age of sixty-five (65) who is disabled as defined by SSI.
- (c) Any type of resource that was transferred, and for which a satisfactory showing is made to the District that:
- (1) The applicant intended to dispose of the resources at fair market value;
 - (2) The resources were transferred exclusively for a purpose other than to qualify for medical assistance; or
 - (3) All resources transferred for less than fair market value have been returned to the applicant, or the fair market equivalent has been returned.

9803.10 Establishment of the following types of trusts shall not be subject to the penalty period described in Subsection 9803.3:

- (a) A "special needs" trust containing the resources of an individual under the age of sixty-five (65) with a disability, which may also contain the resources of other individuals and which meets the following conditions:
- (1) The trust is established for the sole benefit of the individual by a parent, grandparent, legal guardian, or court; and
 - (2) The trust contains a provision stating that, upon the death of the individual, the District receives all amounts remaining in the trust, up to the total amount of medical assistance paid on behalf of the individual.
- (b) A "pooled" trust containing the resources of an individual with a disability which meets the following conditions:
- (1) The trust is established for the sole benefit of the individual by a parent, grandparent, legal guardian, or court;
 - (2) The trust is established and managed by a non-profit association;

- (3) A separate account is maintained for each beneficiary, but funds are pooled for investment and management purposes; and
- (4) The trust contains a provision stating that, to the extent that any amounts remaining in the individual's account upon his or her death are not retained by the trust, the trust pays to the District the amount remaining in the account up to the total amount of medical assistance paid on behalf of the individual.

9803.11 The purchase of an annuity shall not be subject to the penalty period described in Subsection 9803.3 under the following conditions:

- (a) Annuities purchased on or after February 8, 2006 name the District as the primary remainder beneficiary, or secondary remainder beneficiary after a community spouse or minor child or child with a disability, for an amount equal to the total amount of medical assistance paid on the behalf of the applicant; and
- (b) Annuities purchased on or after February 8, 2006, are irrevocable, non-assignable, actuarially sound, and provide for payments in equal amounts during the annuity term, with no deferral or balloon payments; or meet the requirements pertaining to retirement plans in 42 U.S.C. § 1396p(c)(1)(G)(i).

9803.12 For annuities purchased prior to February 8, 2006, actions taken by the individual that change the course of payments to be made by the annuity or treatment of the income or principal of the annuity subject the annuity to the requirements for those purchased on or after February 8, 2006.

9803.13 Routine changes and automatic events that do not require action by the individual do not subject an annuity purchased prior to February 8, 2006, to the requirements for those purchased on or after February 8, 2006.

9803.14 The purchase of a life estate interest in another individual's home shall not be subject to the penalty period described in Subsection 9803.3 when the purchaser lives in the home for at least one (1) year after the date of purchase.

9803.15 The full purchase price of the life estate interest shall be deemed a transfer of resources for less than fair market value if the purchaser has not lived in the home for at least one (1) year.

9803.16 Notwithstanding the length of time the purchaser lives in the home, if the purchase amount of the life estate interest is greater than the computed value of the interest, the difference is considered a transfer of resources for less than fair market value.

9803.17 The purchase of a promissory note or loan shall not be subject to the penalty period described in Subsection 9803.3 under the following conditions:

- (a) The repayment terms are actuarially sound;
- (b) Payments are made in equal amounts with no balloon payments; and
- (c) The note, loan or mortgage prohibits cancellation of the debt upon the death of the lender.

9804 POST-ELIGIBILITY TREATMENT OF INCOME

9804.1 The Department shall determine how much monthly income a beneficiary must contribute toward the cost of LTCSS after an initial eligibility determination.

9804.2 The Department shall project the beneficiary's gross countable monthly income for a six (6) month prospective period to determine a beneficiary's contribution to the cost of care.

9804.3 Gross countable monthly income shall be calculated as follows:

- (a) Income received on a yearly basis or less often than monthly shall be converted to a monthly amount or prorated;
- (b) If the amount or frequency of regularly received income is known, the Department shall average the income over the period between payments;
or
- (c) If neither the amount nor the frequency of income is predictable, the Department shall not average the income but count income only for the month in which it is received.

9804.4 The Department shall subtract the following types of deductions from the beneficiary's gross countable monthly income:

- (a) A Personal Needs Allowance equal to:
 - (1) Seventy dollars (\$70) for a beneficiary in a nursing facility who does not receive a pension from the Department of Veterans Affairs;
 - (2) Ninety dollars (\$90) for a beneficiary in a nursing facility who receives a pension from the Department of Veterans Affairs;
 - (3) One hundred and forty dollars (\$140) for a couple if both spouses are institutionalized in a nursing facility;

- (4) One hundred dollars (\$100) for a beneficiary who receives residential supports through the District Department on Disability Services (DDS);
 - (5) Seventy dollars (\$70) for a beneficiary in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) who receives Supplemental Security Income (SSI); and,
 - (6) One hundred dollars (\$100) for a beneficiary in an ICF/IID who receives Social Security Disability Income (SSDI).
- (b) A Community Maintenance Needs Allowance, for a beneficiary enrolled in an HCBS Waiver program only, equal to the Special Income Standard (SIS);
 - (c) A Community Spouse Allowance, for a beneficiary who has a community spouse only;
 - (d) A Dependent Family Allowance, equal to the annual MNIL, for a beneficiary who has:
 - (1) Minor or dependent children, including disabled adult children of the beneficiary or community spouse, who reside in the personal home with the community spouse;
 - (2) Dependent parents of the beneficiary or community spouse who reside in the personal home with the community spouse; or
 - (3) Dependent siblings of the beneficiary or community spouse who reside in the personal home with the community spouse;
 - (e) Incurred Medical Expenses, if the expenses are not subject to payment by a third party, including incurred medical expenses used to meet a spend down obligation;
 - (f) Remedial Care Expenses, equal to the amount of fees paid to a guardian, conservator, or representative payee;
 - (g) A Home Maintenance Deduction equal to the MNIL for a beneficiary residing in an institutional facility. A home maintenance deduction may be deducted only:
 - (1) For up to six (6) months;
 - (2) When a community spouse does not reside in the home; and

- (3) If a physician certifies that the beneficiary is likely to return to the home within six (6) months; and
 - (h) The full amount of SSI or State Supplementary Payment Benefits for a beneficiary who resides in a long term care facility.
- 9804.5 The amount of the beneficiary's gross countable income that remains after allowable deductions and spousal impoverishment protections for income and resources (if applicable) have been applied is the amount of the beneficiary's contribution to the cost of care.
- 9804.6 The Department shall reduce its payment for LTCSS by the amount of the beneficiary's contribution to the cost of care.
- 9804.7 The Department shall reconcile the beneficiary's projected income with the beneficiary's actual income at the end of every six (6) month period in which a beneficiary receives Medicaid coverage of LTCSS, or whenever any significant change in the beneficiary's income or circumstances occurs.
- 9804.8 The reconciliation may include a period of up to six (6) months prior to the month in which the reconciliation is done.
- 9804.9 The Department may redetermine the beneficiary's contribution to the cost of care:
 - (a) After the reconciliation process;
 - (b) At annual renewals; and
 - (c) When a beneficiary reports a significant change of income or other circumstances.
- 9804.10 Any redetermination of or adjustment to the beneficiary's contribution to the cost of care resulting from the reconciliation shall not be applied until timely and adequate notice of the redetermination or adjustment is provided to the beneficiary.
- 9804.11 The Department shall adjust the beneficiary's contribution to the cost of care prospectively when the income actually received by the beneficiary during the six (6) month reconciliation period differs from the beneficiary's projected income for that period.
- 9804.12 If the income actually received by the beneficiary during the six (6) month period exceeds the beneficiary's projected income for that period, an adjustment shall be added to the beneficiary's contribution to the cost of care in a future month or

months to reflect the amount that should have been contributed during the six (6) month period.

- 9804.13 If an income change or change in circumstances renders a beneficiary ineligible for Medicaid coverage of LTCSS, a prospective adjustment cannot be added to the former beneficiary's contribution to the cost of care. Under these circumstances, the Department may seek to recover the full amount of the adjustment by requesting voluntary repayment from the former beneficiary.
- 9804.14 The Department may pursue recovery by appropriate action, pursuant to District law, against the income or resources of the former beneficiary if the Department is unable to recover the full amount of the adjustment through voluntary repayment from the former beneficiary.
- 9804.15 If the income actually received by the beneficiary during the six (6) month period is less than the beneficiary's projected income for that period, the beneficiary's contribution to the cost of care shall be reduced in a future month or months to reflect the amount that should not have been contributed during the six (6) month period.

9899 DEFINITIONS

For the purposes of this chapter, the following terms shall have the meanings ascribed:

Community Maintenance Needs Allowance (CMNA): A standard income amount that an HCBS Waiver participant living at home may retain to afford the costs associated with living in the community, such as expenses related to mortgage, rent, food, utilities, taxes, and home repairs.

Community Spouse: A spouse of an institutionalized individual who is not institutionalized or enrolled in a Waiver program.

Community Spouse Allowance (CSA): The amount of the institutionalized spouse's income that can be maintained by or transferred to the community spouse. The CSA is the amount needed to maintain or raise the community spouse's income to the Minimum Monthly Maintenance Needs Allowance (MMMNA).

Community Spouse Resource Allowance (CSRA): An allowance of resources that can be maintained by or transferred to the community spouse without incurring penalties.

Cost of Care: The amount of money charged by a long term care facility or HCBS Waiver service provider for LTCSS.

Dependent: A dependent family member may include a parent, minor child, dependent child, or dependent sibling, including half and step siblings, of either member of a couple who resides with the community spouse and who may be claimed as a dependent by either member of the couple for tax purposes pursuant to 26 U.S.C. § 152.

Dependent Family Allowance: An allowance of income for each dependent family member residing with the community spouse.

Exceptional Circumstances: Circumstances that threaten the community spouse's ability to remain in the community due to severe financial duress.

Excess Shelter Allowance: An allowance of the community spouse's income for shelter including rent or mortgage payment, taxes, utilities, and insurance.

Fair Market Value: In accordance with 26 C.F.R. § 20.2031-1(b), the fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

Federal Benefit Rate: The share of the Supplemental Security Income (SSI) grant paid by the federal government, which does not include any applicable State supplement.

Gross Countable Income: Includes an individual's total gross earned and unearned income, excluding income from non-countable sources.

Gross Countable Resources: Includes all resources available to the individual, excluding exempt categories of resources.

Home and Community-Based Services Waiver (HCBS Waiver) Programs: HCBS Waiver programs, the Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD), and the Home and Community-Based Services Waiver for Persons with Intellectual and/or Developmental Disabilities (IDD), that provide home and community-based services that assist Medicaid-eligible individuals to live in the community and avoid institutionalization.

Home Maintenance Deduction: A standard income amount that an individual residing in an institutional setting may retain to pay for the maintenance of the home.

Incurred Medical Expenses: Medically necessary medical expenses incurred by an individual, family member, or financially responsible relative that are not subject to payment by a third party.

Institutional Level of Care: The level of care furnished to individuals residing in a nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).

Institutionalized Individual: An individual receiving an institutional level of care in an institutional setting (*i.e.*, nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)). An individual in an acute care facility is considered institutionalized if the individual receives, or is likely to receive, an institutional level of care for more than thirty (30) days.

Institutionalized Spouse: An individual who is residing in an institutional setting and who is married to a person who is not in a medical institution or nursing facility.

Land Contract: A contract between a seller and buyer of real property in which the seller provides financing to the buyer to purchase the property for an agreed-upon purchase price and the buyer repays the loan in installments.

Long term care services and supports (LTCSS): Health-related care and services, above the level of room and board, that are needed regularly due to a mental or physical condition, provided in a nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), or in a home or community setting through a Home and Community-Based Services Waiver (HCBS Waiver) program.

Maximum Home Equity Limit: The amount established annually by CMS which limits the home equity interest an individual may have in his or her personal home, and still be eligible for LTCSS.

Medically Needy Income Level (MNIL): Fifty percent (50%) of the Federal Poverty Level (FPL) for a household of two or larger; the MNIL for a household of one is ninety-five percent (95%) of that for a household of two.

Minimum Monthly Maintenance Needs Allowance (MMMNA): The minimum amount of monthly income that the community spouse is entitled to possess. This may consist solely of the community spouse's income or the sum total of the community spouse's income plus the Community Spouse Allowance.

Personal Home: An individual's primary residence.

Personal Needs Allowance (PNA): A standard income amount that an individual residing in an institution or receiving residential supports through the

Department on Disability Services (DDS) may retain to pay for personal needs not provided by the institution.

Pooled Trust: A trust which contains the resources of an individual with a disability, is established for the sole benefit of the individual by a parent, grandparent, legal guardian, or court, and meets the requirements of 42 U.S.C. § 1396p(6)(4)(C).

Remedial Care Expenses: Amounts for fees paid to a guardian, conservator, or representative payee.

Sibling: One (1) of two (2) or more children related by blood or adoption through a common legal parent or through the marriage of the children's legal or biological parents.

Special Income Standard (SIS): Three hundred percent (300%) of the SSI federal benefit rate (FBR) defined by the Social Security Administration (SSA).

Special Needs Trust: A trust which contains the resources of an individual under the age of sixty-five (65) with a disability, is established for the sole benefit of the individual by a parent, grandparent, legal guardian, or court, and meets the requirements of 42 U.S.C § 1396p(d)(4)(a).

Spend Down: Spend down is the process by which an individual may use medical expenses to reduce countable income to the Medicaid income limit to meet financial eligibility requirements for Medicaid coverage.

Spousal Impoverishment Protections: Allowances and deductions to a couple's income and resources, defined in Section 1924 of the Social Security Act, that are designed to protect the income and resources of the community spouse. Spousal impoverishment protections apply to HCBS Waiver individuals and institutionalized individuals who were institutionalized in a long-term care facility on or after October 1, 1989.

Spousal Share: Half (1/2) of the total countable resources available to either the institutionalized or community spouse.

Spouse: A person married under District law, including members of common-law and same-sex couples whose marriages or civil unions are recognized under the Religious Freedom and Civil Marriage Equality Act of 2009 (D.C. Official Code § 46-401). The term does not include registered domestic partners.

State Supplementary Payment: Payments made to individuals residing in a Certified Residential Facility (CRF) or Adult Living Facility (ALF).

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-137
May 18, 2015

SUBJECT: Appointment — Washington Metropolitan Area Transit Commission

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with Title I, Article III of the Washington Metropolitan Area Transit Regulation Compact, approved September 15, 1960 (74 Stat. 1031; Pub. L. 86-794; D.C. Official Code § 9-1103.01 (2012 Repl.)), it is hereby **ORDERED** that:

1. **LEIF A. DORMSJO** is appointed as a member of the Washington Metropolitan Area Transit Commission, replacing Matthew Brown, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2014-094, dated May 1, 2014.
3. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to January 2, 2015.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
ACTING SECRETARY OF THE DISTRICT OF COLUMBIA

**DISTRICT OF COLUMBIA ADVISORY COMMITTEE TO THE
OFFICE OF ADMINISTRATIVE HEARINGS**

PUBLIC NOTICE OF MEETING

In accordance with D.C. Code § 2-576(1), the Advisory Committee to the Office of Administrative Hearings (OAH Advisory Committee) hereby gives notice that it will meet on Tuesday, June 2, 2015, at 4:00pm. The members may vote to close a portion of the meeting pursuant to D.C. Code § 2-575(b) and (c). The meeting will be held at the following location:

Office of Administrative Hearings
The Potomac Room
441 Fourth Street, N.W., Suite 450 North
Washington, DC 20001

For further information, please contact Shauntinique Steele at nikki.steele@dc.gov or 202-741-5303.

AGENDA

- I. Call to Order and Introductions of OAH Advisory Board Members, Acting Chief Administrative Law Judge Eugene A. Adams, OAH Executive Director Kathy Haggerty, Other OAH staff
- II. Presentation on the State of OAH by Acting Chief ALJ Adams
- III. Discussion of mission and operations of the OAH Advisory Committee; review of OAH Advisory Committee Charter in D.C. Code § 2-1831.17
- IV. Presentation of OAH priorities by Acting Chief ALJ Adams and Executive Director Haggerty; Discussion of how OAH Advisory Committee can assist OAH with identified priorities
- V. Discussion of various issues including:
 1. Issues of concern to OAH Administrative Law Judges
 2. Ensuring functioning of OAH as an administrative court system
 3. Ensuring effective operation of the Government of the District of Columbia
 4. Issues of concern to the public and individuals appearing before OAH
- VI. Assignment of responsibilities to OAH Advisory Committee and its Members
- VII. Identification of product for next OAH Advisory Committee meeting
- VIII. Set schedule for future OAH Advisory Committee Meetings
- IX. Other Business
- X. Adjournment

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, MAY 27, 2015
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

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

Show Cause Hearing (Status) **9:30 AM**
Case # 14-CC-00186; 1010 V, LLC, Josephine, 1010 Vermont Ave NW
License #76906, Retailer CT, ANC 2F
Sale to Minor Violation

Show Cause Hearing (Status) **9:30 AM**
Case # 15-AUD-00014; Pub Management, Inc., t/a Zoo Bar Café, 3000
Connecticut Ave NW, License #60391, Retailer CR, ANC 3C
Failed to File Quarterly Statements (3rd Quarter 2014)

Show Cause Hearing (Status) **9:30 AM**
Case # 15-AUD-00022; Atlantic Restaurant Partnership, LLC, t/a TGI Friday
2100 Pennsylvania Ave NW, License #60813, Retailer CR, ANC 2A
Failed to File Quarterly Statements (3rd Quarter 2014)

Show Cause Hearing (Status) **9:30 AM**
Case # 15-AUD-00020; T & L Investment Group, LLC, t/a Panda Gourmet
2700 New York Ave NE, License #86961, Retailer CR, ANC 5C
Failed to File Quarterly Statements (3rd Quarter 2014)

Show Cause Hearing (Status) **9:30 AM**
Case # 15-AUD-00021; Paul Penn, LLC, t/a Paul Bakery, 801 Pennsylvania,
Ave NW, License #86639, Retailer CR, ANC 2C
Failed to File Quarterly Statements (3rd Quarter 2014)

Show Cause Hearing (Status) **9:30 AM**
Case # 14-251-00017; Jam Venture, LLC, t/a Opera Ultra Lounge, 1400 I Street
NW, License #84711, Retailer CN, ANC 2C
Interfered with an Investigation, Failed to Follow Security Plan

Board's Calendar
May 27, 2015

Contested Fact Finding Hearing* **10:00 AM**
Fast Trip, LLC, t/a Bistro on U Street; 926-928 U Street NW, License #98081
Retailer CT, ANC 1B
Request for a Stipulated License

Show Cause Hearing* **11:00 AM**
Case # 14-CC-00189 and # 14-251-00258; Acott Ventures, t/a Shadow Room
2131 K Street NW, License #75871, Retailer CR, ANC 2A
**Sale to Minor Violation (Two Counts), Failed to Take Steps Necessary to
Ascertain Legal Drinking Age (Two Counts)**

BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA AT 1:00 PM

Show Cause Hearing* **1:30 PM**
Case # 15-251-00033; New York Avenue Beach Bar, LLC, t/a Halftime Sports
Bar, 1427 H Street NE, License #94107, Retailer CT, ANC 6A
Possession of a Firearm

Fact Finding Hearing* **2:30 PM**
Case # 14-251-00344; Inner Circle 1223, LLC, t/a Dirty Martini Inn Bar/Dirty
Bar, 1223 Connecticut Ave NW, License #83919, Retailer CN, ANC 2B
Person Injured Outside of the Establishment

Fact Finding Hearing* **3:30 PM**
Case # 14-251-00344; Inner Circle 1223, LLC, t/a Dirty Martini Inn Bar/Dirty
Bar, 1223 Connecticut Ave NW
License #83919, Retailer CN, ANC 2B
Person Injured Outside of the Establishment

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

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, MAY 27, 2015
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On May 27, 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-00060 El Nuevo Migueleno, 1721 COLUMBIA RD NW Retailer C Restaurant, License#: ABRA-075403

2. Case#15-AUD-00057 Rajaji Curry House, 2603 CONNECTICUT AVE NW Retailer C Restaurant, License#:ABRA-070945

3. Case#15-AUD-00067 Italian Pizza Kitchen, 4483 CONNECTICUT AVE NW Retailer C Restaurant, License#:ABRA-079296

4. Case#15-AUD-00066 Pasara Thai DC, 1219 CONNECTICUT AVE NW Retailer C Restaurant, License#:ABRA-077157

5. Case#15-AUD-00055 Panache, 1725 DE SALES ST NW Retailer C Restaurant, License#: ABRA-060754

6. Case#15-251-00053 Awash, 2218 - 2220 18TH ST NW Retailer C Restaurant, License#: ABRA-020102

7. Case#15-AUD-00056 Renaissance Mayflower Hotel/Edgar, 1127 CONNECTICUT AVE NW Retailer C Hotel, License#: ABRA-080787

8. Case#15-AUD-00062 W Washington DC, 515 15TH ST NW Retailer C Hotel, License#: ABRA-075952

9. Case#15-AUD-00059 Zest Bistro, 735 8TH ST SE Retailer C Restaurant, License#: ABRA-082432

10. Case#15-AUD-00063 Il Canale, 1063 - 1065 31st ST NW Retailer C Restaurant, License#: ABRA-083707

11. Case#15-AUD-00048 Paul Bakery, 801 Pennsylvania AVE NW Retailer D Restaurant, License#: ABRA-086639

12. Case#15-AUD-00050 Panda Gourmet, 2700 NEW YORK AVE NE Retailer C Restaurant, License#: ABRA-086961

13. Case#15-AUD-00053 Fuel Pizza & Wings, 1606 K ST NW Retailer C Restaurant, License#: ABRA-088452

14. Case#15-AUD-00047 Kitty O'Shea's DC, 4624 WISCONSIN AVE NW Retailer C Restaurant, License#: ABRA-090464

15. Case#15-AUD-00064 Ethiopia Restaurant & Market, 4630 14TH ST NW Retailer C Restaurant, License#: ABRA-091373

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, MAY 27, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Settlement Agreement between ANC 6B and Safeway, dated April 20, 2015. *Safeway*, 415 14th Street, S.E., Retailer A, License No.: 002195.*
-

* 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, MAY 27, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 1C. SMD 1C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Meskerem Ethiopia Restaurant*, 2434 18th Street NW, Retailer CR, License No. 007916.

2. Review Request for Change of Hours. *Approved Hours of Operation*: Sunday-Thursday 9:30am to 12am, Friday-Saturday 9:30am to 1am. *Approved Hours of Alcoholic Beverage Sales and Consumption*: Sunday-Thursday 11am to 12am, Friday-Saturday 11am to 1am. *Proposed Hours of Operation*: Sunday-Thursday 9:30am to 1am, Friday-Saturday 9:30am to 2am. *Proposed Hours of Alcoholic Beverage Sales and Consumption*: Sunday-Thursday 11am to 1am, Friday-Saturday 11am to 2am. ANC 2F. SMD 2F06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *CherCher Ethiopian Restaurant*, 1334 9th Street NW, Retailer CR, License No. 090311.

3. Review Request for Change of Hours of Entertainment Endorsement. *Approved Hours of Live Entertainment*: Sunday-Thursday 9pm to 1am, Friday-Saturday 9pm to 2am. *Proposed Hours of Live Entertainment*: Sunday-Thursday 8pm to 2am, Friday-Saturday 8pm to 3am. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Marrakech Restaurant*, 2147 P Street NW, Retailer CT, License No. 090204.

4. Review Application for Sidewalk Café. ANC 1C. SMD 1C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with prior tenant's Settlement Agreement. *High Dive*, 2337 18th Street NW, Retailer CT, License No. 097821.

5. Review Application for Manager's License. *Sara A. Hairston*-ABRA 098246.

6. Review Application for Solicitor's License. *Rodney W. Camp*-ABRA 099077.
-

***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.**

DEPARTMENT OF BEHAVIORAL HEALTH
NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA# DBH PFS060815

Strategic Prevention Framework Partnership for Success High Need Communities Grant

Purpose/Description of Project

The Department of Behavioral Health (DBH), Prevention Division, is soliciting applications for Community Prevention Networks (CPNs) to implement evidence based prevention strategies in designated high need communities within the District of Columbia. By utilizing funding from the Strategic Prevention Framework (SPF) Partnership for Success (PFS) High Need Communities Grant, CPNs will implement evidence based prevention strategies to include but not limited to: awareness programs, underage drinking campaigns, environmental strategies, advocating for policy changes, etc., in one or more high need communities to prevent underage drinking and marijuana use among youth and young adults.

Each of the eight (8) wards is identified as a “high need community” for prevention. The PFS funding emphasizes the youth and young adult population as ages 12 to 25. The premise of PFS is that changes at the community level, will, over time, lead to measureable changes at the District level. By working together to foster change, the District and funded communities of high need can more effectively begin to overcome the challenges of underlying substance use prevention priorities and avoid underage drinking and marijuana use among youth and young adults.

Eligibility

- Existing (in operation for one (1) year or more) Community Prevention Networks (CPNs) currently affiliated with DC Prevention Centers addressing substance use prevention, mental health, or public health.
- Ability to enter into an agreement with DBH requiring compliance with all District of Columbia laws and regulations governing Substance Use Disorders and Mental Health Grants (22A DCMR Chapter 44).
- A 501(c)(3), or ability to enlist the services of a fiscal agent to apply for the funding on behalf, if CPN is not 501(c)(3).

Length of Award

Grant awards will be made for a period of one (1) year from the date of award. The grant may be continued for up to one (1) additional year based on documented project success and availability of funding. Grant recipients will be expected to begin project implementation on or after October 1, 2015.

Available Funding

Approximately \$800,000 is available to fund eight (8) CPNs, up to \$100,000 each under the SPF PFS High Need Communities Grants. Grants will be awarded by DBH using funds provided by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration through the SPF PFS.

Anticipated Number of Awards

DBH anticipates eight (8) awards in the amount of \$100,000 to represent each of the 8 wards of the District of Columbia.

Request for Application (RFA) Release

The RFA will be released Monday, June 8, 2015. The RFA will be posted on the DBH website, www.dbh.dc.gov under Opportunities, and on the website of the Office of Partnerships and Grants, www.opgs.dc.gov under the District Grants Clearinghouse. A copy of the RFA may be obtained from the DBH Office of Fiscal Services, located at 1300 First Street, NE, Washington, DC 20002, 3rd Floor, from Program Monitor Katherine Cooke Mundle during the hours of 8:15 a.m. – 4:45 p.m. beginning June 8, 2015.

Pre-Application Conference

A pre-application conference will be held at DBH, 1300 First Street, NE, Washington, DC, 20002, 3rd Floor, Rm. 340 on Thursday, June 18, 2015 from 10:00 a.m. – 12:00 p.m. ET.

For more information, please contact Katherine Cooke Mundle at katherine.mundle@dc.gov or (202) 727-7639.

Deadline for Applications

The deadline for submission is Tuesday, July 7, 2015, at 4:45 p.m. ET.

BRIDGES PUBLIC CHARTER SCHOOL**AND****BRIYA PUBLIC CHARTER SCHOOL****NOTICE OF INTENT TO ENTER INTO A CONTRACT****Project Management Services**

On February 20, 2015 Bridges and Briya Public Charter Schools on behalf of the Mamie D. Lee, LLC published a Request for Proposals (“RFP”) for project management services for a new public charter school project. These services are required to provide the expertise needed to implement a large facility redevelopment project. In response to the notice, nine RFPs were distributed and two responses were received. The two submissions were reviewed by a joint committee for Bridges and Briya and both teams were interviewed. Building Hope in partnership with Brailsford & Dunlavey was selected as the preferred bidder. The original notice was not published in two other sources per the District of Columbia Public Charter School Board’s Regulations and this additional notice is being published to notify the community of Mamie D. Lee, LLC’s intent of entering into a contract for project management services with Building Hope for approximately 2.7% of the construction hard costs, which have yet to be determined.

CENTER CITY PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS**

Center City Public Charter Schools is soliciting proposals from qualified vendors for the following:

180 Chromebooks with Educational Management Licenses: To obtain copies of full RFPs, please visit our website: www.centercitypcs.org. The full RFPs contain guidelines for submission, applicable qualifications, and deadlines. Contact Person: Scott Burns sburns@centercitypcs.org.

50 Chromebooks with Educational Management Licenses: To obtain copies of full RFPs, please visit our website: www.centercitypcs.org. The full RFPs contain guidelines for submission, applicable qualifications, and deadlines. Contact Person: Scott Burns sburns@centercitypcs.org.

School Transportation Services: To obtain copies of full RFPs, please visit our website: www.centercitypcs.org. The full RFPs contain guidelines for submission, applicable qualifications, and deadlines. Contact Person: Mr. Kelly Dickens kdickens@centercitypcs.org.

OFFICE OF DISABILITY RIGHTS
DC COMMISSION ON
PERSONS WITH DISABILITIES (DCCPD)

PUBLIC NOTICE OF MEETING

May 28, 2015, 9:00 AM to 10:30 AM
441 4th St. NW, Ste. 1112
Washington, DC 20001
Toll Free: (866) 628-2987
Passcode: 8488992

Meeting Agenda

1. Welcome and Introductions	All	05 Minutes
2. Meet ODR New Director	Alexis Taylor	10 Minutes
3. Because of the ADA Update	Kali	10 Minutes
4. Update From Boards and Commissions	Denise and Kali	05 Minutes
5. Subcommittee Planning	All	25 Minutes
6. Mayor's Expo	Denise and Kali	10 Minutes
7. Plan July Meeting and Other Announcements	All	10 Minutes
8. Closing Remarks and Adjourn	Denise	05 Minutes

**OFFICE OF THE DEPUTY MAYOR FOR EDUCATION
MY SCHOOL DC**

2015 REGULARLY SCHEDULED MEETINGS

The Common Lottery Board advises My School DC, whose functions and duties include developing and maintaining a common lottery system for admission to public schools in the District of Columbia, including public charter schools; promoting participation of local educational agencies in the common lottery system, and identifying entities to partner with to enable it to further develop the common lottery system (D.C. Law 20-155, Sec. 4053)

The Common Lottery Board meets quarterly. The meeting dates for Calendar Year 2015 are:

April 10, 2015 at 2:00 pm: 1350 Pennsylvania Ave NW, Room 527

July 17, 2015 at 2:00pm: 1350 Pennsylvania Ave NW, Room 527

September 11, 2015 at 2:00pm: 1350 Pennsylvania Ave NW, Room 527

This schedule is subject to change. The locations for meetings may vary. To confirm attendance and location, please contact: Catherine Peretti at catherine.peretti@dc.gov

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS****NOTICE OF CERTIFICATION OF ELECTION RESULTS**

**Office of Ward 4 Member of the Council of the District of Columbia
Office of Ward 8 Member of the Council of the District of Columbia**

The District of Columbia Board of Elections (DCBOE) announces it has certified the April 28, 2015 Special Election results. Brandon Todd is the winner of the election to fill the vacancy in the office of Ward 4 Member of the Council, and LaRuby May is the winner of the election to fill the vacancy in the office of Ward 8 Member of the Council. Certified results can be seen here: https://www.dcboee.org/election_info/election_results/2015/April-28-Special-Election.

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, 5th Floor, Washington, DC, intends to issue four air quality permits (Nos. 6984 through 6987) to Sibley Memorial Hospital – Johns Hopkins Medicine to construct and operate four identical 1,500 kWe emergency generator sets with associated 2.328 hp diesel fired engines located on Level 1, above the ambulance structure of the Patient Tower portion of Sibley Memorial Hospital, 5255 Loughboro Road NW, Washington, DC 20057. The contact person for facility is Lorenzo Bell, Chief Engineer, at (202) 537-4693.

Emissions:

Maximum emissions from each of the four 1,500 kWe emergency generator sets, limited to operating two hundred sixty (260) hours per year, is expected to be as follows:

	Maximum Annual Emissions
Pollutant	(tons/yr)
Total Particulate Matter (PM Total)	0.12
Sulfur Dioxide (SO ₂)	0.004
Nitrogen Oxides (NO _x)	3.40
Volatile Organic Compounds (VOC)	0.20
Carbon Monoxide (CO)	0.49

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)]:

Pollutant Emission Limits (g/kW-hr)		
NMHC+NO _x	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 applications and supporting documentation, along with the draft permits are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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

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

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after June 22, 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, 5th Floor, Washington, DC, intends to issue three air quality permits (Nos. 6988 through 6990) to Sibley Memorial Hospital – Johns Hopkins Medicine to construct and operate three 14.7 MMBtu per hour rated heat input dual fuel (natural gas and either No. 2 fuel oil or diesel fuel) boilers located on the Concourse Level of the Patient Tower portion of Sibley Memorial Hospital, 5255 Loughboro Road NW, Washington, DC 20057. The contact person for facility is Lorenzo Bell, Chief Engineer, at (202) 537-4693.

Emissions:

Maximum emissions from each of the three 14.7 MM Btu per hour, limited to burning 85 million standard cubic feet (MMscf) natural gas per year and operating on No. 2 fuel oil or diesel fuel for no more than 942 hours per year, is expected to be as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.49
Sulfur Dioxide (SO ₂)	3.52
Nitrogen Oxides (NO _x)	2.51
Volatile Organic Compounds (VOC)	0.25
Carbon Monoxide (CO)	3.82

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

- a. Each of the 14.7 MMBtu per hour dual fuel–fired boilers shall not emit pollutants in excess of those specified in the following table [20 DCMR 201]:

Pollutant	Short-Term Limit (Natural Gas) (lb/hr)	Short-Term Limit (No. 2 Fuel oil) (lb/hr)
Carbon Monoxide (CO)	1.21	0.53
Oxides of Nitrogen (NO _x)	0.52	2.13
Total Particulate Matter (PM Total)*	0.11	0.35
Oxides of Sulfur (SO _x)	0.008	7.67

*PM Total includes both filterable and condensable fractions. *Note that compliance with Conditions III(a) and (b) will be considered compliance with these PM Total standards, unless other credible evidence of a violation is identified.*

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the boilers, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]
- d. Total suspended particulate matter (TSP) emissions from the boilers shall not exceed 0.09 pound per million BTU. [20 DCMR 600.1]
- e. Emissions shall not exceed those achieved with the performance of annual combustion adjustments on the boilers. To show compliance with this condition, the Permittee shall, each calendar year, perform adjustments of the combustion processes of the boilers with the following characteristics [20 DCMR 805.8(a) and (b)]:
 - 1. Inspection, adjustment, cleaning or replacement of fuel burning equipment, including the burners and moving parts necessary for proper operation as specified by the manufacturer;
 - 2. Inspection of the flame pattern or characteristics and adjustments necessary to minimize total emissions of NO_x and, to the extent practicable, minimize emissions of CO;
 - 3. Inspection of the air-to-fuel ratio control system and adjustments necessary to ensure proper calibration and operation as specified by the manufacturer; and
 - 4. Adjustments shall be made such that the maximum emission rate for any contaminant does not exceed the maximum allowable emission rate as set forth in this section.

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

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

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

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after June 22, 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, 5th Floor, Washington, DC, intends to issue air quality permit #6998 to 13th & U Lessee, LLC (a JBG company) to construct and operate a 200 kWe emergency generator set with a 304 HP natural gas fired engine at 13th & U Streets NW, Washington DC. The contact person for the facility is Peggy Farrell at 240-333-3686

Emissions:

Maximum annual potential emissions from the unit are expected to be as follows:

Pollutant	Maximum Annual Emissions (tons/yr)
Total Particulate Matter (PM Total)	0.013
Sulfur Oxides (SO _x)	0.0004
Nitrogen Oxides (NO _x)	0.022
Volatile Organic Compounds (VOC)	0.089
Carbon Monoxide (CO)	2.089

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

- a. Emissions from each unit shall not exceed those in the following table, as measured according to the procedures set forth in [40 CFR 60.4233(d), and 40 CFR 60 Subpart JJJJ, Table 1]:

Pollutant Emission Limits (g/HP-hr)		
NO _x	CO	VOC
2.0	4.0	1.0

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

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

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after June 22, 2015 will be accepted.

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

DEPARTMENT OF GENERAL SERVICES**NOTICE OF PUBLIC MEETING REGARDING
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE §10-801**

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

Property: Hardy School Building ("Hardy School Building")
1550 Foxhall Road, NW (also known as 4470 Foxhall Road, NW)
Washington, DC 20007
Square: 1363 Lot: 0980
Date: Tuesday June 9, 2015
Time: 6:30-8:30 p.m.
Location: Hardy School Building- Multi-purpose Room

Contact: Ikenna Udejiofor, Realty Project Manager
Department of General Services
202.698.1604 or ikenna.udejiofor@dc.gov

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Dietetics & Nutrition (“Board”) hereby gives notice of a change in its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b) (2012 Repl.).

Due to schedule conflict, the Board’s regular meeting scheduled for Tuesday, June 9, 2015, will be rescheduled to Tuesday, June 16, 2015 from 9:30 AM to 12:00 PM. The meeting will be open to the public from 9:30 AM until 11:00 AM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 11:00 AM to 12:00 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 Board’s regular meetings are held at the same time on the second Tuesday of each quarter, with the next meeting scheduled to be held on Tuesday, September 8, 2015.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health’s Events webpage at www.doh.dc.gov/events to view the agenda.

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DECISIONS

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

Designation Case No. 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)
Designated April 23, 2015
Affected Advisory Neighborhood Commission 4A

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to amend the landmark designation of the following property in order to include portions of its interior as part of the historic landmark in the D.C. Inventory of Historic Sites. These portions of the interior are subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

Designation Case No. 13-01: The Corcoran Gallery of Art

1700 New York Avenue/500 17th Street/1701 E Street NW
Square 171, Lot 34 (Lot 814 and part of Lot 815)
Designated April 23, 2015
Affected Advisory Neighborhood Commission 2A

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

The D.C. Historic Preservation Review Board hereby provides public notice of its decision not to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. Nonetheless, both properties remain subject to the D.C. Historic Landmark and Historic District Protection Act of 1978 as they stand within historic districts.

Designation Case No. 15-04: 16 Grant Circle NW

Square 3244, Lot 801
Application denied March 26, 2015
Affected Advisory Neighborhood Commission 4C

Designation Case No. 14-04: The West Heating Plant

1051-1055 29th Street NW
Square 1193

Application denied April 23, 2015
Affected Advisory Neighborhood Commission 2E

And finally, the D.C. Historic Preservation Review Board hereby provides public notice that an application to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites was withdrawn by the applicant. Nonetheless, the property remains subject to the D.C. Historic Landmark and Historic District Protection Act of 1978 as it stands within the Grant Circle Historic District.

Designation Case No. 15-04: 16 Grant Circle NW
Square 3243, Lot 44
Application withdrawn April 21, 2015
Affected Advisory Neighborhood Commission 4C

IDEA PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Building Management Services**

The IDEA Public Charter School is seeking for a vendor to provide facility maintenance solutions in the education market

Please go to www.ideapcs.org/requests-for-proposals to view a full RFP offering, with more detail on scope of work and bidder requirements.

Please direct any questions to bids@ideapcs.org.

Proposals shall be received no later than 5:00 P.M., Friday, June 5, 2015.

**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, May 28, 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).

AGENDA

I. CALL TO ORDER

II. DETERMINATION OF A QUORUM

III. APPROVAL OF AGENDA

IV. BOARD EDUCATION

- Report Out and Information Sharing from the Annual AHA Meeting
 - David Small, Interim CEO
 - Jim Hobbs, VP Business Dev. & Physician Recruitment
 - Virgil McDonald, Chair, Governance Committee
 - Dr. Raymond Tu, Vice Chief of Staff

V. CONSENT AGENDA

A. READING AND APPROVAL OF MINUTES

1. March 26, 2015 – Board of Directors General Meeting
2. April 23, 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, Interim Director of Public Relations and Communications
7. Maribel Torres, Chief Nursing Officer
8. Charletta Washington, VP of Ambulatory & Ancillary Services

VI. NONCONSENT AGENDA**A. CHIEF EXECUTIVE REPORTS**

1. David Small, Interim CEO
2. Barbara Roberson-Thomas, Interim CFO

B. MEDICAL STAFF REPORT

1. Raymond Tu, Vice Chief of Staff

C. COMMITTEE REPORTS

1. Patient Safety and Quality Committee
2. Governing Board
3. Finance Committee Report

D. OTHER BUSINESS

1. Old Business
2. New Business

E. ANNOUNCEMENT

Next Meeting – Thursday, June 25, 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).

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFF

ET00-2, IN THE MATTER OF POTOMAC ELECTRIC POWER COMPANY'S PUBLIC SPACE OCCUPANCY SURCHARGE ELECTRICITY TARIFF, P.S.C.-D.C. No. 1

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Official Code and in accordance with Section 2-505 of the District of Columbia Official Code,¹ of its intent to act upon the Potomac Electric Power Company's (Pepco or Company) - Public Space Occupancy Surcharge Rider "PSOS" (Surcharge Update)² in not less than 30 days from the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.

2. D.C. Official Code § 10-1141.06 states that "[e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement." On February 27, 2015, Pepco filed an updated Rider PSOS that proposes to amend the following tariff page:

**ELECTRICITY TARIFF, P.S.C.-D.C. No. 1
15th Revised Page No. R-33**

3. According to Pepco, the Surcharge Update consists of two parts reflecting: 1) the payments to be made by Pepco to the District of Columbia for the current year, and 2) the over or under recovery from the prior year.³ Pepco proposes a new PSOS rate of \$0.00204 per kilowatt-hour delivered to the customer, which is a decrease of \$0.00001 per kilowatt-hour from the current PSOS rate of \$0.00205 per kilowatt-hour.⁴ The rate is based on a rate of \$0.00205 per kilowatt-hour for estimated 2015 payments and a rate of \$0.00001 per kilowatt-hour for the over collection of payments made by Pepco in 2014.⁵ Pepco proposes that its Surcharge Update become effective with meter readings on and

¹ D.C. Official Code § 2-505 (2012 Repl.) and D.C. Official Code § 34-802 (2014 Supp.).

² *ET00-2, In The Matter of Potomac Electric Power Company's Public Occupancy Surcharge Electricity Tariff, P.S.C.-D.C. No. 1*, Letter to Brinda Westbrook-Sedgwick, Commission Secretary, from Dennis Jamoneau, Assistant General Counsel, re: ET00-2 - *Rider "PSOS"*, filed February 27, 2015 (hereinafter referred to as Surcharge Update).

³ *ET00-2*, Surcharge Update at 1.

⁴ *Id.* at 2 and Attachment B.

⁵ *Id.* at Attachment C.

after March 1, 2015.⁶ The Company has a statutory right to implement the PSOS however, if the Commission discovers any inaccuracies in the calculation of the proposed surcharge rated, Pepco could be subject to reconciliation of the surcharges.

4. This Surcharge Update may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's web site at www.dcpsc.org. Copies of the tariff are available upon request, at a per-page reproduction cost.

5. Comments on the Surcharge Update must be made in writing to Brinda Westbrook-Sedgwick, Commission Secretary, at the above address. All comments and reply comments must be received within 30 and 45 days, respectively, of the date of publication of this NOPT in the *D.C. Register*. Once the comment period has expired, the Commission will take final action on Pepco's Surcharge Update.

⁶ *Id.* at 1.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFF

GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C.

No. 3

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,¹ of its intent to act upon the proposed Surcharge Update of Washington Gas Light Company (WGL or Company)² in not less than 30 days after the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.

2. The Rights-of-Way (ROW) Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. On March 23, 2015, pursuant to D.C. Code § 10-1141.06,³ WGL filed a Surcharge Update to revise the ROW Current Factor.⁴ In the Surcharge Update, WGL sets forth the process to be used to recover from its customers the D.C. ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3
Section 22
3rd Revised Page 56

3. WGL's Surcharge Update shows that the ROW Current Factor is 0.0326 with the ROW Reconciliation Factor of (0.0037) due to over collection for the prior period of June 2014 through May 2015, which yields a Net Factor of 0.0289.⁵ In addition, WGL expresses its intent to collect the surcharge beginning with the April 2015 billing cycle.⁶ The Company has a statutory right to implement its filed surcharges. However, if the Commission discovers any

¹ D.C. Code § 2-505 (2012 Repl.) and D.C. Code § 34-802 (2014 Supp.).

² *GT00-2, In the Matter of Washington Gas Light Company's Rights-of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3*, (GT00-2) Rights-of-Way Current Factor Surcharge Filing of Washington Gas Light Company (Surcharge Update), filed March 23, 2015.

³ D.C. Code § 10-1141.06 (2014 Supp.) states that, "Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

⁴ *GT00-2*, Surcharge Update at 1.

⁵ *Id.* at 2.

⁶ *Id.* at 1.

inaccuracies in the calculation of the proposed surcharge, WGL could be subject to reconciliation of the surcharges.

4. This Surcharge Update may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's web site at www.dcpssc.org. Copies of the tariff are available upon request, at a per-page reproduction cost.

5. Comments on the Surcharge Update must be made in writing to Brinda Westbrook-Sedgwick, Commission Secretary, at the above address. All comments and reply comments must be received within 30 and 45 days, respectively, of the date of publication of this NOPT in the *D.C. Register*. Once the comment period has expired, the Commission will take final action on WGL's Surcharge Update.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMEND FOR APPOINTMENTS OF NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after June 15, 2015.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on May 22, 2015. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

Effective: June 15, 2015

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Alfaro	Ivis	Melanoma Research Foundation 1411 K Street, NW, Suite 800	20005
Angus	Tat-lin	Pepeco Holdings Inc. 701 9th Street, NW	20001
Aylor	Christine Rebecca Jensen	US Airways 1401 H Street, NW, Suite 1075	20005
Barnes	Joretha C.	O'Melveny & Myers LLP 1625 Eye Street, NW	20006
Bell	Belinda V.	Self 4829 7th Street, NE	20017
Benn	Leona	Schnader Harrison Segal & Lewis LLP 750 9th Street, NW, Suite 550	20001
Bennett-Shikmut	Joycelin	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Berry	Maxine K.	Self 3818 V Street, SE	20020
Bonds	Noble F.	Self (Dual) 3807A W Street, SE	20020
Bott	Lori L.	Worldwide Reporting, LLP 529 14th Street, SE	20003
Briones	Rosamaria H.	Arnold & Porter LLP 555 12th Street, NW	20004
Brooks	Charletta E.	National Children's Center 6200 2nd Street, NW	20011
Brown-Hall	Lynda J.	Self (Dual) 4938 12th Street, NE	20017
Campbell-Adams	Jennifer J.	Fried, Frank, Harris, Shriver & Jacobson LLP 801 17th Street, NW	20006

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

Effective: June 15, 2015

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Cephas	Keyania S.	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Childs	Diane A.	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Coleman	Demetries	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Coyoca	Makeba	Oppenheimer and Co., Inc. 2000 K Street, NW, 8th Floor	20006
Curtin	Vicky L.	Koch Companies Public Sector, LLC 600 14th Street, NW, Suite 800	20005
Davis	Linda	Urban Pace, LLC 1919 14th Street, NW, Suite A	20009
Donis	Edward R.	The George Washington University 800 21st Street, NW, G01	20025
Edwards	Alisha Renee	The UPS Store 1220 L Street, NW, Suite 100	20005
Evans	Anna L.	Wurtzel Offices 2134 R Street, NW	20008
Fadlin	Johnese A.	National Children's Center 6200 2nd Street, NW	20011
Fleming	Shirley D.	Department of Energy 1000 Independence Avenue, SW	20585
Flumo	Gboea	TD Bank 1611 Wisconsin Avenue, NW	20007
Foor	Dana E.	The LIUNA International Pension and Retirement Funds 905 16th Street, NW	20006
Franklin	Elizabeth Anne	Hines Interests Limited Partnership 800 10th Street, NW, Suite 600	20001
Franklin	Shanee	Blumenthal & Cordone 7325 Georgia Avenue, NW	20012

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

Effective: June 15, 2015

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Frazier	Kelly F.	Academic Search, Inc. 1825 K Street, NW, Suite 705	20006
George	Miranda	Fried, Frank, Harris, Shriver & Jacobson LLP 801 17th Street, NW	20006
George	Joan	Self 159 Rhode Island Avenue, NE	20002
Gowins	Elizabeth A.	Fulcrum Properties Group 1328 G Street, SE	20003
Gray	Brenda L.	CareFirst BlueCross Blueshield 840 First Street, NE, DC12-08	20065
Hall	India	The Employment Law Group, PC 888 17th Street, NW, Suite 900	20006
Hayes	Kathleen M. A.	U.S. House of Representatives Longworth House Office Building, B-227	20515
Haynes	Michele R.	The LIUNA International Pension and Retirement Funds 905 16th Street, NW	20006
Hunt	Florencia L.	IDB-LLC Federal Credit Union 1300 New York Avenue, NW	20577
Jiles	Robyn	Pepco Holdings Inc. 701 9th Street, NW	20001
Johnson	Meaghan	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Johnson	Deborah A.	Akin Gump Strauss Hauer & Feld LLP 1333 New Hampshire Avenue, NW, Room 1203-S	20036
Joy	Lakeisha	Wells Fargo Bank 1300 I Street, NW, Suite 105W	20005
Kek	Sara Zabihi	Champion Title & Settlements, Inc. 1133 Connecticut Avenue, NW	20036

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

Effective: June 15, 2015

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Kobzeva	Yana V.	Trammell Crow Company 1055 Thomas Jefferson Street, NW, Suite 600	20007
Leblanc	Fareeda N.	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Lee	Lawan	Oppenheimer and Co., Inc. 2000 K Street, NW, 8th Floor	20006
Liu	Danny	PNC Bank 1913 Massachusetts Avenue, NW	20036
Logan	Cerise E.	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
May	Ivan W.	US Department of Housing and Urban Development 451 7th Street, NW	20410
McCrae	Michelle	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
McNeil II	Theodore	Capital Title Insurance 1501 27th Street, SE, Apartment 305	20020
Michael	Sherrill	US Navy, Region Legal Service Office 20 MacDill Boulevard, Suite 349	20032
Mingione	Elizabeth	Merrill Reporting Services 1325 G Street, NW	20005
Moreland	Vera	Self 930 14th Street, SE	20003
Mott-Palmer	L. Jane	SPI: The Plastics Industry Trade Association 1425 K Street, NW, Suite 500	20005
Murillo	Olga	State Farm Insurance Jon Laskin-Agent 4701 Wisconsin Avenue, NW	20016
Newson	Arlena Yvette	Department of Justice 1425 New York Avenue, NW	20005

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

Effective: June 15, 2015

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Notaro	Patrice	John L. Shelton 605 Raleigh Place, SE	20032
Odunsi	Olayinka	TD Bank NA 1489 P Street, NW	20005
Ogoola	Benjamin M.	Bank-Fund Staff Federal Credit Union 1725 I Street, NW, Suite 150	20006
Ortiz-Medina	Wanda	Providence Hospital 1150 Varnum Street, NE	20017
Parker	Linda J.	McGuireWood LLP 2001 K Street, NW	20006
Pierangeli	Karen	Byron S. Adams 1615 L Street, NW, Suite 100	20036
Pochowski	Alek L.	Kittelson & Associates, Inc. 300 M Street, SE, Suite 810	20019
Pryor	Duan M.	Sidley Austin LLP 1501 K Street, NW	20005
Przybocki	Amy	The National Academies 500 5th Street, NW	20001
Puente	Marcella	SunTrust Bank 1800 Columbia Road, NW	20009
Rao	Rupendra A.	Rupen Rao L.L.C. 1520 Spring Place, NW	20010
Richardson	Davante	Wilson-Epes Printing Inc. 775 H Street, NE	20002
Robbs	Lisa M.	Department of Homeland Security/Citizenship Immigration Service 111 Massachusetts Avenue, NW	20529
Rousseau	Lori Ann	National Education Association 1201 16th Street, NW	20036
Salahuddin	Bertina L.	Watkins Security Agency of DC 5325 East Capital Street, SE	20019

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public**

Effective: June 15, 2015

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Schuckman	Brady E.	Mundy Katowitz Media 1322 G Street, SE	20003
Seymour	Catherine M.	Arent Fox LLP 1717 K Street, NW	20006
Seymour	Catherine M.	Arent Fox LLP 1717 K Street, NW	20006
Shekofteh	Sabrina	Habitat for Humanity of Washington, D.C., Inc. 2115 Ward Court, NW, Suite 100	20037
Smart	Anne H.	Akin Gump Strauss Hauer & Feld LLP 1333 New Hampshire Avenue, NW	20036
Smith	Deborah L.	Reinsurance Association of America 1445 New York Avenue, NW, 7th Floor	20005
Soriano	Eric	Branch Banking and Trust Company (BB&T) 3101 14th Street, NW	20010
Spears	JuAnna M.	Self 1430 A Street, SE, Apartment 3	20003
Stankavage	Joseph G.	National Community Reinvestment Coalition (NCRC) 727 15th Street, NE	20005
Straw	Patricia	Public Defender Service 633 Indiana Avenue, NE	20004
Terrana	Michaeleen	Levine, Blaszak, Block, Boothby, LLP 2001 L Street, NW, Suite 900	20036
Terry-Pone	Andrea	Self 318 16th Street, NE	20002
Tharasy-Owens	Sengthong	New World Title & Escrow 888 16th Street, NW, Suite 800	20004
Tolentino	Phillip	IDB-LLC Federal Credit Union 1300 New York Avenue, NW	20577

**D.C. Office of the Secretary
Recommended for appointments as a DC Notaries Public****Effective: June 15, 2015****Page 8**

Townsend	Dalphine	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Voorhees	Monica A.	For the Record 1100 H Street, NW, Suite 1050	20005
Walker, Jr.	Fred Albert	Al Betz & Associates, Inc. 1425 K Street, NW, Suite 350	20005
Wheeler	Janice M	GuideStar USA, Inc 1730 Pennsylvania Avenue, NW, Suite 250	20006
Wilcox	Elizabeth	Schnader Harrison Segal & Lewis LLP 750 9th Street, NW, Suite 550	20001
Wilkins	Doris	Doris Wilkins 1077 30th Street, NW	20007
Williams	Corey Ann	WeWork 641 S Street, NW	20001
Williams	Vacylla	Self 712 48th Street, NE	20019
Wong	Carmen	Reno and Cavanaugh, PLLC 455 Massachusetts Avenue, NW, Suite 400	20001
Woolner	Rhodora N.	U.S. Department of Justice 950 Pennsylvania Avenue, NW, Room 2610	20530
Young	Elnora C.	Urban City Management 2413 Benning Road, NE	20020
Zuniga	Yesenia N.	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002

D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION**MEETING UPDATE**

The D.C. Sentencing and Criminal Code Revision Commission hereby gives notice that the Commission meeting on May 19, 2015 is rescheduled for **Wednesday, May 20, 2015**. Below is the planned agenda for the meeting. The final agenda will be posted on the agency's website at <http://sentencing.dc.gov> Inquiries concerning the meeting may be addressed to Mia Hebb, Staff Assistant, at (202) 727-8822 or Mia.Hebb@dc.gov.

Meeting Agenda

1. Review and Approval of the Meeting Minutes from April 21, 2015 - Action Item, Judge Weisberg.
2. Update on Agency Budget - Informational Item, Barb Tombs-Souvey.
3. Guideline Criminal History Scoring of Prior Marijuana Possession and PWID/Distribution Convictions Continued – Action Item, Linden Fry.
4. Review and Discussion of Proposed Changes to the 2015 Sentencing Guideline Manual – Action Item, Linden Fry.
5. Next Meeting – June 16, 2015
6. Adjourn

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

DC CLEAN TEAM PROGRAM

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Clean Team Program** (“the Program”) in six service areas (listed below). **The submission deadline is Friday, July 10, 2015 at 2:00 p.m.**

Through this grant, DSLBD will fund clean teams, which will: 1) Improve commercial district appearance to help increase foot traffic, and consequently, opportunity for customer sales; 2) Provide jobs for DC residents; 3) Reduce litter, graffiti, and posters which contributes to the perception of an unsafe commercial area; 4) Maintain a healthy tree canopy and landscape; 5) Support Sustainable DC goals by recycling, mulching street trees, using eco-friendly supplies, and reducing stormwater pollution generated by DC’s commercial districts; and 6) Provide jobs for DC residents.

Eligible applicants are DC-based nonprofit organizations that are incorporated in the District of Columbia and, have demonstrated capacity with: a) providing clean team services or related services to commercial districts or public spaces; b) providing job-training services to its employees; and c) providing social support services to its Clean Team employees.

DSLBD will **award** one grant up to \$100,000 for **each** of the following **service areas** (i.e., a total of six grants).

- 12th Street, NE
- Connecticut Avenue, NW
- Georgia Avenue, NW
- Kennedy Street, NW
- Minnesota Avenue, NE
- Ward 1

The **grant performance period** to deliver clean team services is October 1, 2015 through September 30, 2016.

Application Process: Interested applicants must complete an online application (RFA Part 2, see below) and submit it on or before **Friday, July 10, 2015 at 2:00 p.m.** DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be forwarded to the review panel.**

The **Request for Application** (RFA) comprises two parts:

1. **RFA Part I: Program Guidelines and Application Instructions** document, which includes: a detailed description of clean team services; service area boundaries; applicant eligibility requirements; and selection criteria. DSLBD will post Part 1 of the RFA on or before Friday, June 5, 2015 at www.dslbd.dc.gov (click on the *Our Programs* tab and then *Solicitations and Opportunities* on the left navigation column).

2. **RFA Part II: the Online Form** through which an Applicant submits its application. The online application will be live **Friday, June 5, 2015**. To access the online application forms, an organization must complete and submit an online **Expression of Interest** (Registration) form at <https://octo.quickbase.com/db/bjvqhvm87>, which will be available on or before June 5, 2015. DSLBD will activate their online access within two business days and notify them via email.

Selection Criteria for applications will include: a) Applicant Organization's demonstrated capacity to provide clean team or related services, and managing grant funds; b) Proposed service delivery plan for basic clean team services; and, c) Proposed service delivery plan for additional clean team services. Applicants should reference RFA Part 1 for detailed description of selection criteria.

Selection Process: DSLBD will select grant recipients through a competitive application process that will assess the Applicant's eligibility, experience, capacity, service delivery plan, and, budget. Applicants may apply for one or more service areas by submitting a separate application for each service area. DSLBD will determine grant award selection and notify all applicants of their status via email on or before August 5, 2015.

Funding for this award is contingent on continued funding from the grantor. The RFA does not commit the Agency to make an award.

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

All applicants must attest to executing DSLBD grant agreement as issued (sample document will be provided in RFA Part 2, online application) and to starting services on October 1, 2015.

For more information, contact Camille Nixon at the Department of Small and Local Business Development at (202) 727-3900 or camille.nixon@dc.gov.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION
GOVERNMENT OF THE DISTRICT OF COLUMBIA****NOTICE OF SPECIAL COMMISSION MEETING****May 29, 2015 at 10:00 AM**

The DC Taxicab Commission (DCTC) has scheduled a Special Commission Meeting at 10:00 am on Friday, May 29, 2015. The meeting will be held at our new office location: 2235 Shannon Place, SE, Washington, DC, 20020, Second Floor 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.

Members of the public are invited to participate. You may present a statement to the Commission on the **agenda items only**. Statements are limited to five (5) minutes for registered speakers and two (2) minutes for non-registered speakers. To register, please call 202-645-6002 no later than 3:30 pm on May 28, 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.**

The agenda will be posted no later than seven (7) days before the Special Commission Meeting on the DCTC website at www.dctaxi.dc.gov.

The Special Commission Meeting will take place at the following time and location:

FRIDAY, MAY 29, 2015**10:00 am****2235 Shannon Place, SE****Second Floor Hearing Room****Suite 2023****Washington, DC 20020**

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, June 4, 2015 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | |
|--|-----------------------|
| 1. Call to Order | Board Chairman |
| 2. Roll Call | Board Secretary |
| 3. Approval of May 7, 2015 Meeting Minutes | Board Chairman |
| 4. Committee Reports | Committee Chairperson |
| 5. General Manager's Report | General Manager |
| 6. Action Items
Joint-Use
Non Joint-Use | Board Chairman |
| 7. Other Business | Board Chairman |
| 8. Adjournment | Board Chairman |

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

Application No. 18927 of Nickolas Rodriguez, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the rear yard requirements under § 404.1, the open court requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, to allow the construction of a two-story rear addition to an existing single-family dwelling in the R-4 District at premises 815 8th Street, N.E. (Square 911, Lot 73).

HEARING DATES: March 3, 2015, April 7, 2015, and April 28, 2015
DECISION DATE: April 28, 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 (the “Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on January 8, 2015, at which a quorum was in attendance, ANC 6A voted 7-0-0 to take no position on the application.¹ (Exhibit 24.)

The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the application. (Exhibit 30.) The District’s Department of Transportation (“DDOT”) submitted a timely report indicating it had no objection to the approval of the application. (Exhibit 32.) The Capitol Hill Restoration Society submitted a letter in support of the application. (Exhibit 27.) Eight neighbors submitted letters of opposition to the record. (Exhibits 28, 29, 37, 38, 39, 40, and 41.)

At the Board’s public hearing on March 3, 2015, the Board asked the Applicant to clarify whether the proposed trellis would connect the main structure to the addition, as the architectural plans were unclear in this regard. The Applicant’s architect indicated that the trellis would

¹ The ANC report stated that the ANC believes that the Applicant has not requested sufficient relief and expressed the view that additional zoning relief would be required in this case including a variance from the accessory building height limit set forth in § 2500.4. (Exhibit 24.)

BZA APPLICATION NO. 18978
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connect the main structure and the proposed addition. Accordingly, the Board requested that the Applicant submit revised architectural plans to clarify the connection. In addition, two neighbors, David Sanok and Tianeka Arno, testified in opposition during the public hearing.

On March 24, 2015, the Applicant submitted for the record revised plans that addressed the Board's concern regarding the trellis connection. (Exhibit 43.) The revised plans also reflected changes made by the Applicant to address neighbors' privacy concerns. Based on the plan revisions, one neighbor submitted a letter withdrawing her opposition to the application. (Exhibit 46.) Three neighbors submitted letters to maintain their opposition to the application despite the Applicant's revisions. (Exhibits 47, 48, and 58.) At the Board's public hearing on April 7, 2015, three neighbors, David Sanok, Mark Cruce, and Geocinda Cruce, testified in opposition. During its deliberations, the Board found that the project, as revised, would not have a substantial impact on neighboring properties.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223, 403.2, 404.1, 406.1, and 2001.3. The parties to the application were the Applicant and ANC. Although neighbors testified in opposition to this application, the Board received no requests for party status in opposition. Accordingly, no parties appeared at the public hearing in opposition to this application. Thus, 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, 404.1, 406.1, and 2001.3, 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 the 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 is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 43.**

VOTE: **4-0-1** (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Michael G. Turnbull 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: May 7, 2015

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

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

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 18957-A of Guggan Datta/Masala Dosa, LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the HS Overlay requirements under § 1320.4(c), to establish a fast food restaurant in two existing row dwellings in the HS-H/C-2-A District at premises 411 H Street N.E. (Square 809, Lot 69).

HEARING DATE: March 24, 2015

DECISION DATES: March 24, 2015 and May 12, 2015

CORRECTED SUMMARY ORDER¹

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") 6C and to owners of property located 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. The ANC submitted a written report in support that indicated that at a regular, duly noticed meeting held on March 11, 2015, at which a quorum was present, the ANC voted 6-0-0 to support the application with conditions. (Exhibit 29.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application with conditions (Exhibit 30) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report of no objection. (Exhibit 31.)

A letter of support was submitted to the record by the Capitol Hill Restoration Society. (Exhibit 33.)

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 from the HS Overlay requirements under § 1320.4(c), to establish a fast food restaurant in two existing row dwellings in the HS-H/C-2-A 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.

¹ At its public meeting on May 12, 2015, the Board, by consent motion, ordered that an administrative correction should be issued to the Board's Order No. 18957 in accord with the Applicant's request under Exhibit 39. Thus, the only change in this order from Order No. 18957 is to Condition No. 7, which has been revised to read as follows: The windows shall be consistent with those in the H Street Overlay Area.

**BZA APPLICATION NO. 18957-A
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Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR § 3104.1 and § 1320.4(c), 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 AT EXHIBITS 12 AND 28B AND WITH THE FOLLOWING CONDITIONS:**

1. All deliveries shall be made using the 4th Street loading zone and not through the alley.
2. Any trash / recycling / grease collection trucks entering the alley exit the alley to 5th Street and return directly to H Street.
3. Any exhaust fan(s) shall be directed away from nearby residential properties, and such fan(s) shall not produce in excess of 60 dB as measured from any point in the adjacent residential zone.
4. The Applicant shall be required to prohibit and prevent employees and others from congregating outside at the rear of the property.
5. Carry out service shall be clearly subordinate to the principal use of on-premises consumption.
6. Food for on-premises consumption shall be served only in/on non-disposable tableware and shall be served to patrons by staff (as opposed to self-service).
7. The windows shall be consistent with those in the H Street Overlay area.

VOTE: **4-0-1** (Lloyd J. Jordan, Marcie I. Cohen, 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.

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FINAL DATE OF ORDER: May 13, 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 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

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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. 18964 of 1220 Potomac Avenue SE, LLC, pursuant to 11 DCMR § 3103.2, for a variance from the minimum number of required parking spaces provisions under § 2101.1, to construct an eight-unit apartment building in the R-5-B District at premises 1220 Potomac Avenue S.E. (Square 1021, Lot 40).

HEARING DATE: March 31, 2015

DECISION DATE: May 5, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 7.)

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, dated March 14, 2015, indicating that at a duly noticed and regularly scheduled public meeting on March 10, 2015, at which a quorum was in attendance, the ANC voted unanimously (8-0-0) in support of the application provided the Applicant incorporated measures to mitigate the effects of the parking relief sought, including restrictions to eligibility for the Residential Permit Parking ("RPP") program for all units in the building and Transportation Demand Management ("TDM") measures. The ANC report also stated that the ANC would withdraw its support if the TDM measures and RPP restrictions were not accepted by the Board. (Exhibit 24.)

The Office of Planning ("OP") submitted a timely report on March 24, 2015, recommending approval of the application (Exhibit 37) and testified in support of the application at the hearing. DDOT submitted a timely report indicating that it had no objection to the application provided the Applicant installs a minimum of three secure bicycle parking spaces and modifies the TDM program to support a condominium or apartment use.¹ (Exhibit 39.)

A letter in support was submitted to the record from a neighbor. (Exhibit 29.)

¹ The project would be required, per 18 DCMR § 1214, to provide a minimum of three long-term bicycle parking spaces at a ratio of one parking space for every three dwelling units. Thus, there is no need for the Board to condition this order on what is otherwise required by regulation.

BZA APPLICATION NO. 18964

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There were two party status requests in opposition to the application. The first party status request was from Linda Green (Exhibit 22) and the other party status request in opposition was from Meina Banh and Gregg Orton (Exhibit 36), all of whom are neighbors to the subject property. As a preliminary matter at the Board's public meeting, the Board addressed the neighbors requesting party status in opposition and determined that the neighbors wished to provide testimony rather than cross-examine, introduce evidence, or otherwise participate as parties to the case. The Board also asked the Applicant to talk to the neighbors in opposition before the hearing was called to be heard. Then, at the beginning of the public hearing, the neighbors withdrew their opposition after the Applicant accepted their proposed conditions of mitigation, especially the restrictions on RPP. Thus, the Board did not grant party status.

The ANC Chair and Single Member District ("SMD") ANC 6B07 both testified at the public hearing. The ANC Chair presented the ANC's views in support and noted that the ANC's concerns were with having restrictions on RPP in the building and the TDM measures. Since the Applicant had agreed to those restrictions and conditions, the ANC remained in support. The SMD submitted his planned testimony in opposition which spoke of his concerns over a lack of proper outreach to the immediate neighbors by the Applicant (Exhibit 40), but at the public hearing, he said that as the Applicant had agreed to restrict RPP and to provide other TDM measures, as requested by the neighbors, he was now in support.

At the hearing Gary Peterson from the Capitol Hill Restoration Society testified in support of the application, but requested that the Board postpone the decision until after the Applicant presented its new plans to the Historic Preservation Review Board ("HPRB").² The Board noted that if HPRB required changes to the plans that affect the zoning regulations, the Applicant would have to come back before the Board. The Board scheduled the decision for May 5, 2015. At the March 31, 2015 hearing, the Board closed the record and accordingly, no post-hearing submissions were made.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for an area variance from 11 DCMR § 2101.1. The only parties to the case were the ANC and the Applicant. 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.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR § 2101.1, the Applicant has met the burden of proof under 11 DCMR § 3103.2,

² There was discussion of the fact that these were not "new" plans and that the plans were not going to change from what was now before the Board, but that the HPRB had requested that the Applicant work with HPO staff to work through some exterior details, such as windows, and report back to the HPRB. (Transcript, March 31, 2015, p. 35-37.)

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that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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 EXHIBITS 6A-6D AND THE FOLLOWING CONDITIONS:**

1. Residents of the building shall not obtain RPP. The Applicant shall record the restriction in a covenant to run with the land, include the restriction in the lease or condominium documents, and coordinate with the Department of Motor Vehicles (“DMV”) to enforce the restriction.
2. The Applicant shall provide complimentary annual Bikeshare or carshare membership to initial residents.
3. The Applicant shall provide a SmarTrip of \$50 to each new resident.

VOTE: **4-0-1** (Lloyd L. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Anthony J. Hood, 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: May 11, 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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO

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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. 18988 of David and Grace Steckler, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the court requirements under § 406, and the nonconforming structure requirements under § 2001.3, to allow the construction of a two-story addition to an existing one-family dwelling in the R-4 District at premises 224 9th Street, N.E. (Square 917, Lot 116).

HEARING DATE: Applicant waived right to a public hearing
DECISION DATE: May 5, 2015 (Expedited Review Calendar).

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 (original) and 30 (revised).)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board of Zoning Adjustment (“Board”) expedited review calendar for decision without hearing as a result of the applicant’s waiver of its right to a hearing.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on April 9, 2015, at which a quorum was in attendance, ANC 6A voted 7-0-0 to support the application. (Exhibit 27.) The Office of Planning (“OP”) submitted a timely report in support of the application. (Exhibit 32.) The District Department of Transportation (“DDOT”) submitted a report expressing no objection to the approval of the application. (Exhibit 25.) Two abutting neighbors submitted letters in support of the application. (Exhibits 13 and 29.)

¹ The application was amended to add a request for relief from the nonconforming structure requirements under § 2001.3, in addition to the original request of special exception relief under § 223 for an addition not meeting the court requirements of § 406. The Applicant submitted a revised Self-Certification with the additional relief being requested and a revised Statement of Use & Summary of Zoning Relief that included a discussion of the revised request for relief. (Exhibits 30 and 31.) The caption has been amended accordingly.

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

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223, 406, and 2001.3. No parties appeared at the public meeting 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 406, and 2001.3, 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 AT EXHIBIT 10.**

VOTE: **4-0-1** (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath, and Anthony J. Hood 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: May 7, 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

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PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

Application No. 18993 of Colleen Reilly and Gary Addie, as amended¹, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the rear yard requirements under § 404.1 and the nonconforming structure requirements under § 2001.3, to allow the construction of a one story rear addition in the R-1-B District at premises 2412 Chain Bridge Road N.W. (Square 1413, Lot 809).

HEARING DATE: May 5, 2015

DECISION DATE: May 5, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 7.) Based on a recommendation from the Office of Planning (“OP”), the Applicant amended the application at the hearing to request additional relief from the nonconforming structure requirements under § 2001.3. The Applicant submitted an amended self-certification form to reflect the additional requested relief. (Exhibit 37.)

The Board of Zoning Adjustment (the “Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 3D, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3D, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on April 1, 2015, at which a quorum was in attendance, ANC 3D voted 9-0-0 in support of the application. (Exhibit 26.) Alma Gates, a representative of ANC 3D, also testified in support.

OP submitted a timely report and testified at the hearing in support of the application. (Exhibit 31.) The District’s Department of Transportation (“DDOT”) submitted a timely report indicating it had no objection to the approval of the application. (Exhibit 29.) Five neighbors submitted letters in support to the record. (Exhibits 20-23, 25, and 33.)

¹ The Applicant initially requested special exception relief under § 223 for an addition not meeting the rear yard requirements of § 404.1. Based on a recommendation from OP, the Applicant amended the application to add a request for relief from the nonconforming structure requirements of § 2001.3. (Exhibit 37.) The caption has been changed accordingly.

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One adjacent neighbor, Tania Kaddeche, submitted a letter in opposition. (Exhibit 30.) In a subsequent filing, Ms. Kaddeche indicated that she wished to amend the position taken in her previous letter. (Exhibit 35.) Ms. Kaddeche indicated that she would only object to the proposed project if the Applicant intends to construct a second-story deck. At the hearing, the Applicant testified that the proposed addition does not include a second-story deck, as confirmed by the approved plans under Exhibit 6.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223, 404.1, and 2001.3. No parties appeared at the public hearing in opposition to this application. Thus, 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 404.1, and 2001.3, 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 the 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 is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 6.**

VOTE: 4-0-1 (Lloyd J. Jordan, Anthony J. Hood, Marnique Y. Heath, and Jeffrey L. Hinkle 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: May 14, 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

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REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY

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

Application No. 18997 of Chris Lobb and Paola Barbara, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1, to allow the construction of a two-story rear addition with accessory apartment connected to the dwelling by a covered walkway in the R-4 District at premises 148 11th Street S.E. (Square 989, Lot 26).

HEARING DATE: May 12, 2015

DECISION DATE: May 12, 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" 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 in support of the application. The ANC's report indicated that at a duly noticed and scheduled public meeting on April 20, 2015, at which a quorum was in attendance, the ANC voted 6-2-2 in support of the application. (Exhibit 28.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application (Exhibit 31) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") did not submit a report.

A party status request in opposition to the application was submitted by Dr. Muriel Wolf of 146 11th Street, S.E., and whose property is adjacent to and immediately to the north of the Applicant's property. (Exhibit 29.) At the public hearing, Dr. Wolf withdrew her request for party status in opposition based on the revisions made by the Applicant, as reflected in Exhibits 32 and 33, and stated that she now supports the project.

Two letters in support were submitted by neighbors, one of whom is another adjacent neighbor. (Exhibits 21 and 22.) One neighbor submitted a letter in opposition. (Exhibit 27.)

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 for a special exception under § 223, not meeting the lot occupancy

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requirements under § 403.2 and the rear yard requirements under § 404.1, to allow the construction of a two-story rear addition with accessory apartment connected to the dwelling by a covered walkway in the R-4 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, and 404.1, 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 the application is hereby **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 32.**

VOTE: **4-0-1** (Lloyd L. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Michael G. Turnbull 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: May 14, 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 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.

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-07A
Z.C. Case No. 08-07A

Four Points, LLC and Curtis Properties, Inc.

(Second-Stage PUD and PUD Modifications @ 2255 Martin Luther King Jr. Avenue, S.E.)
March 30, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on December 18, 2014, to consider an application from Four Points, LLC and Curtis Properties, Inc. (together, the "Applicant") for approval of a second-stage planned unit development ("PUD") and modifications to an approved first-stage PUD at 2255 Martin Luther King Jr. Avenue, S.E. (Lot 839 and part of Lot 906 in Square 5785) ("PUD Site"). The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, Hearing, and Post-Hearing Submissions

1. On March 31, 2008, the Applicant filed an application and supporting materials with the Commission for review and approval of a first-stage PUD and related zoning map amendment to rezone (i) Lots 984 and 1019 in Square 5772 from C-3-A/C-M-1 to C-3-A; (ii) Lots 829 and 1018 in Square 5783 from C-2-A to C-3-A; (iii) Lots 898, 899, and 900 in Square 5784 from C-2-A to C-3-A; and (iv) Lot 906 in Square 5785 from C-2-A/C-3-A to C-3-A ("Overall PUD Site"). The Overall PUD Site has a combined land area of approximately 340,467 square feet (approximately 7.8 acres), and is generally bounded by U Street to the north, Martin Luther King Jr. Avenue to the east, Chicago Street to the south, and Interstate 295 to the west, all located in the southeast quadrant of the District. Pursuant to Z.C. Order No. 08-07, dated September 9, 2013, and effective October 25, 2013, the Commission granted approval of the first-stage PUD and zoning map amendment.
2. The approved PUD is a mixed-use project consisting of approximately 1,570,000 square feet of gross floor area comprised of seven new buildings and two renovated existing buildings. The Commission approved the development of approximately 481,000 square feet of gross floor area for residential use; approximately 144,000 square feet of gross floor area for retail, service, arts, and limited types of office use; and approximately 945,000 square feet of gross floor area for office use. (*See* Z.C. Order No. 08-07, p. 23.)
3. On June 27, 2014, the Applicant filed an application with the Commission for review and approval of a second-stage PUD and modifications to the approved first-stage PUD for development of the PUD Site. The PUD Site is zoned C-3-A. The PUD Site was not rezoned as part of the 2008 application. The PUD Site is generally bounded by private

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property to the north, Martin Luther King Jr. Avenue to the east, Chicago Street to the south, and a public alley to the west.

4. The approved first-stage plans for the PUD Site authorized development of a six-story, mixed-income residential building (“Building 1”), with approximately 65,000 square feet of gross floor area devoted to residential use comprised of 65 dwelling units (plus or minus 10%), 33 off-street parking spaces, and 22 bicycle parking spaces. Building 1 was approved with a maximum density of 2.57 floor area ratio (“FAR”) and a maximum building height of 60 feet, not including roof structures.
5. The Applicant requests modifications to the approved first-stage PUD to develop the PUD Site with a modified design for Building 1. The modified building would contain approximately 68,263 square feet of gross floor area devoted to residential use comprised of 71 residential units (plus or minus 10%), 26 below-grade parking spaces, 37 secure bicycle parking spaces, and various tenant amenities. Live/work units for artists will be located on the ground floor. Eighty percent of the residential units would be devoted to households earning up to 60% of the area medium income (“AMI”). The building would have a maximum density of 2.85 FAR and a maximum height of 65 feet, not including roof structures, at its highest point.
6. At its public meeting held on July 28, 2014, the Commission voted to schedule a public hearing on the application.
7. On August 13, 2014, the Applicant submitted a prehearing statement (Exhibit [“Ex.”] 16). The prehearing statement set forth information requested by the Commission, including additional information on the live/work units; details on Building 1’s compliance with the Enterprise Green Communities rating system; an explanation of why a larger green roof could not be provided; an explanation of the safety features on the roof deck; clarification on Applicant’s commitment to enter into a First Source Employment Agreement; additional renderings of how Building 1 relates to the height of the adjacent row dwellings on Chicago Street; and an explanation as to why the Green Area Ratio requirements do not apply to Building 1. The submission also included updated architectural drawings and materials required pursuant to § 3013 of the Zoning Regulations.
8. On November 14, 2014, the Applicant submitted a supplemental prehearing statement. (Ex. 22.) This submission included (i) further revised architectural drawings, which demonstrated how the Applicant refined Building 1’s façades to provide better integration with the surrounding community and to respond to feedback from the Office of Planning (“OP”), the Commission, and the community; and (ii) a transportation impact study, dated October 20, 2014, prepared by Gorove/Slade Associates, Inc., the Applicant’s transportation consultant, which was submitted to the District Department of Transportation (“DDOT”).

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9. On November 20, 2014, the Concerned Citizens of Anacostia (“CCA”) filed a Party Status Request to participate at the hearing in opposition to the application. (Ex. 23.) The Party Status Request raised issues regarding Building 1’s height, massing, and design incompatibility with the character of the historic neighborhood; Building 1’s non-compliance with the principles approved under the first-stage PUD with regard to the housing type mix; the absence of retail; the absence of a community benefits agreement or a clear presentation of the public benefits and amenities related to the project; and the project’s potential impact on the historic view of the Capitol and downtown DC.
10. On November 24, 2014, OP submitted a report recommending approval of the application. (Ex. 24.) The OP report stated that the project conforms to the Comprehensive Plan’s objectives for the area and to the Generalized Land Use and Policy Maps. (*See* OP Report, p. 1.) OP expressed its support for the design of Building 1, which “would positively add to the character and activity along MLK Avenue” (*id.* at p. 5), and stated that the proposed changes to Building 1 would not make the development inconsistent with the Comprehensive Plan, the C-3-A Zone District, or the overall concept of the first-stage PUD. *Id.* at p. 8. Furthermore, OP stated its support for “granting all the areas of flexibility requested.” (*Id.* at p. 7.) Overall, the OP report recommended approval of the application.
11. On November 24, 2014, DDOT also submitted a report that assessed the potential safety and capacity impacts of the project on the District’s transportation network. (Ex. 25.) The DDOT report made the following conclusions: (i) vehicle, loading, and trash access is in keeping with DDOT’s approach to site access; (ii) the Applicant utilized sound methodology and travel assumptions and developed an appropriate mode split; (iii) the project is projected to minimally increase travel delay in the area; (iv) existing transit service, pedestrian infrastructure, and bicycle infrastructure has capacity to accommodate future demand; and (v) the Applicant proposes an adequate number of long-term bicycle parking spaces in bicycle storage rooms. (*See* DDOT Report, pp. 1-2.) The DDOT report also concluded that there are no direct mitigations necessary as part of the development of Building 1 beyond the Transportation Demand Management (“TDM”) plan proposed in its report and as set forth on page 21 of this Order. Given the complexity of the project, DDOT requested that the Applicant continue to work with DDOT staff on the following matters: (i) installation of at least four short-term bicycle parking spaces; (ii) for each subsequent second-stage application, the Applicant’s evaluation of consistency with the first-stage analysis and the first second-stage analysis; (iii) public space approvals, including curbs and gutters, street trees and landscaping, street lights, sidewalks, and other features within the public rights of way; and (iv) potential modifications to traffic signals in future second-stage applications. (*Id.* at p. 2.)
12. On December 3, 2014, Advisory Neighborhood Commission (“ANC”) 8A, the ANC in which the PUD Site is located, submitted a letter requesting postponement of the public

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hearing, which was originally scheduled for December 4, 2014. (Ex. 33.) On December 3, 2014, the Commission granted the request for postponement and rescheduled the case to December 18, 2014, for a public hearing.

13. On December 18, 2014, the Applicant submitted a letter opposing the party status request submitted by CCA. (Ex. 72.) The Applicant's letter asserted that CCA did not demonstrate that its interests would be more significantly, distinctively, or uniquely affected than those of other persons in the general public, as required under § 3022.4 of the Zoning Regulations. The Applicant's letter stated that CCA's alleged representation of homeowners and tenants within the entire Ward, and members of three distinct neighborhood organizations with different boundaries and purposes, demonstrates that CCA's interests are not unique and instead apply to residents of all of the neighborhoods surrounding the PUD Site.
14. On December 18, 2014, the Applicant also submitted a letter responding to the issues raised in the CCA's party status request. (Ex. 73.) The Applicant's letter stated that (i) the PUD Site is not within the Anacostia Historic District and is therefore not subject to review by the Historic Preservation Office ("HPO") or the Historic Preservation Review Board ("HPRB"); (ii) the proposed modifications to Building 1 are minor in nature and will not cause adverse effects to the neighborhood; (iii) residential development is an appropriate use for Building 1, particularly because retail development is planned for adjacent lots within the Overall PUD; and (iv) the proposed amount of affordable housing is appropriate for Building 1 and will not result in an over concentration of subsidized, income-capped housing at the PUD Site. The Applicant's letter also set forth the proposed public benefits and project amenities associated with the second-stage application for Building 1.
15. On December 18, 2014, the Applicant submitted a Construction Management Plan, which sets forth the actions the Applicant will take to minimize any impacts from construction of the proposed development on the adjacent communities. (Ex. 75.)
16. After proper notice, the Commission held a hearing on the application on December 18, 2014. The parties to the case were the Applicant and ANC 8A.
17. At the public hearing, the Commission denied CCA's party status request based on the Commission's findings that: (i) CCA stated that it represented numerous other community groups and organizations, including ANC 8A, the Historic Anacostia Preservation Society ("HAPS"), and the Chicago Shannon Civic Association ("CSCA"), but provided no letters of authorization from those groups agreeing to the representation; (ii) CCA did not provide a list of individual members whom it represented, and further testified that none of CCA's members live within 200 feet of the PUD Site; and (iii) members of CCA are not significantly, distinctively, or uniquely affected by the

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proposed development on the PUD Site. However, the Commission granted CCA representatives additional time at the public hearing to present its case.

18. Two principal witnesses testified on behalf of the Applicant at the hearing: Stan Voudrie of Four Points, LLC; and Fernando Bonilla of Grimm + Parker Architects, who the Commission accepted as an expert in architecture. At the public hearing, the Applicant submitted its PowerPoint presentation. (Ex. 77.)
19. Forty-three individuals and local organizations also submitted letters in support of the application. (Ex. 26-30, 34-68, 70, 71, 76.)
20. OP and DDOT testified in support of the application at the public hearing. At the request of the Commission, OP indicated that it would work with the Applicant to establish appropriate conditions to approval.
21. At the public hearing, Commissioner Gretta Fuller of ANC 8A presented testimony and cross-examined the Applicant's witnesses regarding the application. Commissioner Fuller's questions related to the lack of ground floor retail in Building 1, the insufficient amount of brick on the building façade, the need to address lighting and safety in the adjacent public alley, the use of the side yard, on-street parking restrictions for Building 1 residents, and the Applicant's commitment to a community benefits package. (*See* Transcript ["Tr."], 12/18/14, pp. 96-119.)
22. At the public hearing, the Commission stated that there was nothing in the case record from ANC 8A that authorized Commissioner Fuller to represent the ANC regarding the application, as required pursuant to 11 DCMR § 3012.5(h). The Commission requested that ANC 8A submit a letter confirming that Commissioner Fuller is authorized to represent the ANC. (*See* Tr., 12/18/14, pp. 188-189.) However, ANC 8A did not subsequently submit documentation confirming Commissioner Fuller's representation. Therefore, the Commission treated Commissioner Fuller's testimony as that of an individual.
23. At the public hearing, five persons testified in support of the application and two persons testified in opposition to the application. The persons in support of the application were Kamal Freeman, Darren Davis, Ronald Moten, Anthony McDuffy, and Anthony Gualtier. The persons in opposition to the application were Camille Bourguigon, on behalf of CCA (*see* Tr., 12/18/2014, pp. 144-158) and David White of CSCA (*see* Tr., 12/18/2014, pp. 140-144).
24. On January 12, 2015, the Applicant submitted a post-hearing submission. (Ex. 80-80B.) The post-hearing submission included (i) revised architectural drawings (Exhibit 80A1-80A3) showing the following, as requested by the Commission at the public hearing: updated fiber cement and metal panels; additional brick on the building's façade and on

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- the Chicago Street sidewalk; plans and elevations of the roof structure and solar panels; additional details of the design and layout of the live/work units; updated layout and furniture for the side yard; perspectives of the revised roof deck; and multiple street level perspectives; (ii) a list of the additional proffers that the Applicant offered at the public hearing; (iii) an explanation of the phasing plan for the Overall PUD (Ex. 80); (iv) an explanation of the Applicant's outreach with community members following the public hearing (Ex. 80); and (v) a Community Benefits Agreement (Ex. 80B) that the Applicant presented to the ANC and neighborhood stakeholders.
25. At its public meeting held on February 9, 2015, the Commission took proposed action to approve the applications and the architectural plans and elevations (the "Plans") that were submitted to the record (Ex. 80A). The Commission requested that the Applicant explain why the project does not include a green roof, and to continue working with the community and ANC 8A to finalize a community benefits agreement, and to report the progress of the negotiations to the Commission, prior to final action.
 26. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on February 12, 2015 under the terms of the District of Columbia Home Rule Act. (Ex. 82.) The NCPC Executive Director, by delegated action dated March 10, 2015, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 86.)
 27. On March 23, 20015, the Applicant submitted a post-hearing submission (Exhibit 87). The post-hearing submission stated the reasons the Applicant elected not to include a green roof in the project. It further stated that the Applicant had attempted in good faith to negotiate the terms of a community benefits agreement, but the parties had not been able to reach agreement.
 28. At the public meeting on March 30, 2015, the Applicant submitted a community benefits agreement signed by Four Points Development, the Concerned Citizens of Anacostia, Historic Anacostia Preservation Society, and Historic Anacostia Block Association (Exhibit 88). The Applicant stated that it was willing to abide by the terms of the agreement as a condition of the Commission's approval of the application.
 29. The Commission took final action to approve the application on March 30, 2015.

The PUD Project

30. The PUD Site is situated in Ward 8, just outside of the Anacostia Historic District, and is zoned C-3-A. The PUD Site is bounded by private property to the north, Martin Luther King Jr. Avenue, S.E. to the east, Chicago Street to the south, and a public alley to the west.

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31. The Applicant proposes to develop the PUD Site with Building 1, a six-story residential building with approximately 68,263 square feet of gross floor area devoted to residential use, comprised of 71 residential units (plus or minus 10%), 26 below-grade parking spaces, 37 secure bicycle parking spaces, and various tenant amenities. Live/work units for local artists will be located on the ground floor. The building will have a maximum density of 2.85 FAR and a maximum height of 65 feet, not including roof structures, at its highest point.
32. The building will include a total of 71 units. Eighty percent of the residential units (i.e., 57 units) will be devoted to households earning up to 60% of the AMI. The income mix includes eight units at 30% of the AMI, 26 units at 50% of the AMI, and 23 units at 60% of the AMI. The remaining 20% of the units (i.e., 14 units) will be market-rate units. The building will contain a variety of unit sizes, including studios, one-bedroom units, and two-bedroom units.

Development Incentives and Flexibility

33. With respect to development of Building 1, the Applicant requested the following areas of flexibility from the Zoning Regulations:
 - a. *Flexibility from the Loading Requirements* – Subsection 2201.1 of the Zoning Regulations requires that Building 1 include one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep. The Applicant requests flexibility to provide one loading berth at 30 feet deep and one loading platform at 100 square feet, located outside of the building. The flexibility is necessary due to the limited area on the PUD Site to provide loading facilities. The project cannot accommodate a 55-foot truck due to the narrow width of the PUD Site and the grade change. However, the Commission finds that the proposed loading facilities are sufficient to serve the needs of the prospective residents of Building 1. Given the proposed unit mix, the Commission finds that a 30-foot loading berth will adequately accommodate smaller-sized moving trucks that are anticipated to serve studios, one-bedroom, and two-bedroom rental units. The Commission further finds that the Applicant will be able to manage and schedule use of the loading berth and provide an organized process for residential move-ins and move-outs and contemporaneous deliveries;
 - b. *Flexibility from the Side Yard Width Requirements* - Pursuant to § 775.5 of the Zoning Regulations, no side yards are required for apartment houses in the C-3-A Zone District. If a side yard is provided, it must be at least two inches wide for each foot of height of building, but not less than six feet. In this case, a minimum width of 10.8 feet is required. The Applicant proposes to provide a side yard on the northeast side of the building that has a minimum width of 30 feet, and a side

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yard on the southwest side of the building that has a minimum width of 6.7 feet, thus necessitating flexibility. The Commission finds that this proposed configuration is necessary to provide adequate space to accommodate the proposed amenities on the ground floor of the building. Moreover, despite full compliance with § 775.5, there is ample open space, light, and air surrounding Building 1 in all directions. In addition to the compliant 30-foot side yard on the northeast side of the PUD Site, the PUD Site also has a front yard that varies between 3.86 feet and six feet deep and a rear yard that has an average depth of 38.76 feet. The PUD Site also has a significant amount of open space in its northeast corner. In addition, the southwest side yard complies with § 775.5 for most of the building's width, providing additional light and air on this side of the PUD Site. Thus, the Commission finds that providing a side yard on the southwest side of the PUD Site that does not fully comply with the Zoning Regulations will not result in any adverse impacts to the open space on the PUD Site or on the enjoyment and comfort of building residents;

- c. *Flexibility from the Off-Street Parking Requirements* - Subsection 2101.1 of the Zoning Regulations requires one parking space for each two dwelling units, or in this case, a minimum of 36 parking spaces. The Applicant proposes to provide 26 parking spaces located in the below-grade garage, thus requiring flexibility. The Commission finds that 26 off-street parking spaces is sufficient to meet the anticipated parking demand for the building. The PUD Site is located in close proximity to multiple public transportation options. The Anacostia Metrorail Station, which services the Green Metrorail line, is located approximately one-quarter of a mile (a seven minute walk) from the PUD Site, and a bus stop is located directly in front the PUD Site, which services seven different Metrobus lines (90, A42, A46, A48, B2, P6, and U2) with three additional Metrobus stops located 0.1 mile away from the PUD Site (and servicing the 93, W2, and the DC Potomac Avenue/Skyland Avenue routes). There are also multiple car- and bike-share stations located within easy walking distance of the PUD Site, plus on-site bicycle parking for 37 bicycles, which will together provide additional alternative transportation options and reduce the need for residents of Building 1 to own a car. The Commission agrees with the DDOT report, which states that “it is not anticipated [that] demand from this building will lead to needed on-street parking” (*see* Ex. 25, DDOT Report, p. 5), and finds that the proposed number of parking spaces is a reasonable supply of parking for the land use and location of the PUD Site. Furthermore, the Commission finds that Building 1 is consistent with the Comprehensive Plan's goals of investing in transit-oriented development, improving pedestrian facilities, and transforming key District arterials into multi-modal corridors that incorporate and balance a variety of mode choices; and
- d. *Flexibility from the Compact Parking Space Requirements* - The Applicant requests flexibility from the compact parking space requirements of § 2115.4 of

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the Zoning Regulations. Subsection 2115.4 provides that compact parking spaces must be placed in groups of at least five contiguous spaces; however, the eight parking spaces proposed to be compact are not located in groups of at least five contiguous spaces. The Commission finds that providing the compact parking spaces is necessary in order to maximize the efficiency of the garage, provide as many parking spaces as possible, and maintain a drive aisle width of 20 feet. Furthermore, the compact spaces are clustered in the eastern corner of the garage to allow this space to be used efficiently, rather than as a underutilized dead-space. Thus, the Commission finds that no adverse impacts will result due to the proposed number and configuration of the compact parking spaces.

34. The Applicant also requests the following flexibility from Z.C. Order No. 08-07:

	Approved During First-Stage	Proposed Modifications for Second-Stage	Permitted in Zone C-3-A
Lot size	25,300 sf	23,976 sf	N/A
Building footprint	10,850 sf	11,366 sf	N/A
Lot Occupancy	43%	47%	75% (80% for projects subject to IZ)
Building height	60 feet (not including roof structures)	65 feet (no roof structures over 4 feet)	65 feet (90 feet for PUD)
Residential use	65,000 sf	68,263 sf	95,904 sf (4.0 FAR) (4.5 FAR for a PUD; 4.8 FAR for projects subject to IZ)
Retail/office use	0 sf	0 sf	59,940 (2.5 FAR)
Number of residential units	65 (plus or minus 10 percent)	71	N/A
FAR	2.57	2.85	4.0 FAR matter-of-right; 4.5 FAR for a PUD; and 4.8 FAR for projects subject to IZ
Number of parking spaces	33	26	36 (1 for 2 units)
Number of bicycle parking spaces	22	37	24 (1 for 3 units)
Loading berth length (ft.)	30	30 (no change)	55

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	Approved During First-Stage	Proposed Modifications for Second-Stage	Permitted in Zone C-3-A
Loading platform area (sq. ft.)	200	100	200
Number of delivery/loading spaces	None	None	1 at 20 ft.
Rear Yard	N/A	38.76 feet	13.5 feet minimum
Side Yard	N/A	Min. 6.7 feet S.W. side 30 feet N.E. side	10.8 feet minimum

35. Additional Areas of Flexibility – The Applicant requests flexibility in the following areas:
- a. To be able to provide a range in the number of residential units of plus or minus 10% from the 71 depicted on the Plans;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - c. To vary the number, location, and arrangement of parking spaces, provided that the total is not reduced below the number required under the Zoning Regulations;
 - d. To vary the sustainable design features of the building, provided the total number of points achievable for the project does not decrease below 46 points under the Enterprise Green Communities standard; and
 - e. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit.

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Public Benefits and Amenities

36. The Commission found in Z.C. Order No. 08-07 that a number of public benefits and amenities will be created as a result of the approved PUD. (*See* Z.C. Case No. 08-07, Finding of Fact No. 33.) The Commission finds that approval of the PUD, as modified, will continue to result in a number of public benefits and amenities, including:
- a. Housing and Affordable Housing – Building 1 will include approximately 68,263 square feet of gross floor area devoted to residential uses comprised of 71 new residential units (plus or minus 10%). The Applicant will devote 80% of the residential units, which constitutes 57 units and 41,644 square feet of gross floor area, to affordable units reserved for households earning at or below 60% of the AMI. The remaining 14 units will be market-rate. Under matter-of-right zoning in the C-3-A District, the Applicant would only have to dedicate eight percent of the residential gross floor area (i.e., 5,461 square feet of gross floor area) to households earning up to 80% of the AMI. Thus, the Applicant's proposal to provide 36,183 square feet of gross floor area over what the Zoning Regulations require, and at a significantly deeper subsidy, is a substantial amenity for this project. The creation of the new housing is also consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative;
 - b. Partnership with Teach for America - The Applicant has reached an agreement with Teach for America ("TFA"), where TFA will assist the Applicant in preparing residential marketing plans tailored to attracting teachers to become residents of Building 1. Through this partnership, TFA will be able to leverage its professional network to reach out to local teachers and encourage them to apply for affordable housing at the PUD Site. Based on this mutually beneficial arrangement, the Applicant created a custom designed common area on the ground floor of Building 1 to incorporate a teacher work area where tenants can make copies of lesson plans at their convenience, among other amenities;
 - c. Roof Deck Access - The Applicant will permit ANC 8A, CSCA, and the Historic Anacostia Block Association ("HABA") to each access the roof terrace on Building 1 no less than two times per year for ANC, CSCA, and HABA events. Scheduling will be mutually agreed to by Building 1's tenant's association, property manager, and the ANC, CSCA, or HABA;
 - d. Live/Work Studios – Building 1 will include six ground floor live/work units to accommodate and attract resident artists. These flexible spaces will address the need for both housing and work space for artists. Providing this type of space will retain the creative industry and entrepreneurial spirit of artists within the community and will spur business development, encourage mixed income housing growth, and aid arts-related business and services in the area. Live/work

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units specifically designed and developed for artists will encourage community development, neighborhood revitalization, and economic stimulation;

- e. CBE and First Source Employment - Expanding employment opportunities for residents and local businesses is a priority of the Applicant. Both Audubon (the project's financing consultant) and Four Points, LLC are Certified Business Enterprises ("CBEs"). In addition, a minimum of 35% of the eligible project costs will be contracted with CBE-certified firms. The Applicant will also enter into a First Source Employment Agreement with the Department of Employment Services in conjunction with development of Building 1;
- f. Transportation and Public Space Improvements – Building 1 will include a number of elements designed to promote effective and safe vehicular and pedestrian access, TDM measures, and connections to public transit services. For example, the Applicant located vehicular access in the public alley in order to limit potential conflicts with pedestrians and to maximize the pedestrian experience along Martin Luther King Jr. Avenue and Chicago Street. The proposed TDM measures are listed on page 21 of this Order. The Applicant also proposes a number of public space improvements adjacent to the PUD Site, including new street trees, bicycle racks, streetlight enhancements, and brick paving. In addition, the Applicant will ensure that Building 1 has a Chicago Street, S.E. address and will include in its residential leases a provision that prohibits tenants from obtaining residential parking permits for the PUD Site;
- g. Environmental Benefits - The Applicant is fully committed to providing high-quality housing in the District of Columbia. Through the development of Building 1, the Applicant will expand its commitment by ensuring the environmental, economic, and social sustainability of the residents through the implementation of sustainable design features. A number of strategies will be implemented to enhance the inherently sustainable nature of the site's location and to promote a healthy, desirable, and comfortable lifestyle that will fully benefit the project's residents while minimizing the impact on the environment. The proposed development provides a number of environmental benefits and includes street tree planting and maintenance, landscaping, methods to reduce stormwater runoff, and sustainable engineering practices. Building 1 is designed to meet rigorous energy and environmental design standards using the Enterprise Green Communities rating system as a guide and performance metric. A Green Communities checklist indicating the sustainable features of the project is included at pages 30-33 of the Plans. (Ex. 80A2-80A3.) Green Communities is a nationally-recognized sustainability strategy designed specifically for affordable housing projects, and the program's sustainability requirements are equivalent to LEED for Homes Mid-Rise; and

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- h. Construction Management Plan – The Applicant will abide by the terms of the Construction Management Plan. (Ex. 75.)

Compliance with the Comprehensive Plan

37. The Commission finds that the proposed PUD, as modified, continues to: (i) be consistent with the District of Columbia Comprehensive Plan Future Land Use Map and the Generalized Policy Map; (ii) help implement many of the guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, connecting the city, and building green and healthy communities; and (iii) further the objectives and policies of the Comprehensive Plan’s major elements, as set forth in the OP report (Ex. 24) and as previously found by the Commission in Finding of Fact No. 39 of Z.C. Order No. 08-07. (Ex. 4A.) For example, the Commission finds that the project will support Policies LU-1.3.4 and T-1.1.4, since Building 1 is designed to encourage transit use and will help to enhance the safety, comfort, and convenience of passengers walking to the Anacostia Metrorail Station or transferring to and from local buses, since the project incorporates streetscape improvements, including lighting and landscaping. (See Z.C. Order, Finding of Fact No. 39(a)(iii) and 39(b)(i).) The Commission also finds that the project advances Policy LU-2.1.3 by balancing the area’s housing supply with the parallel goals of protecting the neighborhood character and restoring the environment. (See Z.C. Order, Finding of Fact No. 39(a)(iv).) Furthermore, the Commission finds that the project promotes Policy LU-2.2.3 because it incorporates a number of elements designed to serve as buffers between the adjacent lower density and residential areas, including landscaping, height step-downs and set-backs, and other architectural and site planning measures that avoid potential conflicts. (See Z.C. Order, Finding of Fact No. 39(a)(viii).) The Commission further finds that the project also fosters Policies T-2.4.1 and UD-3.1.1/3.1.2 by promoting the city’s streetscape design and sidewalk management goals by installing street trees, sidewalks, and plantings adjacent to Building 1 that will enhance the visual character of the street and provide a buffer to reduce the impacts of vehicle traffic; development of Building 1 will also help improve the city’s sidewalk system to form a network that links residents across the District. (See Z.C. Order, Finding of Fact No. 39(b)(iv) and 39(f).) With respect to environmental protection, the Commission finds that the project is consistent with Policy E-1.1.1: Street Tree Planting and Maintenance, Policy E-1.1.3: Landscaping, and Policy E-2.2.1: Energy Efficiency. (See Z.C. Order, Finding of Fact No. 39(d)(i)-(iii).) Finally, the Commission finds that the project advances the Far Southeast and Southwest Area Element of the Comprehensive Plan, specifically by strengthening the Martin Luther King Jr. Avenue corridor with live/work units that will function in a similar fashion to traditional retail uses and will help to activate and facilitate pedestrian movements.
38. In addition, the Commission specifically finds that the modified PUD is consistent with *Policy H-1.2.3: Mixed Income Housing*, since the project is mixed-income and disperses affordable housing throughout the city, rather than concentrating such units in

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economically depressed neighborhoods. The Commission also finds that the project is consistent with *Policy H-1.2.5: Workforce Housing* because the pricing for the affordable units will be set at a level that is affordable to teachers, firefighters, police officers, nurses, and members of the other occupational categories listed in *Policy H-1.2.5*. Finally, the Commission finds that the project is consistent with *Policy H-1.1.5: Housing Quality*, since the affordable units will meet the same high quality architectural standards provided for the market-rate housing on the overall PUD and will be indistinguishable from market rate housing in their exterior appearance.

Office of Planning Reports

39. By report dated July 21, 2014, OP stated that it supported the application and that the second-stage PUD, as modified, is not inconsistent with the first-stage PUD approval, the Comprehensive Plan, or the Zoning Regulations. (Ex. 13.) Therefore, OP recommended that the Commission schedule a public hearing on the application.
40. By report dated November 24, 2014, OP submitted a report recommending approval of the application. (Ex. 24.) The OP report stated that the project conforms to the Comprehensive Plan's objectives for the area and to the Generalized Land Use and Policy Maps. (See OP Report, p. 1.) OP expressed its support for the design of Building 1, which "would positively add to the character and activity along MLK Avenue" (*id.* at p. 5), and stated that the proposed changes to Building 1 would not make the development inconsistent with the Comprehensive Plan, the C-3-A zone, or the overall concept of the first-stage PUD (*id.* at p. 8). Furthermore, OP stated its support for "granting all the areas of flexibility requested." (*id.* at p. 7.) Overall, the OP report recommended approval of the application.

DDOT Report

41. By report dated November 24, 2014, DDOT indicated its support for the PUD. (Ex. 25.) DDOT's report stated that: (i) the application is projected to minimally increase travel delay in the area, (ii) existing transit service, pedestrian infrastructure, and bicycle infrastructure has capacity to accommodate future demand, and (iii) the Applicant proposes to provide an adequate number of long-term bicycle parking spaces in bicycle storage rooms. (See DDOT Report, p. 2.) DDOT's report also indicated that the TDM measures proposed by the Applicant, if implemented as planned, would encourage the use of alternative modes of transportation and are largely adequate. (*Id.* at 10.) In addition to the TDM measures proposed by the Applicant, DDOT requested that the Applicant also install at least four short-term bicycle parking spaces for public access. (*Id.* at 11.) With this insertion, DDOT found that the TDM plan was sufficient to encourage non-auto travel and supported the high non-auto mode split assumed in the Applicant's transportation analysis. (*Id.*)

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Contested Issues/Party in Opposition

42. Commissioner Fuller and representatives of CCA raised concerns at the public hearing and in written testimony. The concerns raised by Commissioner Fuller included the following issues: materials and design of Building 1, obstruction of views, additional traffic and reduced on-street parking availability, and disturbances during construction. (See Ex. 78 and Tr., 12/18/2014, pp. 124-127.) The concerns raised by CCA included the following issues: excessive height and density, obstruction of views, inappropriate design and character of the building, disturbances during construction, an over-concentration of housing and affordable housing at the PUD Site, and inadequate public benefits and amenities. (See Tr., 12/18/2014, pp. 140-158.)
43. The Commission has carefully reviewed and considered each of the points made both in writing and orally at the public hearing, and makes the following findings:
- a. *Materials and Design of Building 1*: There was testimony that Building 1 did not fit in with the character of the Anacostia Historic District and did not include sufficient brick on the building facades or an adequate number of windows. The Commission finds that the PUD Site is not within the Anacostia Historic District and is therefore not required to be submitted for review by HPO or the HPRB. The Commission finds that D.C. Official Code §§ 6-1105(a) and 1107(a) (2012 Repl.) provide that building permits for construction or alteration need only be reviewed under the historic preservation regulations when the construction or alteration is “in an historic district or on the site of an historic landmark” (D.C. Official Code § 6-1107(a)). The Commission finds that the PUD Site and most of the land area within the overall PUD are located outside of the boundaries of the Anacostia Historic District; that only two buildings within the overall PUD are located within the Historic District; and that those buildings will go through appropriate historic review processes during their second-stage PUD applications. The Commission therefore finds that the historic review process is inapplicable to Building 1. Furthermore, the Commission finds that the Applicant significantly changed the façade of the building to address concerns expressed by the ANC, CCA, and community members, adding substantial amounts of brick and additional windows, as specifically requested. (See Plans at Ex. 80A1-80A3.) Therefore, the Commission finds that the Applicant has adequately addressed all of the concerns raised relating to the materials and design of Building 1;
 - b. *Views, height, and density*: There was testimony that Building 1, at a height of 65 feet and at a density of 2.85 FAR, would obstruct views into the city and would be too dense. The Commission finds that the proposed height and density of Building 1 are well within the zoning parameters permitted in the C-3-A Zone District, are appropriate for the PUD Site, and respond to the scale, orientation, and urban fabric of the surrounding area. The height of Building 1 serves as a

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transition between the existing low and mid-rise structures in the surrounding neighborhood to the east and south, and to the taller buildings approved as part of the first-stage PUD. Building 1 is only five stories along Chicago Street in order to make the scale transition more significant. Furthermore, the Commission finds that the first-stage PUD application did not change the underlying zoning for the PUD Site. The C-3-A District permits a matter-of-right building height of 65 feet (11 DCMR § 770.1), which is the exact height requested. As a PUD, the C-3-A District permits a maximum building height of 90 feet (11 DCMR § 2405.1), which is significantly taller than the height requested. Moreover, portions of the building are shorter than the approved building height under the first-stage PUD, which permitted a maximum height of 60 feet plus roof structures, which could be constructed to a maximum height of 18 feet, six inches, resulting in a perceived building height of almost 80 feet. However, the building as currently proposed is 65 feet and only includes a three foot overrun.

Furthermore, the Commission finds that it is well settled in the District of Columbia that a property owner is not entitled to a view, light, or air across another person's property without an express easement. (*See Hefazi v. Stiglitz*, 862 A.2d 901, 911 (D.C. 2004) (“American courts have wisely refused to allow the acquisition by prescription of easements of light and air”); *see also Ash v. Tate*, 73 F.2d 518 (D.C. Cir. 1934) (no injunction under District of Columbia law to prevent adjoining landowner from erecting structure that cuts off light and air); Z.C. Order No. 11-03, Finding of Fact No. 91 (“[t]he Commission finds that the viewsheds and property values ... are not protected by any restrictive covenants or by the Zoning Regulations.”))

Moreover, the Commission finds that the height and density of Building 1 is consistent with the Comprehensive Plan designations for the PUD Site. The Future Land Use Map designates the PUD Site for mixed use Medium Density Residential and Medium Density Commercial development. The corresponding Districts for these designations allow maximum building heights of 60 to 90 feet. (10A DCMR §§ 225.5 and 225.10.) In contrast, the Future Land Use Map designates the surrounding neighborhoods to the east and south of the PUD Site as Moderate Density Residential, which generally defines areas characterized by single family homes, 2-4 unit buildings, row houses, and low-rise apartment buildings. (10A DCMR § 225.4.) The Moderate Density Residential designation provides less intense corresponding zone districts, which include the R-3, R-4, R-5-A Districts and the R-5-B District in some locations. (*Id.*) Thus, the Commission finds that the Comprehensive Plan designation for the existing residential neighborhoods adjacent to the PUD Site is consistent with the low-rise row dwellings that currently exist in this location. Similarly, the Commission finds that development of the PUD Site is consistent with the District's vision for

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the area, with taller buildings along Martin Luther King Jr. Avenue; (*See generally* 10A DCMR § 1807.2(d).)

- c. *Traffic and Parking:* The Commission finds that the modified application provides a reasonable supply of parking for the land use and location of Building 1, given its close proximity to the Anacostia Metrorail station and numerous Metrobus routes. The Commission finds that the Applicant utilized sound methodology and travel assumptions in developing its traffic and parking assessments, and developed an appropriate mode split that indicates no adverse impacts to traffic and parking in the study area. (Ex. 22B, 25.) The Commission finds that there are no direct mitigations necessary as part of the development of Building 1 beyond the TDM plan proposed in Exhibit 25 and as set forth on page 21 of this Order. Based on the Applicant's Transportation Impact Study (Ex. 22B) and the DDOT Report (Ex. 25), the Commission finds that project will minimally increase travel delay in the area, and that the existing transit service, pedestrian infrastructure, and bicycle infrastructure has capacity to accommodate future demand;
- d. *Over-Concentration of Housing and Affordable Housing:* There was also testimony that Building 1 should include a mix of uses (e.g., ground floor retail) and a revised percentage of affordable and market-rate units. With respect to ground floor retail, the Commission finds that future second-stage applications for other buildings within the Overall PUD will include significant amounts of ground floor retail space along Martin Luther King Jr. Avenue and throughout the overall PUD, which will help revitalize the neighborhood's economic viability and improve the pedestrian experience. The Commission approved the development phasing in Z.C. Order No. 08-07, and the development of Building 1 is consistent with this approval. Furthermore, Building 1 will contain ground floor live/work units for artists to present their arts and crafts. The Commission finds that the Applicant designed the live/work units and the ground floor building façade such that the live/work units will activate the street in a manner similar to that of ground floor retail. Therefore, the Commission finds that there will not be an overconcentration of housing on the PUD Site.

With respect to affordable housing, the Commission finds that the proposed amount of affordable housing for Building 1 will not result in an overconcentration of subsidized, income-capped housing. The proposed affordable housing is consistent with the city's housing and affordable housing goals, and implements numerous policies of the Comprehensive Plan, including *Policy 1.1.5: Housing Quality; Policy H-1.2.1: Affordable Housing Production as a Civic Priority; Policy H-1.2.3: Mixed Income Housing; Policy H-1.2.5: Workforce Housing; and Policy H-1.4.3: Focusing Housing Investments.* Moreover, the Commission finds that affordable housing will be spread

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throughout the Overall PUD and will not be overly concentrated in Building 1. The Commission also finds that the proposed provision of affordable housing achieves the Comprehensive Plan's overall housing goal of developing and maintaining a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia. (10A DCMR § 501.1.) More specifically, the Commission finds that there is a critical need for affordable housing in Ward 8 and the Far Southeast and Southwest area in particular, the area of the city in which the PUD Site is located. As set forth in the Applicant's letter in response to the party status request (Exhibit 73), the median income for residents of the Far Southeast and Southwest area, as defined in Chapter 18 of the Comprehensive Plan, is one-half of the city's median income. (10A DCMR § 1805.1.) In addition, the unemployment rate for this same area is more than three times the average rate for the Washington region. (*Id.* at § 1805.1.) Thus, the Commission finds that there is a great need for affordable housing in this area of the city and that the development of Building 1 will help to satisfy that demand; and

- e. Construction Mitigation - The Commission finds that the Applicant adequately addressed the community's concerns related to construction impacts through its Construction Management Plan. (Ex. 75.) The Commission notes that a Construction Management Plan is not required as part of the PUD process.
44. Overall, based upon the written evidence of record, combined with the testimony presented at the public hearing on this application, the Commission finds that the materials and design of Building 1 are compatible with the surrounding neighborhood; that the height and density of Building 1 are consistent with the underlying zoning, the approved first-stage PUD, and the Comprehensive Plan; that the project will not adversely affect neighborhood traffic or on-street parking availability; that the project will not result in an over-concentration of affordable housing at the PUD Site; and that the Construction Management Plan will adequately mitigate the community's concerns regarding construction-related impacts.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to modify the approved first-stage PUD and to consider the application for approval of a

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second-stage PUD. Because the modifications proposed by the Applicant could not be approved by the Zoning Administrator pursuant to § 2409.6, the Applicant submitted the proposed modifications to the Commission for approval, and because the modifications were not so minor as to permit their review under the Commission's Consent Calendar procedure, 11 DCMR § 3030, they were processed as a second-stage application. (11 DCMR § 2409.9.)

3. As was the case for the original approval, the Commission, as part of its approval of a modification may grant or impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, or any other applicable zoning requirement.
4. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The modified PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations and complies with the applicable height, bulk, and density standards of the Zoning Regulations. The uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area and on the operation of city services is acceptable given the quality of the public benefits in the project.
6. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable tradeoffs for the requested development flexibility.
7. Approval of this modified PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the PUD Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Commission is required under § 3(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001) to give great weight to the issues and conditions expressed in the written report of an affected ANC. ANC 8A did not submit a written report in this case.
9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission

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concurs with OP’s recommendation for approval and has given the OP recommendation the great weight it is entitled.

10. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 *et seq.* (2007 Repl.)).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for a second-stage PUD for the PUD Site, which is comprised of Lot 839 and part of Lot 906 in Square 5785, and modifications to the first-stage PUD approved pursuant to Z.C. Order No. 08-07 to permit construction of Building 1 on the PUD Site;

The Commission’s first-stage approval is modified as follows:

	First-Stage as Approved	Modifications Granted
Total FAR	2.57	2.85
Residential GFA	65,000 square feet	68,263 feet
Dwelling units	65 dwelling units (plus or minus 10%)	71 residential units (plus or minus 10%)
Height	60 feet, not including roof structures	65 feet, not including roof structures
Off street parking spaces	33	26
Bicycle parking	22	37

The Commission’s approval of this second-stage application is subject to the following guidelines, conditions, and standards.

A. PROJECT DEVELOPMENT

1. Building 1 shall be developed in accordance with the architectural plans and elevations prepared by Grimm + Parker, dated January 12, 2015 (Ex. 80A1-80A3) as modified by the guidelines, conditions, and standards herein.
2. In accordance with the Plans, Building 1 shall have a maximum density of 2.85 FAR and a gross floor area of 68,263 square feet devoted to 71 residential units (plus or minus 10%).
3. The maximum height of Building 1 shall be 65 feet, not including roof structures.
4. Building 1 shall include a minimum of 26 off-street parking spaces.

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5. The Applicant is granted the specific flexibility from the loading requirements (§ 2201.1), the side yard width requirements (§ 775.5), the off-street parking requirements (§ 2101.1), and the compact parking space requirements (§ 2115.4), consistent with the approved Plans, including the Zoning Tabulation chart on Sheet 2 of the Plans, and as discussed in the Development Incentives and Flexibility section of this Order.
6. The Applicant shall also have flexibility with the design of Building 1 in the following areas:
 - a. To be able to provide a range in the number of residential units of plus or minus 10% from the 71 depicted on the Plans;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - c. To vary the number, location, and arrangement of parking spaces, provided that the total is not reduced below the 26 spaces depicted in the Plans;
 - d. To vary the sustainable design features of the building, provided the total number of points achievable for the project does not decrease below 46 points under the Enterprise Green Communities standards; and
 - e. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit.

B. PUBLIC BENEFITS

1. **For the life of the project**, the Applicant shall abide by the community benefits agreement submitted into the record. (Ex. 88.) No subsequent amendment of that agreement shall be deemed to become part of this Order unless the Applicant requests and is granted a modification by the Commission.

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2. **For the life of the project**, the Applicant shall dedicate 41,644 square feet of gross floor area as affordable dwelling units for households earning up to 60% of the AMI.
3. **For the life of the project**, the Applicant shall permit ANC 8A, CSCA, and HABA to each access the roof terrace of Building 1 no less than two times per year for ANC, CSCA, and HABA events, with scheduling to be mutually agreed to by Building 1's tenant association, property manager, and the ANC, CSCA, or HABA.
4. **For the life of the project**, the Applicant shall dedicate a minimum of six live/work units for artists on the ground floor of Building 1.
5. **Prior to the issuance of a Certificate of Occupancy for Building 1**, the Applicant shall submit to DCRA an executed agreement with TFA or a similar organization, wherein that organization will assist the Applicant in preparing residential marketing plans tailored to attracting teachers to become residents in Building 1.
6. **For the life of the project**, the Applicant shall designate a common area on the ground floor of Building 1 as a teacher work area as shown on Sheet 11 of the Architectural Plans and Elevations. (Ex. 80A1.) The teacher work area shall be approximately 680 square feet and shall include work table(s), internet access, and a printer.
7. **Concurrently with the construction of Building 1 and for the life of the project**, the Applicant shall install and maintain the landscaping and other public space improvements adjacent to the PUD Site as shown on the Plans subject to final approval by the Public Space Division of DDOT. (Ex. 80A1-80A3.)
8. **Prior to the issuance of a building permit for Building 1 and for the life of the project**, Building 1 shall have a Chicago Street, S.E. address and the Applicant shall include in its residential leases a provision that prohibits tenants from obtaining residential parking permits for the property from the D.C. Department of Motor Vehicles.
9. **Prior to the issuance of a building permit for Building 1**, the Applicant shall submit to DCRA an executed First Source Employment Agreement with the Department of Employment Services, and an executed Certified Business Enterprise Utilization Agreement with the District's Office of Small and Local Business Development.

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10. **The Applicant shall submit with its building permit application** for Building 1 a checklist indicating that Building 1 includes sustainable design features such that the building would be able to achieve a minimum of 46 points under Enterprise Green Communities standards.
11. **During construction of Building 1**, the Applicant shall abide by the terms of the Construction Management Plan. (Ex. 75.)
12. **During the life of the project**, the Applicant shall implement the following TDM measures:
 - a. A member of the property management group shall be a point of contact and shall be responsible for coordinating, implementing, and monitoring the TDM strategies. This would include the development and distribution of informational and promotional brochures to visitors, patrons, and employees regarding transit facilities and services, walk and bicycle facilities and linkages, and car sharing;
 - b. The project website shall provide links to existing resources such as www.goDCgo.com, which provides transportation information and options for getting around the District. In addition, an electronic message board shall be placed in the lobby that displays information such as real-time transit information for the closest bus or rail stops and bikes available at nearby Capital Bikeshare stations;
 - c. Residents shall be offered a SmarTrip card pre-paid with \$20 to encourage the use of transit to be distributed when moving in. This program shall be limited to one card per unit, and will only be employed on the initial move-in;
 - d. The Applicant shall provide a secure room inside the garage for long-term resident bicycle parking, and some racks outside for visitor or short-term bicycle parking. The development will provide a total of 37 secure bicycle parking spaces for use by residents in the parking garage; and
 - e. The Applicant will install at least four short-term bicycle parking spaces for public access. The exact location of short-term bicycle parking spaces will be determined during the public space permitting process.

C. MISCELLANEOUS

1. This second-stage PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must

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be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order.

2. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
3. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 *et seq.* (act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On February 9, 2015, upon the motion of Commissioner Turnbull, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On March 30, 2015, upon the motion of Commissioner May, as seconded by Vice Chairperson Cohen, the Zoning Commission **ADOPTED** the Order at its public meeting, by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D. C. *Register*; that is on May 22, 2015.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-13A
Z.C. Case No. 11-13A
Trammel Crow Company
(PUD Time Extension @ Square 1546, Lot 301)
January 12, 2015

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on January 12, 2015. At that meeting, the Commission approved the request of Trammel Crow Company (“Applicant”) for a two-year time extension in which to file a building permit application for the consolidated planned unit development (“PUD”) and Zoning Map Amendment application approved by Zoning Commission Order No. 11-13. The property that is the subject of this application is located at 222 M Street, S.W. (Square 546, Lot 301) (the “Property”). The time extension request was made pursuant to § 2408.10 of the Zoning Regulations.

FINDINGS OF FACT

1. The consolidated PUD project approved in Z.C. Order No. 11-13, which became final and effective on July 6, 2012, authorized the construction of a mixed-use residential and church building. Z.C. Order No. 11-13 also authorized the rezoning of the Property from the R-3 Zone District to the CR Zone District.
2. In accordance with § 2408.8, Condition No. 17 of Z.C. Order No. 11-13 required that plans for a building permit be filed within one year after its effective date, *i.e.*, on July 7, 2014. Pursuant to § 2408.9, construction was to begin one year thereafter.
3. On August 3, 2012, two party-opponents in Z.C. Case No. 11-13 filed an appeal of Z.C. Order No. 11-13 with the D.C. Court of Appeals. Another party-opponent filed an appeal on August 6, 2012.
4. Subsection 2408.13 of the PUD regulations provides that in the event an appeal is filed the time limitations of §§ 2408.8 and 2408.9 shall run from the decision date of the court’s final determination of the appeal.
5. The Court of Appeals ultimately dismissed all of the cases and issued a final order dismissing the last case on January 15, 2013. (Exhibit [“Ex.”] 1C).
6. Therefore, pursuant to § 2408.13, the Applicant had until January 14, 2015 to file an application for a building permit and until January 14, 2016 to commence construction.
7. The Applicant has been unable to secure all necessary governmental approvals because of delays beyond the Applicant’s reasonable control. The confluence of the appeals of Z.C. Order No. 11-13 and a delay in the completion of the 17th Street levee (flood barrier), which affects the flood zone categorization for the Property, result in the Applicant’s inability to proceed with the Project within the valid time period of Z.C. Order No. 11-13. (Ex. 1K.)

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8. The Property is currently within the Zone A Flood Hazard Area on the Federal Emergency Management Agency (“FEMA”) Flood Insurance Rate Map (“FIRM”). New buildings on properties within Zone A have higher flood protection development standards than for properties outside of Zone A. FEMA will amend the FIRM as conditions change when properties become more or less prone to flooding. (Ex. 1D.)
9. The U.S. Army Corps of Engineers (“USACE”) constructed an improved levee/flood barrier on the National Mall, across 17th Street, N.W. The purpose of the levee is to protect from flooding many areas of the District of Columbia, including the Property, that were deemed at risk following an assessment of flood risk areas after Hurricane Katrina. The levee was originally scheduled for completion in 2011. However, its construction fell significantly behind schedule. The levee was completed on October 31, 2014. With completion of the levee, the Property has a lower risk of flooding, so it will no longer be included in Zone A on the revised FIRM. However, the USACE must test and certify the levee before it is deemed complete. FEMA must then accredit the levee before it will change the FIRM. (Ex. 1F, 1G, 1H, 1I.)
10. The appeals of Z.C. Order No. 11-13 froze the Applicant’s ability to proceed with any work on the project immediately after it was approved. Therefore, no work on any aspect of the project began until after the Court of Appeals dismissed the appeals in January 2013. This six month delay also gave the Applicant confidence that the levee would be completed and certified by the time it would apply for a building permit more than a year thereafter. (Ex. 1K.)
11. Due to a challenging finance environment, the Applicant sought predevelopment funding in late 2013/early 2014 so that it could commence with predevelopment activities, including completing construction drawings, with the understanding that the levee would be completed and the Applicant could submit an application for a building permit before Z.C. Order No. 11-13 expired. Since April 2014, the Applicant has significantly progressed with design development, and it continues to work on the drawings so that they will be complete enough for a building permit application. (Ex. 1K.)
12. As soon as the Applicant began design development in April 2014, it became aware that the 17th Street levee still had not been completed and that the Property was still in Zone A on the FIRM. Confident that the levee was nearing completion, the Applicant did not modify the design drawings to include additional flood protection measures since the Property would soon no longer be in Zone A. Modifying the drawings would have included incorporating new design elements for greater flood protection as long as the FIRM remained unchanged. Such required flood protection requirements include reengineering and redesigning much of the building foundation to thicken the foundation walls, add more tie-backs, and include other ground and garage flood proofing measures. The architect, civil engineer, and structural engineer estimate that the additional costs for these changes would be \$4,000,000. (Ex. 1J, 1K.)

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13. Because the Applicant reasonably anticipated that the levee would be complete and accredited by sometime in 2014, it never budgeted for these significant additional costs. These costs are too high for the Project to remain viable, so the Project can be built only if the FIRM is amended to remove the Property from Zone A. (Ex. 1K.)
14. In anticipation of the levee being completed, certified, and accredited, the Applicant immediately began exploring options to initiate an amendment to the FIRM, known as a Letter of Map Amendment (“LOMA”), for only the Property. However, conversations with FEMA representatives in October 2014 revealed that it is very unlikely that FEMA would amend the FIRM for just the Property and issue a LOMA. Currently, FEMA plans to amend the entire FIRM for the District of Columbia once the levee is certified and accredited. This will remove the Property from Zone A, but because the changes to the FIRM will not occur until approximately Spring 2016, the Applicant would have to include the expensive and unnecessary flood protection measures in the building’s design to file an application for a building permit any sooner. The Applicant desires to avoid the expense of redesigning a building that will never be built with that design. Thus, the Applicant will not have the necessary government approval (a change to the FIRM for the Property) to apply for a building permit for a viable project before the Order expires since FEMA will not amend the FIRM for more than a year and will not issue a LOMA. (Ex. 1K.)
15. On December 14, 2014, ANC 6D filed a letter requesting that the Commission postpone its “hearing” on the application because of a desire to offer testimony. The ANC also expressed concern about lack of engagement from the Applicant. (Ex. 4.)
16. On December 22 and December 23, 2014, Regina and Robert Weller filed a letter and supporting information opposing the time extension. This information did not address the merits of the Applicant’s time extension request and primarily concerned the original PUD approval. (Ex. 5, 6.)
17. On December 29, 2014, the Carrollsburg Square Condominium Association submitted a letter in support of the time extension, stating that, as the most directly affected property, they would like to see the project proceed. (Ex. 7)
18. In its January 2, 2015 report to the Commission, the Office of Planning (“OP”) recommended approval of the PUD time extension request. OP concluded that the Applicant satisfied the relevant standards of §§ 2408.10 and 2408.11. (Ex. 8.)
19. On January 5, 2015, the Applicant submitted a letter in response to the ANC, noting that the Applicant made multiple attempts to communicate with the ANC but did not receive any response, so the Commission should not delay its decision. (Ex. 9.)

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CONCLUSIONS OF LAW

The Commission may extend the time period of an approved PUD provided the requirements of 11 DCMR §§ 2408.10 and 2408.11 are satisfied. Subsection 2408.10(a) requires that the applicant serve the extension request on all parties and that all parties are allowed 30 days to respond. The Applicant served all parties to the PUD and Zoning Map Amendment application when it filed the time extension application on November 20, 2014.

Subsection 2408.10(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD. The Commission concludes that extending the time period of approval for the consolidated PUD is appropriate since there are no substantial changes in the material facts that the Commission relied on in approving the original consolidated PUD application.

Subsection 2408.10(c) requires that the applicant demonstrate with substantial evidence that there is a good cause for the proposed extension, as provided in § 2408.11. Pursuant to § 2408.11, an extension of validity of a PUD may be granted if the applicant has demonstrated with substantial evidence one or more of the following criteria:

- (a) An inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;
- (b) An inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
- (c) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the PUD order.

The Commission finds that there is good cause shown to extend the period of time in which the Applicant is required to file a building permit application for the mixed-use residential and church building project approved in the Order. The Commission acknowledges the delay that the appeals of the Order caused to the Applicant. In addition, the Commission recognizes the distinct and substantial impacts on the project resulting from the significant delay in the construction, certification, and accreditation of the 17th Street levee (flood barrier), which affects the Property's flood zone categorization and the flood protection requirements imposed on the project. In order to proceed with the project, the Applicant would have to incorporate costly flood protection measures that are unnecessary since the FIRM will eventually change. The Commission concludes that the Applicant sufficiently demonstrated that it was ultimately not able to proceed with the Project due to delays in governmental approval processes that were beyond the Applicant's reasonable control. For these reasons, the Commission finds that the

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Applicant has satisfied the requirements of 11 DCMR§ 2408.11(a) regarding the consolidated PUD application.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC. The Commission recognizes the positions of ANC 6D but finds that its request for a delay was not warranted and was based on a misunderstanding. The ANC did not state any reasons that it objected to the merits of the application, and it misunderstood that the Commission would consider the request at a public hearing instead of a public meeting. Also, the Applicant attempted to contact the ANC prior to the ANC’s December 2014 meeting. Thus, the Commission finds that the ANC did not demonstrate how the Applicant did not satisfy the criteria of §§ 2408.10 and 2408.11, so it provided no basis for the Commission to delay or deny the application.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (DC Law 8-163, D.C. Official Code § 6-623.04), to give great weight to OP recommendations. Accordingly, the Commission credits and agrees with OP’s recommendation that approval of the time extension request is justified.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a two year time extension of the consolidated PUD application approved in Z.C. Order No. 11-13. The consolidated PUD approved by the Zoning Commission shall be valid until January 14, 2017, by which date the Applicant will be required to file a building permit application to construct the approved consolidated PUD. Construction must commence by January 14, 2018 for the PUD to remain valid.

On January 12, 2015, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Turnbull, the Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR 3028.8, this Order shall become final and effective upon publication in the *D. C. Register* on May 22, 2015.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-14(2)**

Z.C. CASE NO. 13-14

**Vision McMillan Partners LLC and the Office of the Deputy Mayor for
Planning and Economic Development**

**(1st-Stage and Consolidated Planned Unit Development and Related Map Amendment
for Square 3128, Lot 800)**

April 27, 2015

Order

At the public meeting held on April 27, 2015, the Zoning Commission for the District of Columbia (“Commission”) considered whether to waive its procedural rules and accept a request from the McMillan Coalition for Sustainable Agriculture (“MCSA”), a non-party to the proceeding, for reconsideration of the Commission’s final order in Z.C. Case No. 13-14. For the reasons discussed below, the Commission declined to waive its rules and did not accept its reconsideration request.

By Z.C. Order No. 13-14 in Case No. 13-14, the Commission granted the application of Vision McMillan Partners, LLC and the Office of the Deputy Mayor for Planning and Economic Development (“Applicant”) for first-stage and consolidated review and approval of a planned unit development (“PUD”) and related zoning map amendment to the C-3-C and CR Zone Districts for the property at Lot 800 in Square 3128, known as the McMillan Sand Filtration Site.

Z.C. Order No. 13-14 was published in the *D.C. Register* on April 17, 2015, and was followed by a corrected order (“Order”) published in the *D.C. Register* on April 24, 2015. The Order became final and effective upon publication. Pursuant to § 3029.5 of the Commission’s Rules of Practice and Procedure, a “motion for reconsideration, rehearing, or re-argument of a final order in contested case under § 3022 may be filed by a *party* within ten (10) days of the order having become final.” (Emphasis added). Therefore, any party who wished to file a motion for reconsideration was required to do so by May 4, 2015. A non-party cannot file such a motion at all.

On April 17, 2015, MCSA, which was denied party status at the May 1st hearing date, filed a waiver to accept a motion for reconsideration of the Order from a non-party. Pursuant to § 3008.8 of the Commission’s rules, the “Commission may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.” MCSA requested a waiver to allow a non-party to file a request for reconsideration. The Applicant opposed the request.

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As noted by the Commission in Z.C. Order No. 11-17(3), “only the existence of ‘extraordinary circumstances’ would justify the waiver of the requirement that only a party may file a motion for reconsideration.” Citing *Application No. 18263 of Stephanie and John Lester* (2001), the Commission held that one such extraordinary circumstance is when no notice of a hearing is given. *Id.*, citing *Dietrich v. District of Columbia Bd. of Zoning Adjustment*, 293 A.2d 470, 471 n2 (D.C. 1972).

Here, MCSA claims that its organization was wrongfully denied party status when the Commission held at the May 1st hearing that MCSA was not affected more significantly, distinctively or uniquely in character or kind by the proposed zoning action than those of other persons in the general public. 11 DCMR § 3022.3(f)(5); *see also* Zoning Commission Hearing Transcript, May 1, 2015, at 10-13. Nevertheless, at the request of MSCA (Exhibit No. 392), the Commission re-deliberated at length about whether to grant party status to MSCA at the start of the May 8th hearing. To assist in its deliberations, the Commission requested MCSA to come to the witness table to respond to additional questions, but MCSA was not present. MCSA offered no explanation of why it was not in the hearing room or any extenuating circumstance that excused their absence, other than “they had not yet arrived.” The May 8th hearing notice clearly indicated the start time of 6:30 p.m., that party status would be considered at the beginning of each hearing, and the Commission considered MCSA’s request approximately 10 minutes later. It is clear that MCSA received notice of the hearing since it did attend the hearing that night by its own admission. The Commission concludes that no extenuating circumstances exist for waiving the limitation that only those who did request and were granted party status may file motions for reconsideration or re-argument.

For all the reasons stated above, MCSA’s Motion to Waive Rules and Accept Reconsideration and Re-Argument is hereby **DENIED**.

This Order is not subject to further review by the Commission and any request to undertake such a review will not be accepted.

On April 27, 2015, upon the motion of Chairman Hood, as second by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt; Marcie I. Cohen, not having participated, not voting).

In accordance with 11 DCMR § 3028.8, this Order is final and effective upon its publication in the *D.C. Register* on May 22, 2015.

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