

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 21-28, Local Resident Voting Rights Amendment Act of 2015
- D.C. Council schedules a public hearing on Bill 21-250, Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015
- Executive Office of the Mayor establishes the Undergrounding Project Consumer Education Task Force
- Office on African Affairs announces funding availability for the Fiscal Year 2016 African Community Grant
- Department of Behavioral Health solicits new certification applications for specific mental health service providers
- Department of Employment Services announces the 2015 District of Columbia minimum wage increase
- Mayor's Office of Legal Counsel publishes Freedom of Information Act Appeals
- Office of Tax and Revenue sets the minimum tax threshold amount for the July 2015 tax sale

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-75

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 16, 2015

To amend, on an emergency basis, the District of Columbia Comprehensive Plan Act of 1984 Land Use Element Amendment Act of 1984 to extend by 45 days the Council review period for the Southwest Neighborhood small area action plan.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Extension of Review Period for the Southwest Small Area Plan Emergency Amendment Act of 2015".

Sec. 2. Section 4(c) of the District of Columbia Comprehensive Plan Act of 1984 Land Use Element Amendment Act of 1984, effective March 16, 1985 (D.C. Law 5-187; D.C. Official Code § 1-306.03(c)), is amended by adding a new paragraph (4A) to read as follows:

"(4A) Notwithstanding paragraph (4) of this section, the Council review period for the Southwest Neighborhood small area action plan, transmitted by the Mayor on April 1, 2015 with the Southwest Neighborhood Plan Approval Resolution of 2015, as introduced on April 1, 2015 (P.R. 21-127), is extended by an additional 45 days, excluding Saturdays, Sundays, legal holidays, and days of Council recess."

Sec. 3. Fiscal impact statement.

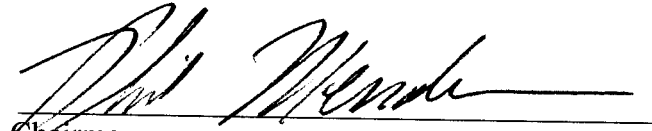
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
June 16, 2015

ENROLLED ORIGINAL

A RESOLUTION

21-104

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 27, 2015

To declare the existence of an emergency with respect to the need to increase certain appropriations in the Fiscal Year 2015 Budget Request Act pursuant to the District of Columbia Appropriations Act, 2015.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Fiscal Year 2015 Second Revised Budget Request Adjustment Emergency Declaration Resolution of 2015".

Sec. 2. (a) On December 30, 2014, the Office of the Chief Financial Officer (OCFO) released a quarterly revised revenue estimate that showed an \$83.4 million decrease in certified revenues. This estimate was revised by the OCFO on February 27, 2015 to include the certified revenue increase of \$36.5 million. This leaves a budget gap of approximately \$46.9 million.

(b) This gap is partially offset by an existing operating margin of \$5.2 million and additional TIF revenue savings of \$2.3 million. This leaves an overall budget gap of \$39.4 million that needs to be resolved for the budget to remain in balance for Fiscal Year 2015.

(c) In order to resolve this gap and address structural budget issues in Fiscal Year 2016 and beyond, the Mayor identified savings of \$87.8 million and the Council identified additional savings of \$20.5 million in Fiscal Year 2015. \$39.4 million of this savings amount will be used to solve the gap with another \$68 million being carried over into Fiscal Year 2016. These actions will leave an operating margin of \$0.5 million.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2015 Second Revised Budget Request Emergency Adjustment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-105

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to approve the salary adjustment for the Chancellor of the District of Columbia Public Schools.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Chancellor of the District of Columbia Public Schools Salary Adjustment Congressional Review Emergency Declaration Resolution of 2015”.

Sec. 2. (a) Kaya Henderson was appointed Interim Chancellor of the District of Columbia Public Schools (“DCPS”) on November 1, 2010, following the resignation of Michelle Rhee. On March 11, 2011, she was nominated to serve as Chancellor of the District of Columbia Public Schools. Chancellor Henderson was unanimously confirmed by the Council on June 21, 2011, and has served as Chancellor continuously since that time.

(b) Over the past 4 years under Chancellor Henderson’s leadership, DCPS has realized dramatic improvements towards the goals of increasing District-wide math and reading proficiency, improving the proficiency rates of the DCPS’ 40 lowest-performing schools, increasing high school graduation rates, increasing student satisfaction, and increasing overall DCPS enrollment.

(c) DCPS has increased audited enrollment to the highest level in over 5 years, with 3 consecutive years of growth. In 2014, DCPS students reached their highest proficiency rates ever in reading and math. Graduation rates have been growing steadily each year with a goal of 75% in 2017. In-seat attendance has increased to 89% and truancy has been reduced by 18%. Since 2011, the results of the National Assessment of Education Progress show District students improved in math and reading and demonstrated the greatest growth of any state in the nation.

(d) Based on the dramatic improvements achieved under the steady leadership of the Chancellor over the last 4 years and the commitment to continuing the progress of DCPS, the Mayor signed a new contract and made an adjustment to the Chancellor’s salary to \$284,000.

(e) On March 3, 2015, the Council passed emergency legislation, the Chancellor of the District of Columbia Public Schools Salary Adjustment Emergency Amendment Act of 2015, effective March 3, 2015 (D.C. Act 21-0027; 62 DCR 4527), to effectuate this change. It was retroactive to January 2, 2015, and expired on April 2, 2015.

ENROLLED ORIGINAL

(f) Temporary legislation, the Chancellor of the District of Columbia Public Schools Salary Adjustment Temporary Amendment Act of 2015, enacted on March 30, 2015 (D.C. Act 21-40; 62 DCR 4558) and transmitted to Congress for the 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)). It is projected to become law on June 4, 2015.

(g) A congressional review emergency with retroactive applicability is needed to prevent a gap in the law as the Chancellor has already begun receiving the adjusted salary. The permanent legislation was included as part of the Fiscal Year 2016 Budget Support Act of 2015, Bill 21-157, which was recently approved by the Council on first reading.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Chancellor of the District of Columbia Public Schools Salary Adjustment Congressional Review Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-106

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Firearms Control Regulations Act of 1975 to permit a person to register a firearm for self-defense in his or her place of business, to provide a Freedom of Information Act exception for pistol registration information, to specify application requirements for applying for a license to carry a concealed pistol, to specify the duration of such licenses and requirements for renewal of licenses, to establish duties of licensees, to provide for revocation of licenses, to create a criminal offense of carrying while consuming alcohol or while impaired, to specify prohibitions on licensees, to establish a Concealed Pistol Licensing Review Board, to provide a Freedom of Information Act exception for license information, to specify penalties for violations, and to require the Mayor to issue rules; and to amend An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes to authorize the Chief of Police to issue licenses to carry a concealed pistol to District residents and non-residents provided certain conditions are met.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “License to Carry a Pistol Congressional Review Emergency Declaration Resolution of 2015”.

Sec. 2. (a) On December 17, 2014, the Council passed the License to Carry a Pistol Amendment Act of 2014, enacted on February 6, 2015 (D.C. Act 20-621; 62 DCR 1944). On March 6, 2015, this measure was transmitted to Congress for a 60-day period of congressional review.

(b) On December 17, 2014, the Council also passed the License to Carry a Pistol Second Emergency Amendment Act of 2015, effective January 6, 2015 (D.C. Act 20-564; 62 DCR 866).

(c) D.C. Act 20-564 expired on April 6, 2015; however, D.C. Act 20-621 is not projected to become law until June 16, 2015. A congressional review emergency is necessary to ensure that the provisions of the emergency legislation continue in effect, without further interruption, until the permanent measure becomes law.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the License to Carry a Pistol Congressional Review Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-107

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the sense of the Council in support of amendments to the inclusionary zoning regulations, Chapter 26 of Title 11 of the District of Columbia Municipal Regulations, which require new and rehabilitated residential developments to include housing units permanently affordable to low- and moderate-income residents in exchange for permitting housing developers to obtain additional zoning density as a matter of right, to increase the availability of affordable housing.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council in Support of Improving Inclusionary Zoning Resolution of 2015”.

Sec 2. The Council finds that:

(1) The District of Columbia housing and rental market is among the most expensive in the country.

(2) Many of the District’s residents spend greater than 30% of their annual income on housing costs.

(3) The Inclusionary Zoning (“IZ”) regulations of the District of Columbia, Chapter 26 of Title 11 of the District of Columbia Municipal Regulations, are a critical component of the city’s overall strategy to create affordable housing units. The regulations require developers constructing new residential units to include a certain number of affordable units to be rented or sold at a price below market rate. The regulations create 2 levels of affordability: 80% of Area Median Income (“AMI”) and 50% of AMI. Prices are calibrated so that an individual earning either 80% or 50% AMI will spend between 38 to 41% of his or her annual income on housing. To offset the cost to developers of these mandates, developers are provided with bonus density, enabling the construction of an increased number of units above what the applicable zoning regulations would otherwise permit.

(4) As of May 2014, 477 IZ units in 57 projects throughout the District have been constructed, are under construction, or are planned. Of these, 78% of the units are priced at the 80% AMI level; the remaining 22% of units are priced at the 50% AMI level. According to 2013 data from the U.S. Census Bureau, the Washington, D.C. area had the highest median income in the United States at \$90,149. AMI includes income data from Maryland and Virginia residents, in addition to District residents.

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(5) Many District residents earn below 80% AMI and are in need of affordable housing options.

(6) IZ can be a more effective tool to the extent that the IZ regulations are revised to require developers to produce more affordable units and at deeper affordability levels. Such revisions, however, must not be so significant as to discourage, or make financially unfeasible, future residential development plans.

(7) Construction of residential units is at an all-time high in the District. The sooner any revision is made to the IZ regulations, the greater the impact that revision will have.

Sec. 3. (a) For the reasons set forth in section 2, it is the sense of the Council that the Zoning Commission and the Mayor must revise the Inclusionary Zoning regulations, Chapter 26 of Title 11 of the District of Columbia Municipal Regulations, to accomplish the following objectives:

- (1) Increase the number of Inclusionary Zoning units produced overall;
- (2) Increase the number of units produced that are affordable for lower income households;
- (3) Set maximum rent, purchase price, and eligibility thresholds in a manner that ensures affordability for an adequate pool of applicants;
- (4) Achieve greater affordability by lowering the upper affordability limits for moderate income households;
- (5) Ensure that the zoning density bonus needed to support the cost of IZ units is available and usable, by allowing greater flexibility within the parameters of the Comprehensive Plan and offering additional bonus density as necessary to compensate for increased affordability; and
- (6) Clarify the intended role for qualified nonprofits, the Mayor, and the District of Columbia Housing Authority in exercising the right of first refusal to purchase and then rent units to low-income and very-low-income residents.

(b) The Zoning Commission and the Mayor should act with care and thoroughness in their review of the existing regulations, the market, and all possible alternatives, when determining the best course of action to achieve these objectives.

Sec. 4. The Chairman shall transmit copies of this resolution, upon its adoption, to the Mayor, the Office of Planning, and the Zoning Commission.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

A RESOLUTION

21-108

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To confirm the appointment of Mr. Stephen D. Bumbaugh to the Public Charter School Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Public Charter School Board Stephen D. Bumbaugh Confirmation Resolution of 2015".

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

Mr. Stephen D. Bumbaugh
2619 Garfield Street, N.W. #4
Washington, D.C. 20008
(Ward 3)

as a member of the Public Charter School Board, established by section 2214 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D. C. Official Code § 38-1802.14), replacing Herbert R. Tillery, to complete the remainder of an unexpired term to end February 24, 2017.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-109

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To confirm the reappointment of Mrs. Barbara B. Nophlin to the Public Charter School Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Public Charter School Board Barbara Nophlin Confirmation Resolution of 2015".

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

Mrs. Barbara B. Nophlin
1441 35th Street, S.E.
Washington, D.C. 20020
(Ward 7)

as a member of the Public Charter School Board, established by section 2214 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D. C. Official Code § 38-1802.14), for a term to end February 24, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-110

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To confirm the appointment of Ms. Hanseul Kang as the State Superintendent of Education.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA That this resolution may be cited as the "State Superintendent of Education Hanseul Kang Confirmation Resolution of 2015".

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

Ms. Hanseul Kang
153 Rhode Island Avenue, N.E.
Washington, D.C. 20002
(Ward 5)

as the State Superintendent of Education, established by section 2 of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2601), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), for a term to end March 22, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-111

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$33 million of District of Columbia revenue refunding bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist the United Negro College Fund, Inc. in the financing or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "United Negro College Fund Revenue Refunding Bonds Project Approval Resolution of 2015".

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have sub-delegated any of the Mayor's functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) "Borrower" means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds which shall be the United Negro College Fund, Inc. a State of New York not-for-profit corporation exempt from federal income taxes under 26 U.S.C § 501(a) (2009) as an organization described in 26 U.S.C. § 501(c)(3) (2009).

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements other than Financing Documents that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents other than Closing Documents that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and

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delivery of the Bonds and the making of the Loan, including any offering document, escrow agreement, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan contemplated thereby, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) "Project" means the financing, refinancing, or reimbursing of all or a portion of the Borrower's costs to:

(A) Advance refund \$26 million District of Columbia Revenue Bonds (United Negro College Fund, Inc. Issue) Series 2010 ("2010 Bonds"), the proceeds of which were used to finance, refinance, or reimburse the Borrower for certain costs incurred in connection with:

(i) Acquiring, constructing, renovating, furnishing, and equipping the new headquarters facility of the Borrower, including portions of the first floor and adjacent floors of the building, improvements and personal property, a pro rata share of the building common elements, the use of 40 parking spaces, located at 1805 and 1815 7th Street, N.W. Washington, D.C. (Lot 2012, Square 441) ("Facility");

(ii) Funding capitalized interest on the 2010 Bonds; and

(iii) Paying a portion of the costs of issuance for the 2010 Bonds;

(B) Fund the defeasance escrow account to defease the 2010 Bonds;

(C) Fund any required debt service reserve fund or interest on the Bonds;

and

(D) Pay certain Issuance Costs, as well as any credit enhancement, including any bond insurance or initial letter of credit fees (if any), and fund any required reserves.

Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may by resolution authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse and to assist in the financing, refinancing, or reimbursing of the costs of undertakings in certain areas designated

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in section 490 and may effect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$33 million, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and has and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District within the meaning of Section 490 of the Home Rule Act.

(4) The Project was an undertaking in the area of commercial development and contributes to the health, education, safety and welfare of the residents of the District within the meaning of Section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the Project.

Sec. 4. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$33 million; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 5. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

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- (3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;
- (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;
- (5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;
- (6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;
- (7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;
- (8) The time and place of payment of the Bonds;
- (9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;
- (10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and
- (11) The terms and types of credit enhancement under which the Bonds may be secured.
- (b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.
- (c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.
- (d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.
- (e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.
- (f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 6. Sale of the Bonds.

- (a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

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(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's

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approval, on behalf of the District, of the final form and content of said executed Financing Documents and said executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

Sec. 10. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be

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subject to any personal liability by reason of the issuance, sale or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 12. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 15. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the date of this resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the Bonds shall expire.

ENROLLED ORIGINAL**Sec. 16. Severability.**

If any particular provision of this resolution, or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

Sec. 17. Compliance with public approval requirement.

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. §147(f)), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

Sec. 18. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 19. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the Home Rule Act.

Sec. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-112

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$410 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist the Children's Hospital in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Children's Hospital Revenue Bonds Project Approval Resolution of 2015".

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) "Borrower" means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be the Children's Hospital, a nonprofit corporation organized under the laws of the District of Columbia, which is exempt from federal income taxes under 26 U.S.C § 501(a) as an organization described in 26 U.S.C. § 501(c)(3), and which is liable for the repayment of the Bonds.

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the

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issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), and compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the Bonds to the Borrower.

(12) "Mayor" means the Mayor of the District of Columbia.

(13) "Project" means the financing, refinancing or reimbursing of all or a portion of the Borrower's costs of:

(A) Refunding the District of Columbia Hospital Improvements and Refunding Revenue Bonds (Children's Hospital Issue), Series 1992A, originally issued in the aggregate principal amount of \$45.2 million pursuant to provisions of the Children's Hospital Revenue Bond Act of 1992, effective August 26, 1992 (D.C. Law 9-141;39 DCR 7140);

(B) Refunding the District of Columbia Hospital Revenue Bonds (Children's Hospital Obligated Group Issue) Series 2005, originally issued in the aggregate principal amount of \$150 million pursuant to provisions of the Children's Hospital Revenue Bond Project Approval Resolution of 2005, effective July 6, 2005 (Res. 16-230; 52 DCR 6747);

(C) Refunding the District of Columbia Hospital Revenue Bonds (Children's Hospital Obligated Group Issue) Series 2008, originally issued in the aggregate principal amount of \$250 million pursuant to provisions of the Children's National Medical Center Revenue Bonds Project Approval Resolution of 2008, effective March 4, 2008 (Res. 17-552; 55 DCR 2722);

(D) Funding any working capital costs, to the extent financeable;

(E) Funding any required debt service reserve fund and capitalized interest; and

(F) Paying certain costs of issuance, including any credit enhancement fees.

Sec. 3. Findings.

The Council finds that:

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(1) Section 490 of the Home Rule Act provides that the Council may by resolution authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing of, the costs of undertakings in certain areas designated in section 490 and may affect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series pursuant to a plan of finance, in an aggregate principal amount not to exceed \$410 million, and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

(3) The Project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The Project is an undertaking in the area of health facilities, within the meaning of section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the Project.

Sec. 4. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the Project by:

(1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal amount not to exceed \$410 million; and

(2) The making of the Loan.

(b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing, or reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction, and assisting in the redemption, repurchase, and remarketing of the Bonds.

Sec. 5. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale,

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delivery, security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

- (1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificated or book-entry form;
- (2) The principal amount of the Bonds to be issued and denominations of the Bonds;
- (3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;
- (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the Bonds, and the maturity date or dates of the Bonds;
- (5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;
- (6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;
- (7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;
- (8) The time and place of payment of the Bonds;
- (9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and this resolution;
- (10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed; and
- (11) The terms and types of credit enhancement under which the Bonds may be secured.

(b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

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(f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 6. Sale of the Bonds.

(a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the Bonds.

(c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(d) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts, and revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the Bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds pursuant to the Financing Documents.

Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents to which the District is not a party

ENROLLED ORIGINAL

shall be approved, as to form and content, by the Mayor.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

Sec. 10. Limited liability.

(a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District. The Bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the Bonds.

(c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the Bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or

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agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees, or agents to perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability by reason of the issuance, sale, or delivery of the Bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds, the Financing Documents, or the Closing Documents.

Sec. 12. Maintenance of documents.

Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Disclaimer.

(a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any Bonds for the benefit of the Borrower.

(b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

ENROLLED ORIGINAL

(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither the Borrower, any purchaser of the Bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 15. Expiration.

If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years after the date of this resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the Bonds shall expire.

Sec. 16. Severability.

If any particular provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds, and the validity of the Bonds shall not be adversely affected.

Sec. 17. Compliance with public approval requirement.

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. §147 (f)), and section 490(k) of the Home Rule Act, for the Project to be financed, refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

Sec. 18. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 19. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the Home Rule Act.

Sec. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-113

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to approve Change Orders Nos. 003 and 004 to Contract No. DCAM-12-M-1031H-FM with MCN Build, LLC for design-build services for the Powell Elementary School modernization and expansion, and to authorize payment for the goods and services received and to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders Nos. 003 and 004 to Contract No. DCAM-12-M-1031H-FM Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Change Orders Nos. 003 and 004 to Contract No. DCAM-12-M-1031H-FM with MCN Build, LLC for design-build services for the Powell Elementary School modernization and expansion, and to authorize payment in the aggregate amount of \$1,571,647 for the goods and services received and to be received under these change orders.

(b) The underlying Contract No. DCAM-12-M-1031H-FM was competitively bid, awarded to MCN Build, LLC, and approved by the Council in CA20-0106 with a Phase A Guaranteed Maximum Price of \$6,322,891. Thereafter, the Department of General Services issued Change Orders Nos. 001 and 002, which had an aggregate value of \$20,466,980.57 were submitted to and approved by the Council in PR20-0778. Subsequently, the Department issued Change Order No. 003, which was in an amount under \$1 million and thus did not require Council approval.

(c) Change Order No. 004 will cause the aggregate value of Change Orders Nos. 003 and 004 to exceed the \$1 million threshold set forth in section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders Nos. 003 and 004 to Contract No. DCAM-12-M-1031H-FM is necessary to compensate MCN Build, LLC for the work performed and to be performed under these change orders.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders Nos. 003 and 004 to Contract No. DCAM-12-M-1031H-FM Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-114

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to approve Modification No.1 to Contract No. CW317429 with Northrop Grumman for IT maintenance and support services to the District's Automated Unemployment Tax System and to authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modification No. 0001 to Contract No. CW317429 Approval and Payment Authorization Emergency Declaration Resolution of 2015".

Sec. 2. (a) There exists an immediate need to approve Modification No. 0001 to Contract No. CW317429 with Northrop Grumman for IT maintenance and support services to the District's Automated Unemployment Tax System, and to authorize payment in the not-to-exceed amount of \$1,370,300 for the services received and to be received under the contract.

(b) Modification No. 0001 to Contract No. CW317429 will cause the contract amount for the base period from October 1, 2014, through September 30, 2015 to exceed the \$1 million threshold set forth in section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(c) Approval of Modification No. 0001 to Contract No. CW317429 is necessary to allow the continuation of these vital services. Without this approval, Northrop Grumman, cannot be paid for services provided and to be provided in excess of \$1,000,000.00.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modification No. 0001 to Contract No. CW317429 Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-115

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to approve Change Orders Nos. 002 and 003 to Contract No. DCAM-14-CS-0069 with Broughton Construction Company, LLC for design-build services for the Stuart Hobson Middle School modernization and expansion, and to authorize payment for the goods and services received and to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders Nos. 002 and 003 to Contract No. DCAM-14-CS-0069 Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Change Orders Nos. 002 and 003 to Contract No. DCAM-14-CS-0069 with Broughton Construction Company, LLC for design-build services for the Stuart Hobson Middle School modernization and expansion, and to authorize payment in the aggregate amount of \$3,022,172.63 for the goods and services received and to be received under these change orders.

(b) The underlying Contract No. DCAM-14-CS-0069 was competitively bid, awarded to Broughton Construction Company, LLC, and approved by the Council in CA20-0300 with a Lump Sum Price of \$16,833,306. Thereafter, the Department of General Services issued Change Order No. 001, which had a value of \$1,525,258.57, was submitted to and approved by the Council in CA20-0355. Subsequently, the Department issued Change Order No. 002 which was in an amount under \$1 million and thus did not require Council approval.

(c) Change Order No. 003 will cause the aggregate value of Change Orders Nos. 002 and 003 to exceed the \$1 million threshold set forth in section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders Nos. 002 and 003 to Contract No. DCAM-14-CS-0069 is necessary to compensate Broughton Construction Company, LLC for work performed and to be performed under these change orders.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders Nos. 002 and 003 to Contract No. DCAM-14-CS-0069 Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-116

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to approve Change Orders Nos. FY15-001 through FY15-004 to Contract No. DCAM-12-CS-0184A with Adrian L. Merton, Inc., for HVAC Technician Services, and to authorize payment for the goods and services received and to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders Nos. FY15-001 through FY15-004 to Contract No. DCAM-12-CS-0184A Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Change Orders Nos. FY15-001 through FY15-004 to Contract No. DCAM-12-CS-0184A with Adrian L. Merton, Inc. for HVAC Technician Services, and to authorize payment in the aggregate amount of \$3,508,647.40 for the goods and services received and to be received under these change orders.

(b) The underlying Contract No. DCAM-12-CS-0184A was approved by the Council in CA20-0530. Thereafter, the Department of General Services issued Change Orders Nos. FY15-001 through FY15-003. The aggregate value of these Change Orders was less than \$1 million; thus, Change Orders Nos. FY15-001 through FY15-003 did not require Council approval.

(c) Change Order No. FY15-004 will cause the aggregate value of Change Orders Nos. FY15-001 through FY15-004 to exceed the \$1 million threshold set forth in section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders Nos. FY15-001 through FY15-004 is necessary to compensate Adrian L. Merton, Inc. for work performed and to be performed under these change orders.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders Nos. FY15-001 through FY15-004 to Contract No. DCAM-12-CS-0184A Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-117

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to approve Change Orders Nos. 002 through 006 to Contract No. DCAM-13-CS-0136 with Smoot Gilbane II Joint Venture for design-build services for the Roosevelt High School modernization, and to authorize payment for the goods and services received and to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Change Orders Nos. 002 through 006 to Contract No. DCAM-13-CS-0136 Approval and Payment Authorization Emergency Declaration Resolution of 2015".

Sec. 2.(a) There exists an immediate need to approve Change Orders Nos. 002 through 006 to Contract No. DCAM-13-CS-0136 with Smoot Gilbane II Joint Venture for design-build services for the Roosevelt High School modernization, and to authorize payment in the aggregate amount of \$1,510,484 for the goods and services received and to be received under these change orders.

(b) The underlying Contract DCAM-13-CS-0136 was approved by the Council in CA20-0277 and Change Order No. 001 to the Contract was approved by the Council in CA20-0424). Thereafter, the Department of General Services issued Change Orders Nos. 002 through 005. The aggregate value of these Change Orders was less than \$1 million; thus, Change Orders Nos. 002 through 005 did not require Council approval.

(c) Change Order No. 006 will cause the aggregate value of Change Orders Nos. 002 through 006 to exceed the \$1 million threshold set forth in section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders Nos. 002 through 006 is necessary to compensate Smoot Gilbane II Joint Venture for work performed and to be performed under these change orders.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders Nos. 002 through 006 to Contract No. DCAM-13-CS-0136 Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-118

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to approve Change Orders Nos. FY15-001 through FY15-003 to Contract No. DCAM-12-CS-0184B with RSC Electrical & Mechanical Contractors, Inc. for HVAC Technician Services, and to authorize payment for the goods and services received and to be received under these change orders.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Change Orders Nos. FY15-001 through FY15-003 to Contract No. DCAM-12-CS-0184B Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Change Orders Nos. FY15-001 through FY15-003 to Contract No. DCAM-12-CS-0184B with RSC Electrical & Mechanical Contractors, Inc. for HVAC Technician Services, and to authorize payment in the aggregate amount of \$3,402,800 for the goods and services received and to be received under these change orders.

(b) The underlying Contract No. DCAM-12-CS-0184B was approved by the Council in CA20-0531. Thereafter, the Department of General Services issued Change Orders Nos. FY15-001 through FY15-002. The aggregate value of these Change Orders was less than \$1 million; thus, Change Orders Nos. FY15-001 through FY15-002 did not require Council approval.

(c) Change Order No. FY15-003 will cause the aggregate value of Change Orders Nos. FY15-001 through FY15-003 to exceed the \$1 million threshold set forth in section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Change Orders Nos. FY15-001 through FY15-003 is necessary to compensate RSC Electrical & Mechanical Contractors, Inc. for work performed and to be performed under these change orders.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Change Orders Nos. FY15-001 through FY15-003 to Contract No. DCAM-12-CS-0184B Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-119

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To approve multiyear Contract No. SO-15-030-0001049 with ARAMARK Sports and Entertainment Services, LLC to provide janitorial and related services to the Walter E. Washington Convention Center and the Carnegie Library.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “ARAMARK Sports and Entertainment Services, LLC Contract Approval Resolution of 2015”.

Sec. 2. Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code §1-204.51(c)(3)), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves multiyear Contract No. SO-15-030-0001049 with ARAMARK Sports and Entertainment Services, LLC to provide janitorial and related services to the Walter E. Washington Convention Center and the Carnegie Library for a not-to-exceed amount of \$23,604,202 for a term of October 1, 2015 to September 30, 2020.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-120

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To amend the Council Period 21 Appointment of Chairperson Pro Tempore, Committee Chairpersons, and Committee Membership Resolution of 2015 to modify the memberships of the Committee on Business, Consumer, and Regulatory Affairs, the Committee on Education, the Committee on Health and Human Services, the Committee on Housing and Community Development, the Committee on the Judiciary, and the Committee on Transportation and the Environment due to the filling of vacant Council seats.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Council Period 21 New Councilmembers Committee Appointment Amendment Resolution of 2015”.

Sec. 2. Section 3 of the Council Period 21 Appointment of Chairperson Pro Tempore, Committee Chairpersons, and Committee Membership Resolution of 2015, effective January 2, 2015 (Res. 21-2; 62 DCR 1102), is amended as follows:

(a) Paragraph (1) (*Committee on Business, Consumer and Regulatory Affairs*) is amended by striking the phrase “and Elissa Silverman” and inserting the phrase “Elissa Silverman, and Brandon Todd” in its place.

(b) Paragraph (2) (*Committee on Education*) is amended by striking the phrase “and Anita Bonds” and inserting the phrase “Anita Bonds, and Brandon Todd” in its place.

(c) Paragraph (4) (*Committee on Health and Human Services*) is amended by striking the phrase “and Brianne Nadeau” and inserting the phrase “Brianne Nadeau, and LaRuby May” in its place.

(d) Paragraph (5) (*Committee on Housing and Community Development*) is amended by striking the phrase “and Elissa Silverman” and inserting the phrase “Elissa Silverman, and LaRuby May” in its place.

(e) Paragraph (6) (*Committee on the Judiciary*) is amended by striking the phrase “and Jack Evans” and inserting the phrase “Jack Evans, and LaRuby May” in its place.

(f) Paragraph (7) (*Committee on Transportation and the Environment*) is amended by striking the phrase “and Kenyan McDuffie” and inserting the phrase “Kenyan McDuffie, and Brandon Todd” in its place.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-121

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to prohibit the electric company from shutting off service when the heat index is forecasted to be 95 degrees Fahrenheit or above.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as “Heat Wave Safety Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to protect District residents who are vulnerable to health impairments that may be caused by periods of extreme heat and who may be unable to cool their homes if their electricity is shut off.

(b) District law prohibits utilities from disconnecting their service when the forecast predicts the temperature will be 32 degrees Fahrenheit or below during the following 24 hours.

(c) Exposure to extreme heat is more likely than extreme cold to cause people to experience negative health consequences, including death; yet the District does not prohibit the disconnection of electricity during or directly preceding periods of extreme heat analogous to the prohibition on disconnections during or directly preceding periods of extreme cold.

(d) Enacting a prohibition on the disconnection of electricity during or directly preceding periods of extreme heat will provide a measure of security for District residents without creating undue hardship for the electric company.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Heat Wave Safety Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-122

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to amend, on an emergency basis, the Rental Housing Conversion and Sale Act of 1980, to clarify that a bona fide offer of sale for a housing accommodation with 5 or more units, for purposes of demolition or discontinuance of housing use, made in the absence of an arm's length third-party contract, is based on current, applicable, matter-of-right zoning regulations or laws, or by an existing right to convert to another use, that the offer may take into consideration the highest and best use of the property, and to establish the right of a tenant organization to a determination of the appraised value of a housing accommodation under certain circumstances.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "TOPA Bona Fide Offer of Sale Clarification Emergency Declaration Resolution of 2015".

Sec. 2. (a) There exists an immediate need to amend sections 103, 402, and 411 of the Rental Housing Conversion and Sale Act of 1980 ("the Act" or "TOPA"), to clarify that a bona fide offer of sale for a housing accommodation with 5 or more units, for purposes of demolition or discontinuance of housing use, made in the absence of an arm's length third-party contract, is based on current, applicable, matter-of-right zoning regulations or laws, or by an existing right to convert to another use. Further, there is an immediate need to clarify TOPA that a bona fide offer of sale may take into consideration the highest and best use of the property; and finally, to establish the right of a tenant organization to request a determination of the appraised value of a housing accommodation under certain circumstances.

(b) Last September 23, 2014, in an attempt to clarify the term "bona fide offer of sale", and thereby preserve the TOPA rights of the residents at Museum Square and other similarly situated tenants, the Council passed Act 20-434, the Tenant Opportunity to Purchase Emergency Amendment Act of 2014. Law 20-166, the Tenant Opportunity to Purchase Temporary Amendment Act of 2014, the substantively identical temporary version of the emergency bill, went into effect on February 26, 2015, and will expire on October 9, 2015.

(c) Unfortunately, both acts were drafted too broadly and inadvertently covered all TOPA sales, and not just those occurring without a third-party contract, like at Museum Square. As a result, all TOPA sales retroactive to January 1, 2014, were suddenly required to have included two appraisals of the housing accommodation. Due to concerns of the title insurance industry,

ENROLLED ORIGINAL

this all-encompassing retroactive appraisal requirement has stalled a significant number of transactions in the residential real estate market for previous and current TOPA sales. As a result, the collection of recordation taxes has been adversely affected, which in turn has had the potential of reducing funding available to the Housing Production Trust Fund.

(d) These new emergency and temporary bills are being moved to expeditiously remedy this situation and were drafted in consultation with many stakeholders from all sides of the issue over a period of many weeks.

(1) These bills replace the relevant section of TOPA law, D.C. Official Code § 42-3404.02, and essentially return this subsection to its pre-emergency and pre-temporary language. This means that TOPA will no longer require all TOPA sales to have two appraisals, regardless of whether there is a third-party offer.

(2) These bills require that a bona fide offer of sale for a building with 5 or more units based on a landlord's intention to demolish or discontinue housing use, in the very limited circumstance where there is no third-party offer, must be based on current, applicable, matter-of-right laws and regulations, or by an existing right to convert to another use. The offer may take into consideration the highest and best use of the property. This requirement ensures that a bona fide offer of sale will be based on the present value of the property, and not some speculative future value.

(3) These bills protect the elderly residents of Museum Square and other similarly situated tenants by including a retroactive provision for housing accommodation with 5 or more units, for purposes of demolition or discontinuance of housing use, made in the absence of an arm's length third-party.

(4) These bills establish a tenant right to request an appraisal, if the tenants believe that an offer, in the absence of a third-party offer, is too high. They direct tenants to jointly select an appraiser with the landlord, but if they cannot agree, then the appraiser is selected by DHCD's Conversion and Sale Administrator. The cost of the appraisal is split 66/33 between the landlord and tenant (roughly \$40-\$65 per tenant). The time the appraisal takes is added to the negotiation period allowed tenants.

(5) These bills grandfather-in tenant organizations that, prior to the effective date of the TOPA Bona Fide Offer of Sale Clarification Emergency Amendment Act of 2015, have registered the tenant organization with the Mayor and have reasonably relied upon Act 20-434, the Tenant Opportunity to Purchase Emergency Amendment Act of 2014, and Law 20-166, the Tenant Opportunity to Purchase Temporary Amendment Act of 2014, by requesting an appraisal of their housing accommodations as required under those bills.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the TOPA Bona Fide Offer of Sale Clarification Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-123

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to approve Option Year 4 of Contract No. DCKT-2010-E-0112 with WM Recycle America, LLC to continue to provide the District with recycling services and to authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Modification No. 14, Option Year 4 of Contract No. DCKT-2010-E-0112 with WM Recycle America, LLC Approval and Payment Authorization Emergency Declaration Resolution of 2015".

Sec. 2. (a) There exists an immediate need to approve Option Year 4 of Contract No. DCKT-2010-E-0112 ("Contract") with WM Recycle America, LLC to continue to provide the District with recycling services and to authorize payment for the services received and to be received under this contract.

(b) On May 3, 2010, the District Office of Contracting and Procurement ("OCP"), on behalf of the District Department of Public Works ("DPW"), entered into a requirements contract with WM Recycle America, LLC ("Contractor") to transport, process, and market recyclables collected through the District's residential recycling collection program and DPW's collection facilities located at the Fort Totten and Benning Road Transfer Stations. The initial term of the Contract was from the date of award, for a period of one year, with 4 one-year option periods. Payments under the contract are based on the monthly net purchase price per ton of the recyclables. If the monthly net purchase price is positive, the Contractor must pay the District the amount equal to the difference between the Monthly Price Index, which is based on the first published market values for the materials in the recyclable stream for the month in which the recyclables are purchased from the District, and the purchase price bid by the Contractor. If the monthly net purchase price is negative, then the District must pay an amount equal to the difference to the Contractor. During the base year, May 3, 2010, through May 2, 2011, the Contractor paid the District a total of \$130,591 for the recyclables collected.

(c) By Modification No. 4, dated May 2, 2011, the District exercised Option Year 1 for the period from May 3, 2011, through May 2, 2012, for an estimated quantity of 25,000 tons of recyclables, at a purchase price per ton of \$87.50 (without the monthly price adjustment). The

ENROLLED ORIGINAL

Contractor paid the District a total of \$389,783 for the recyclables collected during Option Year 1.

(d) By Modification No. 5, dated April 25, 2012, the District exercised Option Year 2 for the period from May 3, 2012, through May 2, 2013, for an estimated quantity of 25,000 tons of recyclables, at a purchase price of \$90 per ton (without monthly price adjustment). The District paid the Contractor a total of \$438,903 for the recyclables collected during Option Year 2.

(e) By Modification No. 7, dated May 1, 2013, the District exercised Option Year 3 for the period from May 3, 2013, through May 2, 2014, for an estimated quantity of 25,000 tons of recyclables, at a purchase price per ton of \$92.75 (without monthly price adjustment). The District paid the Contractor a total of \$760,948 for recyclables collected during Option Year 3.

(f) By Modification No. 10, the District exercised Option Year 4, for the period from May 3, 2014, through May 2, 2015, for an estimated quantity of 25,000 tons of recyclables at a purchase price per ton of \$95.50 (without monthly price adjustment). During Option Year 4, the estimated quantity of recyclables processed by the Contractor has increased from 25,000 tons to 33,000 tons. In addition, the market value of the goods has decreased resulting in an increase in the estimated annual amount of the contract. As of February 2015, DPW has issued payments to the contractor totaling \$855,114.25. OCP anticipates that the estimated contract amount for Option Year 4 will increase to \$1.2 million.

(g) Council approval is required pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), because the expenditures under the Contract are in an amount in excess of over \$1 million during a 12-month period.

(h) Approval is necessary to allow the continuation of these vital services. Without this approval, WM Recycle America, LLC cannot be paid for services provided in excess of \$1 million.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modification No.14, Option Year 4 of Contract No. DCKT-2010-E-0112 with WM Recycle America, LLC Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-124

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 2, 2015

To declare the existence of an emergency with respect to the need to approve Contract No.

DCAM-14-NC-0179B and Modification Nos. 03 and 04 with Community Bridge, Inc. for snow and ice removal and pre-treatment services, and to authorize payment in the aggregate amount of \$1,045,105 for the goods and services received under the contract and modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. DCAM-14-NC-0179B and Modification Nos. 03 and 04 Approval and Payment Authorization Emergency Declaration Resolution of 2015".

Sec. 2. (a) There exists an immediate need to approve Contract No. DCAM-14-NC-0179B and Modification Nos. 03 and 04 for snow and ice removal and pre-treatment services in the aggregate amount of \$1,045,105 and to authorize payment for the goods and services received under the contract and modifications.

(b) Contract No. DCAM-14-NC-0179B was competitively bid and awarded to Community Bridge, Inc. in the amount of \$700,000. Thereafter, the Department of Public Works issued Modification Nos. 01 and 02 at no cost. Modification No. 03 increased the contract value by \$295,000 to \$995,000; thus, Modification No. 03 did not require Council approval.

(c) Additional snow and ice removal and pre-treatment services were performed by Community Bridge, Inc., in the amount of \$50,105. Modification No. 04, in the amount of \$50,105, would cause the aggregate value of Contract No. DCAM-14-NC-0179B to exceed the \$1 million threshold set forth in section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Modification No. 04 is necessary to compensate Community Bridge, Inc. for work performed for snow and ice removal and pre-treatment services.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. DCAM-14-NC-0179B and Modification Nos. 03 and 04 Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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
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BILLS

B21-243	<p>Cardiopulmonary Resuscitation and Automated External Defibrillator Requirements Amendment Act of 2015</p> <p>Intro. 6-2-15 by Councilmembers Alexander, Cheh, McDuffie, Bonds, Evans, and Silverman, and Chairman Mendelson and referred sequentially to the Committee on Education and the Committee on Judiciary</p>
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B21-244	<p>Fair Credit History Screening Act of 2015</p> <p>Intro. 6-2-15 by Councilmembers McDuffie, Orange, Bonds, Alexander, May, and Todd and referred sequentially to the Committee on Business, Consumer, and Regulatory Affairs and the Committee on Judiciary</p>
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B21-245	<p>Uniform Interstate Family Support Revision Act of 2015</p> <p>Intro. 6-9-15 by Councilmember McDuffie and referred to the Committee on Judiciary</p>
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B21-250	<p>Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015</p> <p>Intro. 6-12-15 by Chairman Mendelson at the request of the Board of Ethics and Government Accountability and referred to the Committee on Judiciary</p>

B21-251 Elephant Ivory and Rhinoceros Horn Trafficking Prohibition Act of 2015
Intro. 6-16-15 by Councilmember Cheh and referred to the Committee on
Judiciary

B21-252 ABLE Program Trust Establishment Act of 2015
Intro. 6-16-15 by Councilmember Evans and referred to the Committee on
Finance and Revenue

PROPOSED RESOLUTION

PR21-208 Chief Technology Officer Tegene Baharu Confirmation Resolution of 2015
Intro. 6-12-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
COMMITTEE ON THE JUDICIARY**

ANNOUNCES A PUBLIC HEARING ON

B21-0028, the “Local Resident Voting Rights Amendment Act of 2015”

B21-0124, the “Ethics Reform Amendment Act of 2015” and

**B21-0250, the “Comprehensive Code of Conduct of the District of Columbia Establishment
and BEGA Amendment Act of 2015”**

**Wednesday, July 8, 2015, 2 p.m.
Room 120, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Wednesday, July 8, 2015, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will hold a public hearing on B21-0028, the “Local Resident Voting Rights Amendment Act of 2015”, Bill 21-0124, the “Ethics Reform Amendment Act of 2015”, and Bill 21-0250, the “Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015”. The hearing will take place in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C., at 2 p.m.

The stated purpose of Bill 21-0028 is to expand the definition of “qualified elector” to include permanent residents for the purpose of local elections.

The stated purpose of Bill 21-0124 is to eliminate the requirement that the Ethics Board annually report to the Council on the same specific questions; to increase the size of the Ethics Board from 3 to 5 members; to authorize the Ethics Board to impose monetary sanctions on parties for delay or bad faith in proceedings; to correct a drafting error regarding the forum for appeals of Ethics Board decisions; to authorize the Ethics Board to bar respondents from lobbying for a period of up to two years upon the finding of a Code of Conduct violation; to enhance reporting requirements for contributions to Advisory Neighborhood Commissions; and to enlarge the time to file activity reports.

The stated purpose of Bill 21-0250, the “Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015”, is to amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to establish the Comprehensive Code of Conduct of the District of Columbia.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify should contact Kate Mitchell, Committee Director for the Committee on the Judiciary, at (202) 727-8275, or via e-mail at kmitchell@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) by close of business, July 2, 2015.

Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring fifteen copies of their written testimony and, if possible, also submit a copy of their testimony electronically to kmitchell@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee on the Judiciary or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on July 14, 2015.

**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 21-179, Closing of a Public Alley in Square 70, S.O. 15-23283, Act of 2015
Bill 21-217, Closing of a Public Alley in Square 369, S.O. 13-07989, Act of 2015
Bill 21-240, Closing of a Public Alley in Square 197, S.O. 15-23895, Act of 2015**

on

**Tuesday, July 7, 2015
10:30 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-179, the “Closing of a Public Alley in Square 70, S.O. 15-23283, Act of 2015,” Bill 21-217, the “Closing of a Public Alley in Square 369, S.O. 13-07989, Act of 2015,” and Bill 21-240, the “Closing of a Public Alley in Square 197, S.O. 15-23895, Act of 2015.” The hearing will be held at 10:30 a.m. on Tuesday, July 7, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of Bill 21-179 is to order the closing of a Public Alley in Square 70, bounded by 22nd Street, N Street, 21st Street, New Hampshire Avenue, and M Street in Northwest Washington, D.C., in Ward 2. The alley closing is necessary to permit the construction by a private developer of an addition to an existing building located at 1255 22nd Street, N.W. (Lot 193), over and across the public alley to be closed. The applicant owns the property on both sides of the portion of the alley to be closed. The existing building on Lot 193 will be converted from office to residential use, with ground floor retail and approximately 77 residential units above. The new addition will be located across the closed alley on Lot 194 and will be entirely devoted to residential use with approximately 113 units. The alley closing will include the recordation of a public easement over the surface of the closed alley, to a height of 16 feet, to facilitate rear access to the abutting properties to the north of the alley.

The stated purpose of Bill 21-217 is to order the closing of a portion of a public alley system in Square 369, bounded by M Street to the north, 9th Street to the east, L Street to the south, and 10th Street to the west, in Northwest Washington, D.C. in Ward 2. The alley closing is necessary to permit the consolidation of lots to enable construction by a private developer of a new mixed-use development project on Lots 40, 62, 65-67, 801-805, 838, 839, 842, 848, 859, 878, and on the portions of the public alleys to be closed. The redevelopment project includes the adaptive reuse of eight historic buildings on the site and their incorporation into a new 12-story mixed-use development, consisting of two Marriott hotels with ground floor retail and service uses, as well as a residential building.

The stated purpose of Bill 21-240 is to order the closing of a portion of a public alley system in Square 197, bounded by L Street, 15th Street, M Street, and 16th Street in Northwest Washington, D.C., in Ward 2. The alley closing is necessary to permit the consolidation of the former Washington Post headquarters site into a single lot in Square 197. The new lot will be developed into an office building with ground floor retail.

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 Monday, July 6, 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 July 6, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of Bill 21-179, Bill 21-217, and Bill 21-240 can be obtained on <http://lims.dccouncil.us>, or through the Legislative Services Division (Room 10) of the Secretary of the Council's office.

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 July 21, 2015.

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 21-201, 1351 Nicholson Street, N.W. Old Brightwood School Lease Amendment Act of 2015

&

Bill 21-204, 4095 Minnesota Avenue, N.E. Woodson School Lease Amendment Act of 2015

on

Monday, July 6, 2015

11:30 a.m., Hearing Room 412, John A. Wilson Building

1350 Pennsylvania Avenue, NW

Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-201, the “1351 Nicholson Street, N.W. Old Brightwood School Lease Amendment Act of 2015,” and Bill 21-204, the “4095 Minnesota Avenue, N.E. Woodson School Lease Amendment Act of 2015.” The hearing will be held at 11:30 a.m. on Monday, July 6, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of **Bill 21-201** is to allow the Department of General Services to enter into a lease with Friendship Public Charter School, Inc. (Friendship PCS) for the Old Brightwood School. Currently, Community Academy Public Charter School, Inc. (CAPCS) resides in the Old Brightwood School, but on February 19, 2015, the Public Charter School Board voted to revoke CAPCS’ charter. As such, Friendship PCS has agreed to become the successor operator at the end of the 2014-2015 school year. The stated purpose of **Bill 21-204** is to extend the lease of the Woodson School to Friendship PCS for an additional ten years, extending the lease term to a total of forty years, with an option for a twenty-five year renewal.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Christina Setlow, Deputy Committee Director, at csetlow@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Wednesday, July 1, 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 July 1, 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 PR 21-175 and PR 21-176 can be obtained through the Legislative Services Division of the Secretary of the Council 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 July 13, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE & COMMITTEE ON
TRANSPORTATION AND THE ENVIRONMENT
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
&
COUNCILMEMBER MARY CHEH, CHAIRPERSON
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT**

ANNOUNCE A PUBLIC HEARING

on

PR 21-175, Draper School Surplus Declaration Resolution of 2015

&

PR 21-176, Draper School Lease Approval Resolution of 2015

on

**Monday, July 6, 2015
10:30 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember Mary Cheh announce a public hearing before the Committee of the Whole and the Committee on Transportation and the Environment on PR 21-175, the “Draper School Surplus Declaration Resolution of 2015,” and PR 21-176, the “Draper School Lease Approval Resolution of 2015.” The hearing will be held at 10:30 a.m. on Monday, July 6, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PRs 21-175 and 21-176 is to authorize the Department of General Services to enter into a new lease with Achievement Preparatory Academy Public Charter School (Achievement Prep) for the disposition of real estate located at 908 Wahler Place S.E., also known as The Draper School. Since 2010, Achievement Prep has occupied The Draper School and has decided to exercise its right of first offer for a long term lease of the property.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Christina Setlow, Deputy Committee Director, at csetlow@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Wednesday, July 1, 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 July 1, 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 PR 21-175 and PR 21-176 can be obtained through the Legislative Services Division of the Secretary of the Council 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 July 7, 2015.

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

REVISED

NOTICE OF PUBLIC ROUNDTABLE ON

PR 21-0109, the District of Columbia Water and Sewer Authority Board of Directors Kendrick E. Curry Confirmation Resolution of 2015

Thursday, July 2, 2015
at 11:00 a.m.
in Room 123 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Thursday, July 2, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public roundtable on PR 21-0109, the District of Columbia Water and Sewer Authority Board of Directors Kendrick E. Curry Confirmation Resolution of 2015. This legislation would confirm Kendrick E. Curry as a member of the DC Water and Sewer Authority's Board of Directors. The roundtable will begin at 11:00 a.m. in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 5 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on July 6, 2015.

This notice has been revised to reflect that the date of the roundtable has changed from June 15, 2015 to July 2, 2015.

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

NOTICE OF PUBLIC ROUNDTABLE ON

PR 21-0166, the Director of the Department of Parks and Recreation Keith Anderson Confirmation Resolution of 2015

Thursday, July 2, 2015
at 10:00 a.m.
in Room 123 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Thursday, July 2, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public roundtable on PR 21-0166, the Director of the Department of Parks and Recreation Keith Anderson Confirmation Resolution of 2015. This legislation would confirm Keith Anderson as the Director of the Department of Parks and Recreation. The roundtable will begin at 10:00 a.m. in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official Hearing Record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 5 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on July 6, 2015.

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

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

on

**PR 21-192, Employment Contract of Mr. Ronald F. Mason, Jr. President of the University
of the District of Columbia Emergency Approval Resolution of 2015**

on

**Tuesday, June 23, 2015
2:30 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public roundtable of the Committee of the Whole on PR 21-192, Employment Contract of Mr. Ronald F. Mason, Jr. President of the University of the District of Columbia Emergency Approval Resolution of 2015. The roundtable will be held at 2:30 p.m., or immediately following the preceding hearing, on Tuesday, June 23, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PR 21-192 is to authorize a contract – an employment agreement – for Dr. Ronald F. Mason, Jr. to serve as President of the University of the District of Columbia from July 6, 2015 through June 30, 2018. Dr. Mason was selected June 1, 2015 by the UDC Board of Trustees for this position.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Christina Setlow, Deputy Committee Director, at csetlow@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, June 19, 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 19, 2015 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of PR 21-192 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 roundtable, 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 June 29, 2015.

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

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

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

ANNOUNCES A PUBLIC ROUNDTABLE ON:

PR 21-196, the “Real Property Tax Appeals Commission Richard G. Amato Confirmation Resolution of 2015”

PR 21-197, the “Real Property Tax Appeals Commission Stacie Scott Turner Confirmation Resolution of 2015”

PR 21-198, the “Real Property Tax Appeals Commission Eric Jenkins Confirmation Resolution of 2015”

PR 21-199, the “Real Property Tax Appeals Commission Trent T. Williams Confirmation Resolution of 2015”

Friday, June 26, 2015

10:00 a.m.

**Room 120 - John A. Wilson Building
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Friday, June 26, 2015 at 10:00 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 21-196, the “Real Property Tax Appeals Commission Richard G. Amato Confirmation Resolution of 2015” would confirm the re-appointment of Richard G. Amato as Vice - Chair of the Commission for a term to end in April, 2019

PR 21-197, the “Real Property Tax Appeals Commission Stacie Scott Turner Confirmation Resolution of 2015” would confirm the appointment of Stacie Scott Turner as full time member to the Commission for a term to end April, 2019.

PR 21-198, the “Real Property Tax Appeals Commission Eric Jenkins Confirmation Resolution of 2015” would confirm the appointment of Eric Jenkins as a part time member to the Commission for a term to end April, 2019.

PR 21-199, the “Real Property Tax Appeals Commission Trent T. Williams Confirmation Resolution of 2015” would confirm the re-appointment of Eric Jenkins as a part time member to the Commission for a term to end April, 2019.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Thursday, June 25, 2015. Witnesses should bring 15 copies of their written testimony to the roundtable. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
1350 Pennsylvania Avenue, NW, Suite 410
Washington, DC 20004

ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on the "Omnibus Soccer Stadium Contracts Approval Resolution of 2015" to allow for the proposed resolution to be considered at the June 30, 2015 meeting of the Council. The abbreviated notice is necessary to allow the Council to actively approve four land purchase contracts for assemblage for the D.C. United Soccer Stadium, the development agreement between the District and D.C. Stadium, LLC, and the ground lease between the District and D.C. Stadium, LLC.

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT APPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to approve CA 21-71, proposed contract with OST Inc. in the minimum amount of \$100,000.00 and the maximum amount of \$100,000,000.00 to continue to provide IT Staff Augmentation (ITSA) Services for the District was filed in the Office of the Secretary on June 5, 2015.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 21-204: Proposed Contract with OST, Inc. Approval Resolution of 2015

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT APPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to approve CA 21-74, proposed Purchase and Sale Agreement between the District and Super Salvage, Inc. in the amount of \$15,861,752 for real property that will be part of the site for the proposed soccer stadium at Buzzard Point was filed in the Office of the Secretary on June 9, 2015.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 21-210: Omnibus Soccer Stadium Contracts Approval Resolution of 2015

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT APPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to approve CA 21-75, proposed Purchase and Sale Agreement between the District and Potomac Electric Power Company (Pepco) in the amount of \$15,800,000 for real property located at 1st and K Streets, N.W. This will allow for the relocation of Pepco facilities and transfer of other real property to the District at Buzzard Point was filed in the Office of the Secretary on June 9, 2015.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 21-210: Omnibus Soccer Stadium Contracts Approval Resolution of 2015

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT APPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to approve CA 21-76, proposed Purchase and Sale Agreement between the District and Rollingwood Real Estate, LLC in the amount of \$10,325,920 for real property that will be part of the site for the proposed soccer stadium at Buzzard Point was filed in the Office of the Secretary on June 9, 2015.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 21-210: Omnibus Soccer Stadium Contracts Approval Resolution of 2015

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT APPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to approve CA 21-77, proposed Purchase and Sale Agreement between the District and Potomac Electric Power Company (Pepco) in the amount of \$39,345,788 for real property that will be part of the site for the proposed soccer stadium at Buzzard Point was filed in the Office of the Secretary on June 9, 2015.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 21-210: Omnibus Soccer Stadium Contracts Approval Resolution of 2015

COUNCIL OF THE DISTRICT OF COLUMBIA
The Wilson Building

NOTICE OF CONTRACT APPROVAL RESOLUTION

The Council of the District of Columbia gives notice that the resolution listed below to approve CA 21-78, Amended and Restated Development Agreement between the District and D.C. Stadium LLC for the construction of the soccer stadium at Buzzard Point was filed in the Office of the Secretary on June 9, 2015.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

PR 21-210: Omnibus Soccer Stadium Contracts Approval Resolution of 2015

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Posting Date: **June 19, 2015
Petition Date: ** August 3, 2015
Hearing Date: **August 17, 2015

License No.: ABRA-092773
Licensee: Daci Enterprises LLC
Trade Name: Dacha Beer Garden
License Class: Retailer’s Class “D” Tavern
Address: 1600 7th Street, N.W.
Contact: Andrew Kline: 202-686-7600

WARD 6

ANC 6E

SMD 6E01

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

NATURE OF SUBSTANTIAL CHANGES

Class Change from Class “D” Tavern to Class “C” Tavern. Addition of an **Entertainment Endorsement. Expansion of the premises to include an interior three-story restaurant and second floor terrace. The combined occupancy load of the interior restaurant, second floor terrace and previously approved beer garden shall not exceed 600 people.

APPROVED HOURS OF OPERATION

Sunday through Thursday 7am - 10:30pm, Friday and Saturday 7am - 11:59pm

APPROVED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday through Thursday 8am - 10:30pm, Friday and Saturday 8am - 11:59pm

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6pm - 10:30pm, Friday and Saturday 6pm - 11:59pm

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

Posting Date: **June 5, 2015
Petition Date: **July 20, 2015
Hearing Date: **August 3, 2015

License No.: ABRA-092773
Licensee: Daci Enterprises LLC
Trade Name: Dacha Beer Garden
License Class: Retailer's Class "D" Tavern
Address: 1600 7th Street, N.W.
Contact: Andrew Kline: 202-686-7600

WARD 6

ANC 6E

SMD 6E01

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

NATURE OF SUBSTANTIAL CHANGES

Class Change from Class "D" Tavern to Class "C" Tavern. Addition of an Entertainment Endorsement **with dancing. Expansion of the premises to include an interior three-story restaurant and second floor terrace. The combined occupancy load of the interior restaurant, second floor terrace and previously approved beer garden shall not exceed 600 people.

APPROVED HOURS OF OPERATION

Sunday through Thursday 7am - 10:30pm, Friday and Saturday 7am - 11:59pm

APPROVED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday through Thursday 8am - 10:30pm, Friday and Saturday 8am - 11:59pm

PROPOSED HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6pm - 10:30pm, Friday and Saturday 6pm - 11:59pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

6/19/2015

Notice is hereby given that:

License Number: ABRA-097883

License Class/Type: A Retail - Liquor Store

Applicant: Gokulesh, LLC

Trade Name: Hop, Cask, & Barrel

ANC: 2E02

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

1717 WISCONSIN AVE NW

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

8/3/2015

A HEARING WILL BE HELD ON:

8/17/2015

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 12 am	9 am -12 am
Monday:	9am - 12am	9am - 12am
Tuesday:	9am - 12am	9am - 12am
Wednesday:	9am - 12am	9am - 12am
Thursday:	9am - 12am	9am - 12am
Friday:	9am - 12am	9am - 12am
Saturday:	9am - 12am	9am - 12am

ENDORSEMENTS: Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 19, 2015
Petition Date: August 3, 2015
Hearing Date: August 17, 2015

License No.: ABRA-090204
Licensee: La Kazbah, LLC
Trade Name: Merrakech Restaurant
License Class: Retailer's Class "C" Tavern
Address: 2147 P Street, N.W.
Contact: K. Ikhiar: 202-775-1882

WARD 2 ANC 2B SMD 2B02

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Change of Hours of Entertainment Endorsement.

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

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

PROPOSED HOURS OF LIVE ENTERTAINMENT

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

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

Posting Date: June 19, 2015
Petition Date: August 3, 2015
Hearing Date: August 17, 2015

License No.: ABRA-094562
Licensee: Rockfish, LLC
Trade Name: Stonefish Grill & Lounge
License Class: Retailer's Class "C" Restaurant
Address: 1050 17th Street, N.W.
Contact: Ofobuike Okehi: 202-827-4980

WARD 2

ANC 2B

SMD 2B05

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 with Cover Charge for DJ performances or live band during happy/late night hours.

HOURS OF LIVE ENTERTAINMENT BEGINNING

Sunday through Thursday 6 pm – 2 am and Friday & Saturday 6 pm – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

ON

6/12/2015

****RESCIND**

Notice is hereby given that:

License Number: ABRA-096779

License Class/Type: C Tavern

Applicant: Naomi's Ladder, LLC

Trade Name: Touche

ANC: 6A

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

1123 H ST NE

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

7/27/2015

A HEARING WILL BE HELD ON:

8/10/2015

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10 am - 2 am	10 am - 1:45 am
Monday:	10 am - 2 am	10 am - 1:45 am
Tuesday:	10 am - 2 am	10 am - 1:45 am
Wednesday:	10 am - 2 am	10 am - 1:45 am
Thursday:	10 am - 2 am	10 am - 1:45 am
Friday:	10 am - 3 am	10 am - 2:45 am
Saturday:	10 am - 3 am	10 am - 2:45 am

ENDORSEMENTS: Cover Charge, Entertainment, Summer Garden

FOR FURTHER INFORMATION CALL: (202) 442-4423

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

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice, dated Wednesday, June 10, 2015, of Meridian Public Charter School’s request to amend its charter by changing its mission and vision statement. A public hearing on the matter will be held on Monday, July 20, 2015 at 6:30pm. A vote will be held on Monday, August 17, 2015 at 6:30pm. The public may submit comments on or before Monday, July 20, 2015. The public may submit comments by emailing public.comment@dpcsb.org, calling 202-328-2660 or by postal mail, which must be addressed to 3333 14th Street NW, Suite 210, Washington, DC 20010. For further information, please contact Laterica Quinn, Equity and Fidelity Specialist, at 202-328-2660.

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

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1335 (2012 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; Pub.L. 109-356, D.C. Official Code § 1-204.24d (2014 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of this final action to amend Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR), by amending Section 317 (Tax Sale Threshold).

The amendment to Section 317 adds a new Subsection 317.6, which sets forth the minimum threshold amounts of taxes for which real properties may be sold at tax sales beginning with the July 2015 tax sale and for tax sales thereafter.

The rules were previously published as proposed rulemaking in the *D.C. Register* on May 8, 2015 at 62 DCR 5773. No comments were received concerning the proposed rulemaking and this final rulemaking is identical to the published text of the proposed rulemaking. OTR adopted these rules as final on June 8, 2015. The rules shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 3, REAL PROPERTY TAXES, of Title 9, TAXATION AND ASSESSMENTS, DCMR is amended as follows:

Subsection 317.6 of Section 317, TAX SALE THRESHOLD, is added to read as follows:

317.6 For annual tax sales in July 2015 and prospectively, only those real properties advertised to be sold at the tax sale held under Section 47-1346 of the D.C. Official Code and: (1) with improvement shall be presented for auction for a liability (before tax sale costs) of at least two thousand five hundred dollars (\$2,500); or, (2) unimproved shall be presented for auction for a liability (before tax sale costs) of at least two hundred dollars (\$200). The meanings of the words “improvement” and “unimproved” are as defined in 9 DCMR § 9903.1.

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

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1335 (2012 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; Pub.L. 109-356; D.C. Official Code § 1-204.24d (2014 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of this final action to amend Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR), by amending Section 340 (Conflict of Interest).

The amendment to Section 340 defines the meaning of the phrase “family member” to be more consistent with other federal and District conflict of interest laws.

The rules were previously published as proposed rulemaking in the *D.C. Register* on April 24, 2015 at 62 DCR 5207. No comments were received concerning the proposed rulemaking and this final rulemaking is identical to the published text of the proposed rulemaking. OTR adopted these rules as final on June 8, 2015. The rules shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Subsection 340.2 of Section 340, CONFLICT OF INTEREST, is amended to read as follows:

340.2 For purposes of this section, the phrase “family member” means parents, spouses or domestic partners, siblings and children.

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF SECOND PROPOSED RULEMAKING

The Attorney General for the District of Columbia, pursuant to Sections 27c(a)(7)(A)(ii), (c), and (i) and 28 of the District of Columbia Child Support Enforcement Amendment Act of 1985 (Act), effective April 3, 2001 (D.C. Law 13-269; D.C. Official Code §§ 46-226.03(a)(7)(A)(ii), (c), and (i) and 46-227 (2012 Repl.)), and Mayor’s Order 2007-42, dated January 19, 2007, hereby gives notice of his intent to adopt the following new Chapter 122 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled “Child Support Lien Program,” in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed rulemaking will implement the authority of the Office of the Attorney General under Section 27c of the Act to enforce child support orders by intercepting and seizing insurance settlements owed to obligors.

This Notice of Second Proposed Rulemaking supersedes the Notice of Proposed Rulemaking published on March 27, 2015 at 62 DCR 3681, and reflects changes made in response to comments received from the public.

Title 29 DCMR, PUBLIC WELFARE, is amended by adding a new Chapter 122 to read as follows:

CHAPTER 122 CHILD SUPPORT LIEN PROGRAM

Secs.

- 12201 Scope
- 12202 Settlement Funds Subject to Lien
- 12203 Lien Criteria
- 12204 Filing the Lien
- 12205 Levy Process
- 12206 Agency Review
- 12207 Administrative Hearing
- 12208 Appeal Procedure
- 12209 Confidentiality
- 12299 Definitions

12201 SCOPE

12201.1 The purpose of this chapter is to regulate the Child Support Lien Program (CSLP). The program will identify and levy settlement funds belonging to child support obligors to satisfy their support arrearages.

The Child Support Services Division (CSSD) of the Office of the Attorney General for the District of Columbia (OAG) shall be responsible for the implementation of this chapter, which shall apply to obligors and insurers.

12202 SETTLEMENT FUNDS SUBJECT TO LIEN

12202.1 CSSD shall submit District of Columbia Child Support Enforcement System (DCCSES) files to the Child Support Lien Network (CSLN) to identify obligors with overdue support who are entitled to settlement funds from insurers and meet the criteria for a lien stated in § 12203.

12203 LIEN CRITERIA

12203.1 Settlement funds identified through a CSSD data match with CSLN shall be subject to the filing of a lien when:

- (a) There is an active child support case;
- (b) The child support order has accumulated arrears greater than or equal to five hundred dollars (\$500); and
- (c) The child support obligor resides or owns property in the District at the time the funds are identified.

12204 FILING THE LIEN

12204.1 If a CSLN data match establishes that an obligor is entitled to settlement funds on a personal injury or workers' compensation claim and CSSD determines that these funds are subject to a lien under § 12203, CSSD shall file the lien with the Recorder of Deeds in the District of Columbia.

12205 LEVY PROCESS

12205.1 Once CSSD has filed the Lien with the Recorder of Deeds, CSSD shall:

- (a) Serve the insurer with a Notice of Lien, which shall indicate the amount of arrears owed by the obligor and direct the insurer to:
 - (1) Levy the funds in the amount of arrears owed by the obligor as stated in the Notice of Lien; and
 - (2) Remit the levied funds to CSSD's Child Support Clearinghouse; and

- (b) Send by first class mail to the obligor's last known address of record a copy of the Notice of Lien and a letter informing the obligor of the right to object to the Notice of Lien by requesting an agency review with CSSD or an administrative hearing with the Office of Administrative Hearings (OAH).

12205.2 Upon receipt of the levied funds, CSSD shall retain the funds for sixty-five (65) days from the date of the Notice of Lien to provide the obligor with an opportunity to request either an agency review or an administrative hearing before OAH, or both.

12205.3 If the obligor does not request an agency review or an administrative hearing before OAH, CSSD shall remit the levied funds to the obligee at the conclusion of the sixty-five (65) day period.

12206 AGENCY REVIEW

12206.1 An obligor whose funds are subject to a lien may request an agency review within fifteen (15) days from the date of the Notice of Lien. The obligor may request the agency review by informing CSSD of his or her objections to the Notice of Lien by phone, in person, or in writing. The obligor shall not use e-mail to transmit written objections.

12206.2 Grounds for contesting the Notice of Lien include:

- (a) The Notice of Lien was issued to the wrong person;
- (b) The obligor did not reside or own property in the District of Columbia at the time that the funds were identified;
- (c) The arrears are incorrect because of a failure to account for all child support payments, an incorrect computation of the balance due, or a failure to give effect to a prior suspension or modification of the support obligation; or
- (d) The existence of an affirmative defense to enforcement of the judgment authorized by applicable law.

12206.3 Neither the support order nor the underlying money judgment may be modified in response to an obligor's contest of the Notice of Lien.

12206.4 Upon receipt of a request for an agency review from an obligor, CSSD shall review the case and notify the obligor in writing of the agency's decision within ten (10) days of the date the request for review was received by CSSD.

- 12206.5 At the conclusion of the agency review, CSSD shall:
- (a) Release the Notice of Lien, notify the insurer and obligor that the lien has been released, and return the funds to the obligor; or
 - (b) Adjust arrears and return any overpayment to the obligor if the obligor demonstrates that the arrears are incorrect because of a failure to account for all child support payments, an incorrect computation of the balance due, or a failure to give effect to a prior suspension or modification of the support obligation. After the adjustment, CSSD shall file with the Recorder of Deeds a new Notice of Lien reflecting the updated arrearage balance and send a copy of the new Notice of Lien to the obligor and the insurer; or
 - (c) Inform the obligor of CSSD's intent to retain levied funds and the obligor's right to request an administrative hearing with OAH.

12207 ADMINISTRATIVE HEARING

- 12207.1 Regardless of whether the obligor has sought agency review of the Notice of Lien, the obligor may seek legal review of the agency's action by requesting an administrative hearing with OAH within sixty-five (65) days from the date of the Notice of Lien.
- 12207.2 Grounds for contesting the Notice of Lien before OAH shall be the same as the grounds stated in §12206.02.
- 12207.3 Notice of the right to an administrative hearing shall be included with the Notice of Lien.
- 12207.4 The request for administrative hearing shall be made in accordance with OAH Rules, DCMR Title 1, Chapter 28. The hearing request must be received by OAH within sixty-five (65) days after the date of the Notice of Lien.
- 12207.5 If the obligor requests an administrative hearing, CSSD shall retain the levied funds until a decision is rendered by the administrative law judge. After the decision is rendered, CSSD shall either disburse the levied funds to the obligor or the obligee in accordance with the final order issued by OAH.
- 12207.6 After all arrears owed by obligor are satisfied, or the OAH finds that the Notice of Lien is inappropriate, CSSD shall file a Release of Lien with the Recorder of Deeds for the District of Columbia, and notify CSLN and the obligor that the lien has been released.

12208 APPEAL PROCEDURE

12208.1 The obligor may seek judicial review of the administrative hearing decision at the D.C. Court of Appeals in accordance with section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510) and section 19 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.16).

12208.2 If the Court of Appeals reverses OAH's order denying the obligor's objections to the Notice of Lien, CSSD shall credit the obligor's child support obligation for the amount that was distributed, or send payment to the obligor in accordance with the final order issued by the Court of Appeals.

12209 CONFIDENTIALITY

CSSD shall maintain the confidentiality of information and records concerning an obligor's financial information and shall only release information or records as permitted by applicable provisions of District or federal law.

12299 DEFINITIONS

The following terms and phrases shall have the meanings ascribed here:

Arrears – past due child support payments.

Child Support Lien Network (CSLN) – a national database that is matched daily with personal injury and workers' compensation claims registered by insurers with the ISO ClaimSearch database to identify obligors with child support arrears who are awaiting settlement of personal injury and workers' compensation claims.

Data match – the process of comparing customers with insurance claims in the Child Support Lien Network against CSSD's caseload consisting of obligors who have a child support case and owe arrears.

District of Columbia Child Support Enforcement System (DCCSES) – the automated system used by CSSD to manage child support cases.

Levy – the seizure of a debtor's specific asset or property to satisfy a judgment, debt, or claim.

Lien – a qualified right to property which a creditor has in or over specific real or personal property of a debtor as security for the debt.

Notice of Lien -- a document that states the CSSD's secured interest in the obligor's

settlement funds. after the lien has been filed with the Recorder of Deeds.

Obligee – the person or entity that is entitled to receive child support pursuant to a court or administrative order.

Obligor – a person who is required pay child support pursuant to a court or administrative order.

Release of Lien – a document that relinquishes the encumbrance of the obligor's property or settlement funds created by the Notice of Perfected Lien.

Settlement funds – an award of money damages paid by an insurer to a claimant to indemnify or make claimant whole after injury.

Workers' Compensation – benefit paid to employee who is injured or killed as a result of or in the course of employment.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Hand-delivered comments should be delivered, and mailed comments should be postmarked, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Comments should be filed with Magda Benfield, Trial Attorney, Office of the Attorney General, Child Support Services Division, 441 4th Street N.W., Suite 550N, Washington, DC 20001. Copies of these proposed rules may be obtained without charge at this address. Questions should be directed to Magda Benfield at (202) 724-2131 or Magda.Benfield@dc.gov.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Behavioral Health (DBH), pursuant to the authority set forth in Sections 5113, 5115, 5117, 5118 and 5119 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-0061; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06, 7-1141.07 and 7-1141.08 (2012 Repl. & 2014 Supp.)) and Sections 5041-5042 of the Fiscal Year 2015 Budget Support Act of 2014, effective February 26, 2015 (D.C. Law 20-155; 61 DCR 9990 (October 3, 2014)), hereby gives notice of her intent to adopt, in not less than thirty (30) days of notice in the *D.C. Register*, a new Chapter 10, entitled “Fees and Trainer Expenses for Department of Behavioral Health Training Events”, to Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the proposed fee structure is to allow the DBH Training Institute (Training Institute) to produce high quality educational events conducive to adult learning that offer opportunities for DBH stakeholders and the general public to easily access behavioral healthcare educational opportunities otherwise unavailable in the District. Generating revenue from training events will improve the quality of all Training Institute educational events, expand the training department and course offering/certifications, and offset the current cost burden incurred by DBH for high-quality expert trainers.

Title 22-A DCMR, MENTAL HEALTH, is amended by adding a new Chapter 10 to read as follows:

CHAPTER 10 FEES AND TRAINER EXPENSES FOR THE DEPARTMENT OF BEHAVIORAL HEALTH TRAINING EVENTS

1000 PURPOSE

1000.1 This chapter establishes the fee structure for the Department’s training events and the allowable expenses to be paid to external trainers.

1001 FEES

1001.1 The Director may charge fees for training programs provided through the Department’s Training Institute that are approved for continuing education contact hours or incur costs associated with production. The Director may waive fees in his or her discretion for mandatory events or events for consumers and family members. Both governmental and non-governmental employees shall be subject to fees.

1001.2 In charging fees, the Director shall adhere to the following fee schedule:

Number of Contact Hours	Cost
2-4	Not to Exceed \$60.00
5-8	Not to Exceed \$120.00
10-16	Not to Exceed \$240.00
17 or more	Not to Exceed \$480.00

1001.3 The Director may charge a reasonable fee not to exceed five dollars (\$5.00) per registrant to cover the cost of any electronic enrollment and payment system.

1002 TRAINER FEES

1002.1 The Department shall not pay any trainer in excess of one-thousand five-hundred dollars (\$1,500.00) a day to participate in a Department-sponsored training event. The Director may in his or her discretion waive this requirement on a case by case basis when the proposed trainer is a national expert with superior qualifications and the waiver is necessary to provide the training.

1099 DEFINITIONS

1099.1 When used in this chapter, the following terms shall have the meaning ascribed:

Contact Hour – a measure of scheduled instruction or education training provided to the attendees, typically by licensed professionals, as a condition of receiving or maintaining a license, that does not include breaks or other content that does not meet the criteria set for the in the respective sponsorship authority approval guidelines.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with David Shapiro, DBH Training Institute Manager, 64 New York Ave., NE, 3rd Floor, Washington, DC 20002 or david.shapiro@dc.gov. Additional copies of these rules are available from the Office of the General Counsel, Department of Behavioral Health.

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Behavioral Health (DBH), as the successor-in-interest to the Department of Mental Health, pursuant to the authority set forth in Sections 5113, 5117(10) and (13), and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-0061; D.C. Official Code §§ 7-1141.02, 7-1141.06(10) and (13), and 7-1141.7), hereby gives notice of his intent to add a new Chapter 38 (Mental Health Community Residence Facilities) to Title 22 (Health), Subtitle A (Mental Health), of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

The proposed Chapter 38, titled “Mental Health Community Residence Facilities,” will supersede and repeal Title 22, Subtitle B, Chapter 38, titled “Community Residence Facilities for Mentally Ill Persons,” and will locate rules governing mental health community residence facilities (MHCRFs) in Title 22 of Subtitle A together with other mental health rules. The proposed Chapter 38 of Subtitle A also includes licensing provisions specifically applicable to MHCRFs, including prerequisites for obtaining a license, licensure categories, the inspection process, licensure renewal, licensure conversion, suspension, or revocation, and hearing requirements. Therefore, the provisions of Title 22, Subtitle B, Chapter 31 pertaining to licensing of healthcare and community residence facilities regulated by the Department of Health, will no longer apply to MHCRFs regulated by DBH. The proposed rules update the current Subtitle B, Chapter 38 rules adopted in 1995, to reflect changes in the Department’s policies and requirements for MHCRFs since that time. More specifically, the rules address general eligibility requirements for living in a MHCRF, different categories of MHCRFs offering different levels of care, environmental and physical plant requirements, Operator and residence director responsibilities, staffing qualifications and requirements, and requirements for records maintenance.

Title 22-A DCMR, MENTAL HEALTH, is amended by adding a new Chapter 38 to read as follows:

CHAPTER 38 MENTAL HEALTH COMMUNITY RESIDENCE FACILITIES

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3800 PURPOSE AND SCOPE OF CHAPTER

3800.1 The purpose of these regulations is to provide for the health, safety, and welfare of individuals with mental illness residing in mental health community residence facilities (MHCRFs). Each MHCRF shall meet the requirements of this chapter as of its effective date, unless otherwise specified in this chapter. No person shall operate an MHCRF in the District of Columbia without a license issued by the Department.

3800.2 A MHCRF is a publicly or privately owned community residence facility that provides twenty-four (24) hour supervised care and a home-like environment in a house or apartment building for individuals, age eighteen (18) or older:

- (a) With a principal diagnosis of mental illness;
- (b) Who require twenty-four (24) hour on-site staff supervision, monitoring, personal assistance with activities of daily living, lodging, and meals; and
- (c) Who are not in the custody of the Department of Corrections.

- 3800.3 There shall be three principal categories of MHCRFs, designed to meet different levels of need, licensed under and subject to this chapter: Supported Residence (“SR”), Supported Rehabilitative Residence (“SRR”) and Intensive Residence (“IR”). In addition to meeting the other requirements of this chapter, the SR shall comply with § 3857, the SRR shall comply with § 3858 and the IR shall comply with § 3859.
- 3800.4 In addition, this chapter provides for short-term transitional beds, which shall meet the minimum licensure requirements for a SR facility, as well as the additional requirements in § 3860. A MHCRF with transitional beds shall be designated “SR-Transitional.”
- 3800.5 The number of residents allowed to reside in a MHCRF shall be as follows:
- (a) An SR, SRR or IR MHCRF may have up to eight (8) residents, exclusive of staff.
 - (b) Notwithstanding § 3800.5(a), an SR MHCRF with a regular license that was issued prior to December 23, 1991 may continue to house the number of residents previously authorized, up to twenty-five (25) residents exclusive of staff;
 - (c) An SR with transitional beds may have up to ten (10) residents in accordance with § 3860;
 - (d) The Director may grant a waiver to the residency limitations set forth in (a) or (c) upon a determination that:
 - (1) The facility has demonstrated that it meets the other requirements of this chapter and will be able to meet residents’ needs and provide a home-like non-institutional environment;
 - (2) The health, safety and welfare of residents will not be adversely affected; and
 - (3) The authorized increase is consistent with the occupancy limits in the Certificate of Occupancy for the facility.
- 3800.6 This chapter shall not apply to:
- (a) Crisis beds;
 - (b) Independent living arrangements; or
 - (c) Supported independent living arrangements.

3800.7 A MHCRF license is not an entitlement. The issuance of new licenses is subject to the availability of funds and the Department’s determination that new or additional MHCRFs are necessary to adequately serve the public behavioral health system.

3801 REQUIREMENT TO HOLD A LICENSE

3801.1 No person shall operate or hold himself or herself out as operating a MHCRF in the District of Columbia, whether public or private, profit or not-for-profit, without being licensed as required by this chapter. Any person who violates this section is subject to civil fines and penalties in accordance with Title 16 DCMR, Chapters 31, 32 and 35.

3802 MHCRF LICENSE AND INSPECTION FEES

3802.1 Each MHCRF license shall be issued in the name of the Operator of the MHCRF business. A MHCRF license is not transferable and shall be valid only with respect to the Operator and only for the facility location identified on the license.

3802.2 Each MHCRF license shall be designated Supported Residence or SR, Supported Rehabilitative Residence or SRR, Intensive Residence or IR, or SR-Transitional and shall be issued as a regular, provisional or restricted license.

3802.3 License fees for an initial MHCRF license and for each renewal license are as follows:

(a)	1 to 5 Beds	
	Annual Fee	\$50
	Late Fee	\$25
(b)	6 to 10 Beds	
	Annual Fee	\$75
	Late Fee	\$37.50
(c)	11 to 25 Beds	
	Annual Fee	\$100
	Late Fee	\$50

3802.4 A fee in the amount of fifty dollars (\$50) shall be charged to a MHCRF for each inspection after the first follow-up annual license renewal inspection.

3803 DISTRICT GOVERNMENT RIGHT OF ENTRY AND INSPECTION

3803.1 The Director and any other duly authorized official of the Department or any other District government agency having jurisdiction or responsibility over a MHCRF or a resident in a MHCRF, after presenting credentials of identification and

authority issued by the Director of the relevant District agency, may, either with or without prior notice, enter and inspect the premises of the following:

- (a) A MHCRF licensed pursuant to this chapter;
- (b) A facility for which an Operator is applying for licensure as a MHCRF to determine the facility's compliance with applicable requirements; and
- (c) Subject to § 3803.5, any unlicensed premises that the Director or any other District agency has reason to believe is being operated or maintained as a community residence facility in violation of this chapter or other applicable laws of the District of Columbia.

3803.2 The authorized official shall conduct the entry and inspection with the least possible disruption to the residents.

3803.3 The authorized official shall have access to the following:

- (a) Facility administrative, personnel, financial, and resident records required by this chapter including records required by §§ 3824, 3825, 3837, 3838, 3839, 3840, 3846, 3848, and 3850 through 3855;
- (b) Facility staff;
- (c) Facility residents;
- (d) The entire premises including all indoor rooms and outdoor areas; and
- (e) Any other information necessary to determine the facility's compliance with this chapter or other applicable law.

3803.4 When conducting an inspection pursuant to this section, the authorized official may:

- (a) Interview and make inquiries of staff and residents relevant to compliance with all applicable requirements;
- (b) Scan or make copies of any facility records, subject to federal and District law pertaining to the confidentiality of medical records; and
- (c) Photograph or videotape conditions at the facility that the official reasonably believes to be in violation of this chapter or any other applicable law or regulation.

3803.5 An authorized official shall not enter or inspect an unlicensed premises without the permission of the MHCRF, or a resident or other lawful occupant, unless a

search warrant is first obtained from the District of Columbia Superior Court pursuant to D.C. Official Code § 11-941 (2012 Repl.) authorizing the entry and inspection.

3803.6 The Director may refer a case involving an unlicensed facility that the Director determines is operating as a MHCRF to the Office of the Attorney General for the District of Columbia for appropriate legal action.

3804 **ELIGIBILITY REQUIREMENTS FOR LICENSURE**

3804.1 In order to qualify for a MHCRF license, an Applicant shall:

- (a) Submit a completed application pursuant to § 3805 to the Department together with all required documents;
- (b) Ensure that the facility meets all structural and environmental requirements set forth in this chapter, or otherwise required by law, including correcting any deficiencies identified in the pre-licensure inspection pursuant to § 3806;
- (c) Demonstrate that, prior to accepting residents, the Operator will have the required staff in place who have met all applicable criminal background check, education, training, reference, health, and certification requirements pursuant to § 3850;
- (d) Demonstrate that, if the Operator will not personally manage the facility and serve as Residence Director, or if the Operator is a corporation, agency, or partnership, the Operator has employed a Residence Director who shall be responsible for the management and operation of the facility as provided in § 3852 and § 3853;
- (e) Demonstrate that the Operator and the Residence Director (where there is a separate Residence Director) have the ability to direct and operate a MHCRF as evidenced by the applicable background checks, criminal background checks, proof of requisite education, training, certifications, experience, and letters of reference pursuant to §§ 3850 and 3851;
- (f) Demonstrate the ability to comply with this chapter, the Licensure Act, and the District of Columbia Human Rights Act; and
- (g) Demonstrate that the facility meets all applicable District of Columbia Construction Code requirements, including the Property Maintenance Code, Fire Prevention Code, and D.C. Housing Code requirements, by submitting appropriate documentation of Department of Consumer and Regulatory Affairs (DCRA) and Fire and Emergency Medical Services

Department (FEMSD) inspections and approvals, as described in § 3805.4 (h) and (i) and the application for licensure.

3805 APPLICATION FOR LICENSE

- 3805.1 An application for licensure as a MHCRF shall be submitted in the name of the Operator, who shall have an ownership or leasehold interest in the real property where the MHCRF will be located. The application shall be in the format established by the Department. If the Operator is a corporation or agency, The Applicant shall designate an officer or director who shall act on behalf of the corporation or agency for all matters pertaining to licensure. If the Operator is a partnership, the application shall identify all partners and the designated authorized agent for the partnership.
- 3805.2 An application for initial licensure as a MHCRF shall be submitted to the Director at least thirty (30) days prior to the date that the Operator intends to begin operations. A renewal application shall be submitted in accordance with § 3813.
- 3805.3 The application shall include:
- (a) The Applicant's name, address, telephone number, e-mail address, Social Security number or federal tax identification number, birth date (or date and state of incorporation), and whether the Applicant is an individual, partnership, or corporation;
 - (b) The identity of the owner of the building in which the facility is located;
 - (c) The identity of the Residence Director for the facility, including Social Security number and birth date, if the Operator will not be personally managing the facility or if the Operator is a corporation, agency, or partnership;
 - (d) The names of the persons submitting the letters of reference for the Operator and Residence Director required by § 3805.4(a);
 - (e) Requested information pertaining to the building in which the facility will be operated including its address;
 - (f) The maximum number of beds at the facility;
 - (g) All documentation required under § 3805.4;
 - (h) Any additional information requested by the Director on the application form, including information specific to an SR, SRR, IR, or SR - Transitional;

- (i) The signature of the Applicant or a legally authorized signatory of the Applicant if the Applicant is a corporation, agency or partnership; and
- (j) The license fee required by § 3802.

3805.4 The application for licensure shall be accompanied by the following documents:

- (a) Three (3) letters of reference on a form prescribed by the Department for the Operator and for any Residence Director of the facility. The letters of reference shall be from unrelated persons who have known the Operator or Residence Director for five (5) years or more and can verify their experience working with persons who are mentally ill;
- (b) Documentation of required education, experience, training, and certifications for the Operator and Residence Director, as set forth in §§ 3850 and 3851;
- (c) A Certificate of Incorporation or Certificate of Authority for corporations or documentation of appropriate partnership registration with the DCRA Corporations Division, as applicable;
- (d) An original, current Certificate of Good Standing for a corporation;
- (e) Verification of required insurance coverage from the company or broker providing insurance, including the dates of coverage and the specific coverage provided;
- (f) Verification of compliance with criminal background check requirements, as set forth in §§ 3850.10 through 3850.14, conducted within forty-five (45) days prior to commencing work at the facility for each “unlicensed person” as defined in this chapter, including an Operator, Residence Director, employee, contract worker or volunteer, who, upon licensure of the facility, will work in the facility or have unsupervised access to the facility and residents.
- (g) A copy of a valid Certificate of Occupancy from DCRA for any MHCRF that will house more than six (6) residents;
- (h) Proof of a satisfactory pre-licensure inspection and approval by DCRA (and FEMSD as applicable) for Housing Code and Construction Codes compliance, including a copy of the inspection report and proof of abatement by DCRA and FEMSD of all deficiencies identified during the inspection(s). The approval shall be dated not more than forty-five (45) days prior to the date of submission. The pre-licensure inspection(s) shall demonstrate compliance with requirements of the Housing Code and Construction Codes, specifically including the Property Maintenance Code

and Fire Prevention Code requirements applicable to a community residence facility;

- (i) Copies of all building, electrical, plumbing, or other permits and approvals required by DCRA under the Construction Codes for new construction, renovations, repairs, or other work conducted at the facility within the twelve (12) months prior to applying for licensure;
- (j) A Clean Hands Certification on a form prescribed by DCRA;
- (k) A statement from the Office of Tax and Revenue that the Applicant does not owe taxes in excess of one hundred dollars (\$100.00) or has entered into an approved payment plan, pursuant to the Clean Hands Act;
- (l) Proof of the Applicant's ownership of the premises where the facility will be located or, if the building is not owned by the Applicant, a copy of a current lease agreement for the building naming the Applicant as lessee and authorizing operation of a community residence facility;
- (m) A copy of the standard residency contract for room, board, and care to be signed by the MHCRF and the resident, prepared in accordance with § 3824;
- (n) A copy of the house rules for the facility prepared in accordance with § 3823.29;
- (o) A Program Statement as described in § 3805.6;
- (p) An Emergency Preparedness Plan, Continuity of Operations Plan, and health-related emergency policies and procedures as described in § 3805.7;
- (q) A current staffing pattern on a form prescribed by the Department and signed by the Applicant;
- (r) Documentation of required medical examinations and vaccinations, criminal background check, and education, experience, and training certifications for each staff person who will be working in the facility upon licensure, as provided in § 3850; and
- (s) Proof that utility accounts are in the name of the Applicant, including water, heat, electricity, telephone, and internet service, and that payments are current where Applicant has had prior service at the facility.

3805.5

The Department in its sole discretion may accept and review a license application for a MHCRF prior to receiving documents required pursuant to §§ 3805.4(q) and

(r), and may authorize the Applicant to provide the staffing pattern and documentation of staff eligibility after the Department has determined that the Applicant has satisfied the other licensure requirements set forth in §§ 3805.3 and 3805.4.

3805.6 Each Applicant shall submit a written Program Statement, on a form prescribed by the Director, which shall include a description of the following:

- (a) The MHCRF's program and facilities, including any population-specific programs;
- (b) The services provided;
- (c) The internal process for resident grievances;
- (d) The monthly rental fee for room, board, and care, and any fees or charges not included in the monthly rental fee;
- (e) The payment and refund policies;
- (f) The group or groups of persons to be served, including any gender, age, health, or language characteristics, and the justification for any limitations described;
- (g) Admission criteria; and
- (h) Transition planning provided to residents.

3805.7 The Application shall also include a copy of:

- (a) The Emergency Preparedness Plan required by § 3833 and FEMSD;
- (b) A Continuity of Operations Plan (COOP), to include a description of equipment, appliances, special supplies, and procedures that the MHCRF has in place to address extended power outages, heat emergencies, natural disasters, or other situations not addressed in the FEMSD approved plan. The COOP shall include provisions and emergency supplies for the MHCRF to remain in operation during the emergency, as well as procedures for emergency evacuation and temporary relocation of residents; and
- (c) Written policies and procedures governing the care of residents in health-related emergencies, including a communicable disease episode, food poisoning outbreak, critical illness or death of a resident, or a change in the mental status of a resident that endangers himself, herself, or others.

- 3805.8 The Director will review each application for a MHCRF license for completeness and submission of the required documents and fee. The Director may request additional information in order to evaluate the applicant's eligibility for a license.
- 3805.9 The Director may terminate review of an application that is incomplete, is not accompanied by the required fee, or is not accompanied by all required documents. The Director shall provide the Applicant with written notice stating why review has been terminated.
- 3805.10 The Director may conduct background checks on the Applicant, including the officers, directors, or partners of a corporation, agency or partnership, to determine the Applicant's suitability or capability to operate a MHCRF. Background checks may include:
- (a) Verification of professional or occupational licensure status (if applicable);
 - (b) Verification of training, educational credentials, and certifications;
 - (c) Contacts with District and other state or federal officials to determine the existence and content of outstanding warrants, complaints, criminal convictions, debts to District government, and records of civil actions or judgments; and
 - (d) Review of the record of regulatory compliance for other businesses owned or operated by the Applicant that provide residences, room or board, or involve care of vulnerable persons.
- 3805.11 The Director may approve licenses for single sex, age specific, or other specific populations, such as the hearing impaired, where the MHCRF program is designed to meet the special needs of the population and DBH has determined that the specialized program will benefit residents, is consistent with each resident's IRP, and will not unfairly limit choices for other consumers seeking a MHCRF placement.

3806 INSPECTION FOR INITIAL LICENSURE

- 3806.1 Prior to initial licensure of a MHCRF, the Director shall conduct an on-site inspection to determine compliance with this chapter. The Director shall send a written Statement of Deficiencies identified as a result of the on-site inspection to the Applicant no later than ten (10) days after the inspection is completed.
- 3806.2 A MHCRF with deficiencies shall be allowed a reasonable period of time, not to exceed thirty (30) days from the date of the written Statement of Deficiencies, to correct the deficiencies while an application for initial licensure is pending. The facility may submit written proof of correction of deficiencies where appropriate.

3806.3 The Director shall conduct a follow-up inspection to determine correction of deficiencies within ten (10) days following the thirty (30) day correction period or within ten (10) days after notification by the Applicant that the deficiencies have been corrected.

3807 DENIAL OF INITIAL LICENSURE

3807.1 The Director shall deny an initial MHCRF license for a new MHCRF if the MHCRF is not in substantial compliance with this chapter, the Applicant provided false or misleading information during the application process, or the Applicant has failed to comply with the Department's plan of correction.

3807.2 If the Director denies an initial MHCRF license, the Director shall issue written notice to the Applicant stating the reasons for the denial. The denial shall be effective immediately.

3807.3 The Applicant may request a review of the denial by the Director within ten (10) days after service of the notice of denial. The request for review shall be in writing and shall state the reasons why the license should be granted. The Director shall consider and respond in writing to a request for review within ten (10) days after receipt of the request. The Director's decision in response to a request shall be final.

3808 NINETY-DAY PROVISIONAL LICENSE FOR NEWLY LICENSED FACILITIES: ISSUANCE, RENEWAL, AND ACTION UPON EXPIRATION

3808.1 All applicants approved by the Director for a new MHCRF license shall receive a ninety (90) day provisional license.

3808.2 The Director shall conduct at least one (1) inspection of the facility within ninety (90) days after it begins to operate to assess whether the facility and its operations are in compliance with this chapter.

3808.3 The Director may, in his or her discretion, renew a provisional license once for up to an additional ninety (90) days for a MHCRF that is not yet in full compliance with this chapter; provided:

- (a) The MHCRF is taking action to correct cited deficiencies in accordance with a mutually agreed-upon timetable; and
- (b) The MHCRF does not have deficiencies that are life threatening or pose an immediate or serious and continuing danger to the residents' or to the public's health, safety or welfare.

- 3808.4 The Director may issue a regular license for not to exceed one (1) year from the date the initial provisional license was issued to a MHCRF that is in full compliance with the requirements of this chapter, as determined by the Director.
- 3808.5 Upon expiration of the provisional license, including an extension under § 3808.3, the Director shall deny a regular license if the MHCRF fails to demonstrate substantial compliance with this chapter.
- 3808.6 If the Director denies an Applicant a regular license or renewal of a provisional license pursuant to §§ 3808.3 or 3808.5, the Applicant may make a written request for reconsideration to the Director within ten (10) days after service of the notice.
- 3808.7 Upon receipt of a request for reconsideration pursuant to § 3808.6, the Director shall hold an informal hearing within the Department within fifteen (15) days to consider the request. The Director shall provide reasonable notice to the Applicant of the date and time of the informal hearing and any applicable hearing procedures.
- 3808.8 At the informal hearing, the Applicant shall have an opportunity to present written and oral statements to the Director in response to the notice of license denial.
- 3808.9 The Director shall notify the Applicant in writing of the Director's determination on the request for reconsideration within ten (10) days after the informal hearing, and shall include the reasons if the license denial is upheld.
- 3808.10 The Director's determination pursuant to § 3808.9 shall be final. In his or her discretion, the Director may extend the license for a reasonable period of time to ensure the safe discharge of residents.
- 3808.11 If the MHCRF has previously held a regular license for the facility, the procedures set forth in § 3815 through § 3821 shall apply to actions by the Director to non-renew, suspend, convert, or deny a license.

3809 RE-APPLICATION AFTER LICENSE DENIAL, NON-RENEWAL, OR REVOCATION

- 3809.1 Except as provided in § 3809.2, an Applicant may not reapply for licensure for ninety (90) days following the Department's denial of a license.
- 3809.2 An Applicant may not reapply for licensure for one (1) year from the effective date of the Director's determination to deny renewal of or revoke the license pursuant to § 3816, or, if the Director's determination is appealed, from the date of a final decision denying renewal of or revoking the license.

3809.3 The Director may in his or her discretion grant a waiver of the time periods set forth in this section for good cause shown.

3810 GENERAL MHCRF OPERATIONAL RESPONSIBILITIES

3810.1 The MHCRF shall not willfully fail or refuse to comply with a statute or regulation governing MHCRFs.

3810.2 The MHCRF shall cooperate with inspections by the Director or other District government officials conducted pursuant to § 3803 and shall cooperate with the Department's investigation of a complaint made against the MHCRF.

3810.3 The MHCRF shall immediately inform the Director of any major unusual incident pursuant to § 3848, the absence of required staff, or significant deficiencies including: a lack of heat, water, hot water or electricity; extreme heat; a stopped toilet; a broken door or window; a bug or rodent infestation; or the need to move a resident or residents due to an emergency.

3810.4 The MHCRF shall inform the Director of a change in the operation, program, or services of a MHCRF of a degree or character that may affect its licensure, including a change in the Residence Director or other staff. The MHCRF shall inform the Director as soon as feasible after the MHCRF is aware that the change will occur, but no later than five (5) days after the change.

3810.5 The MHCRF shall promptly correct deficiencies, especially serious deficiencies or conditions immediately affecting resident health and safety, such as conditions described in § 3810.3.

3810.6 If the Operator of a MHCRF receives a Statement of Deficiencies, the MHCRF shall correct the deficiencies within the time frame required by the Director in accordance with § 3811, or within such extended time as the Director may grant, for good cause shown, upon written request.

3810.7 The MHCRF shall submit a signed and dated Plan of Correction on a form prescribed by the Director within five (5) days after receiving the Statement of Deficiencies. The Plan of Correction shall describe the corrective actions that the MHCRF plans to take to correct the deficiencies or verify that the deficiencies have been corrected.

3810.8 Before a person begins working or providing volunteer or other services at the MHCRF the MHCRF shall ensure that the person has met all prerequisites and has submitted all required documents as set forth in §§ 3850, 3851 and 3852.

3810.9 If the Director receives a complaint of abuse or neglect of a resident by a Residence Director or staff member, upon direction by the Director, the MHCRF

shall immediately remove the Residence Director or staff member from the MHCRF until the complaint is found to be unsubstantiated.

- 3810.10 If a criminal investigation or an investigation by the Department of Human Services pursuant to the Adult Protective Services Act is initiated, the removal of the Residence Director or staff member shall remain in effect until the investigation is completed and the complaint is found to be unsubstantiated. During the removal period, the Residence Director or staff member shall not be employed at another MHCRF in a direct patient care capacity.
- 3810.11 Each MHCRF license in an Owner's possession shall be the property of the District government. The MHCRF shall return the license to the Director upon request after license suspension, termination, replacement, or expiration.
- 3810.12 Each MHCRF shall maintain personnel records, resident records, administrative records, and MHCRF financial records as required by §§ 3824, 3825, 3837, 3838, 3839, 3840, 3846, 3848, 3850 through 3855. All resident and personnel records shall be maintained at the MHCRF. MHCRF financial records shall be maintained at the MHCRF or at the Operator's business office in the District of Columbia and shall be made available to the Department upon request.
- 3810.13 Each MHCRF shall meet each of the specific requirements for operation of MHCRFs set forth in this chapter.
- 3810.14 In an emergency caused by a natural disaster, extreme heat or cold, extended power outage, or a similar situation, the MHCRF shall contact the Director as soon as possible. The MHCRF shall inform the Director whether the MHCRF is fully functional or, if there are problems or deficiencies that affect residents, how these problems are being addressed and if there is a need to temporarily transfer residents to another location.

3811 DEPARTMENTAL OVERSIGHT AND INVESTIGATIONS

- 3811.1 Any person may file a complaint with the Director alleging violations of the requirements of this chapter, and the Director may conduct unannounced investigations and inspections to determine the validity of the complaint.
- 3811.2 The Director shall conduct licensure inspections and review records including resident records, personnel records, administrative and financial records as authorized by §§ 3803 and 3811.1, and as required by §§ 3806, 3808.2, and 3813.3. In addition, the Director shall inspect facilities:
- (a) As appropriate, when a complaint is received;
 - (b) In accordance with any schedule adopted by the Department; and

- (c) When the Director, in his discretion, determines that an inspection is needed or appropriate.

- 3811.3 The Director shall require an Operator to correct any condition that violates this chapter within fourteen (14) days after the date the Operator is notified of the violation, except where the seriousness of the condition and its impact on residents requires a shorter time period, including the conditions provided in § 3811.4. The Director, in his or her discretion, may grant a reasonable extension of time for compliance, upon written request by the MHCRF, for good cause shown.
- 3811.4 The Director may require an Operator to immediately correct emergency conditions affecting resident health and safety within a time specified by the Director. These conditions include insufficient heat, extreme heat, lack of water, lack of hot water, lack of electricity, a stopped toilet, a broken window or door, lack of staff coverage, or bug or rodent infestation.
- 3811.5 The Director shall issue a Statement of Deficiencies to the Operator, including the deadline for correction of the deficiencies and for submission of a written Plan of Correction.
- 3811.6 Nothing in this section or § 3810 shall require the Director to issue a Statement of Deficiencies or allow the MHCRF an opportunity to abate a deficiency, prior to issuing a Notice of Infraction (NOI) for violations of this chapter.
- 3811.7 NOIs shall be issued promptly upon observation of violations of this chapter, especially when they are recurrent, endanger resident or staff health or safety or when there is a failure to comply with core requirements of operating a MHCRF.
- 3811.8 If, after an investigation or inspection, the Director finds a pattern of recurring deficiencies, serious or life threatening deficiencies, or other material violations, the Director may take appropriate action to deny renewal of, suspend, revoke or convert a license in accordance with the provisions of §§ 3814, 3815 or 3816.
- 3811.9 In addition to, or in lieu of, issuing a notice to deny renewal, suspend, revoke or convert a license, the Director may pursue any other available enforcement option, including those authorized by Section 509 of the Licensure Act and the Civil Infractions Act.

3812 APPROVAL OF VARIANCES

- 3812.1 The Director may grant a variance from any of the requirements of this chapter, if the Applicant or Licensee can show undue hardship and the variance:
- (a) Is consistent with the provisions of the Licensure Act;

- (b) Will not endanger the health and safety of residents or the public;
and
- (c) Would not permit a violation of other laws of the District.

3812.2 An Operator seeking a variance pursuant to § 3812.1 shall submit a written request to the Director including the following:

- (a) The regulatory requirement(s) from which a variance is being requested;
- (b) Specific reasons why the MHCRF cannot meet the requirement(s); and
- (c) Any alternative measures provided to ensure quality care and services consistent with this chapter.

3812.3 The Director may also grant a variance to protect the health and safety of residents when an emergency caused by a natural disaster, extreme heat or cold, an extended power outage, or similar situation requires the temporary relocation of residents to another location, the need to temporarily exceed licensed occupancy limits, or other action,

3812.4 An Operator seeking a variance pursuant to § 3812.3 shall submit a written request to the Director, with a copy to the District of Columbia Long-Term Care Ombudsman (LTCO), stating:

- (a) Why the variance is needed and the anticipated length of time for the variance; and
- (b) The action that the Operator proposes to take to address the issue, including:
 - (1) The number of residents to be transferred; and
 - (2) The address of any temporary transfer location, the identity of its owner, the location's number of bedrooms, its bathroom and kitchen facilities, the total number of its residents after the transfer, and the accommodations to be made for the transferred residents.

3812.5 The Department shall grant a variance only to the extent necessary to ameliorate an undue hardship or emergency and only when compensating factors are present that give adequate protection to residents and the public health and safety consistent with applicable law.

3812.6 If the Director determines that the conditions in § 3812.1 or § 3812.3 are not met, the Director shall issue a written denial to the Operator stating the basis for denial. The decision of the Director shall be final.

3812.7 The Department shall maintain a record of all variances granted. The record shall contain a complete written explanation of the basis for each variance and shall be open to inspection by the public.

3813 RENEWAL OF LICENSE

3813.1 An Operator shall submit an application for license renewal to the Director, together with the fee required by § 3802, no later than ninety (90) days before the expiration date of the current license. The application shall meet the requirements of § 3805, except that supporting documents shall be submitted with the application in accordance with this section:

- (a) Letters of reference required by § 3805.4(a), if there is a change in Residence Director;
- (b) Documentation of required medical examinations, annual physician certifications, vaccinations, education, experience, and training certifications as provided in §§ 3805.4(b) and (r) for any new Residence Director or new staff, and updated information as required in § 3850 for the current Operator, Residence Director or staff;
- (c) An original current Certificate of Good Standing for a corporation;
- (d) Verification of the required insurance coverage from a company or broker providing insurance, including dates and specific coverage provided;
- (e) Verification of compliance with criminal background check requirements in accordance with § 3805.4(f) and §§ 3850.10 through 3850.14 for any new hires and for any “unlicensed person” currently working at the facility or having unsupervised access to the facility and residents;
- (f) New Certificate of Occupancy as required by § 3805.4(g) for a MHCRF housing more than six (6) residents, if there is an increase in occupancy;
- (g) FEMSD Fire Inspection Approval, if not current;
- (h) If requested by the Director after a DBH inspection of the premises, a satisfactory pre-licensure renewal inspection by DCRA, and copies of any permits for work being done on the premises, as provided in § 3805.4(h) and (i);
- (i) Clean Hands Certification;
- (j) A statement from the Office of Tax and Revenue that the Applicant does not owe taxes in excess of \$100.00 or has entered into an approved payment plan;

- (k) A copy of a current lease agreement if the premises are not owned by the Applicant; and
- (l) If there have been any changes in these documents since the facility's initial licensure or last renewal, the current standard residency contract, house rules, Program Statement, Emergency Preparedness Plan, COOP, or health emergency procedures for the facility as provided in § 3805.4(m) through (p);
- (m) A current staffing pattern on a form prescribed by the Department and signed by the Applicant;
- (n) Proof that utility bill payments are current for water, heat, electricity, phone, and internet service; and
- (o) Current resident roster.

3813.2 If the Operator fails to timely submit a license renewal application, The MHCRF shall pay the late application filing fee required by § 3802.

3813.3 The Director shall conduct an on-site inspection of the MHCRF to determine compliance with this chapter prior to the expiration of the license. Unless notified otherwise, inspections shall be unannounced.

3813.4 The Director shall send a written Statement of Deficiencies, if any, from the on-site inspection to the Operator no later than ten (10) days after the inspection is completed.

3813.5 The MHCRF shall submit a Plan of Correction and correct the deficiencies within the time frame required by the Director pursuant to §§ 3811.3, 3811.4, and 3811.5.

3813.6 The Director shall conduct a follow-up inspection to determine correction of the deficiencies within ten (10) days after the correction deadline or within ten (10) days after notification by the MHCRF that the deficiencies have been corrected.

3814 DETERMINATION ON APPLICATION FOR RENEWAL OF MHCRF LICENSE

3814.1 The Director may issue a regular renewal license for a period not to exceed one (1) year to the Operator of a MHCRF that is in full compliance with this chapter and has no deficiencies.

3814.2 The Director may issue a regular renewal license for a period not to exceed one (1) year to an Operator of a MHCRF with minor deficiencies that can be corrected within thirty (30) days, or such other time period as the Director may require, and that is in substantial compliance with this chapter.

- 3814.3 The Director may issue a provisional license not to exceed ninety (90) days to the Operator of a MHCRF that is not in full compliance with this chapter provided that the MHCRF;
- (a) Is taking action to correct cited deficiencies;
 - (b) Does not have deficiencies that are life threatening or pose an immediate or serious and continuing danger to the residents' or to the public's health, safety or welfare, and
 - (c) Is taking appropriate ameliorative action in accordance with the Department-approved timetable. A provisional license may not be renewed more than once.
- 3814.4 The Director may issue a restricted license not to exceed ninety (90) days, pursuant to § 3815, when the MHCRF has numerous deficiencies or a single serious deficiency and the MHCRF has failed to correct the violations.
- 3814.5 The restricted license or accompanying notice shall specify the restriction or restrictions, which may include a prohibition against the facility accepting new residents or against delivering services that it would otherwise be authorized to deliver.
- 3814.6 The Director may deny an application for renewal of a MHCRF license for any of the reasons set forth in § 3816.1.

3815 SUMMARY SUSPENSION AND LICENSURE CONVERSION HEARINGS

- 3815.1 The Director may, prior to a hearing:
- (a) Suspend the license of an MHCRF if the Director determines that existing deficiencies constitute an immediate or serious and continuing danger to the health, safety, or welfare of its residents;
 - (b) Convert an MHCRF's license to a provisional license if the facility has outstanding deficiencies, as set forth in § 3814.3 but is taking appropriate ameliorative actions; or
 - (c) Convert its license to a restricted license as set forth in § 3814.4.
- 3815.2 Upon summary suspension or conversion of a license pursuant to § 3815.1, the Director shall immediately give the MHCRF written notice of the suspension or conversion.

- 3815.3 The written notice of the suspension or conversion shall include a copy of the order of suspension or conversion, a statement of the grounds for the action, and notification that the MHCRF may, within seven (7) business days after receipt of the written notice, file with the Director and with the D.C. Office of Administrative Hearings, a written request for an expedited preliminary review hearing with respect to the action. The hearing shall be held before the Office of Administrative Hearings or a Hearing Officer as provided in §§ 3818.1 and 3818.2.
- 3815.4 If the MHCRF fails to timely request an expedited preliminary review hearing, the suspension or conversion shall remain in effect until terminated by the Director, or until a non-expedited hearing is requested and held pursuant to § 3818.
- 3815.5 If the MHCRF makes a timely request for an expedited preliminary review hearing, a hearing shall be convened within three (3) business days following receipt of the request.
- 3815.6 A request for a hearing, pursuant to § 3815.5, shall not stay the suspension or conversion order.
- 3815.7 At a preliminary review hearing, the Department shall have the burden of establishing a *prima facie* case of immediate or serious and continuing danger to the health, safety or welfare of the residents of the facility.
- 3815.8 At the conclusion of the hearing, the suspension or conversion order shall be either affirmed or vacated by the Administrative Law Judge (ALJ) or a Hearing Officer appointed by the Director. If affirmed, it shall remain in effect for no longer than thirty (30) days unless extended pursuant to § 3815.9. During this period, a final hearing shall be scheduled to consider the appropriateness of revocation or continuing restrictions on licensure.
- 3815.9 Before expiration of a suspension or conversion order, the ALJ or Hearing Officer may grant an extension for an additional thirty (30) days upon agreement of all the parties or upon good cause shown.
- 3815.10 Section 3818 pertaining to Conduct of Hearings shall apply to preliminary review and final hearings on summary suspensions and conversions, except that the ALJ or Hearing Officer may limit the evidence presented at expedited preliminary review hearings in accordance with the nature of the proceeding.

3816 LICENSE SUSPENSION, LICENSE REVOCATION, AND DENIAL OF RENEWAL LICENSE

- 3816.1 The Director may suspend, revoke, or deny renewal of the license of a facility issued pursuant to this chapter for any of the following reasons:

- (a) Violation of the Licensure Act or any other applicable provision of District of Columbia or federal law, including violation of the Criminal Background Check Act, the Nursing Home and Community Residence Facility Residents Protection Act, and the Clean Hands Act;
- (b) The Operator, its governing body, chief executive officer, administrator, or Residence Director has made a material misrepresentation of fact to a government official with respect to the MHCRF's compliance with any provision of the Licensure Act, this chapter, or other provision of District of Columbia or federal law;
- (c) Failure to meet qualifications for licensure or maintain the standards required by this chapter, including failure to maintain substantial compliance with the Licensure Act, immediate, serious, or life threatening deficiencies, or a continuing pattern of deficiencies that pose a danger to the health, safety or welfare of residents, MHCRF staff, or the public;
- (d) Submission of false or misleading information to the District in connection with an application for licensure or related to licensing procedures;
- (e) Failure or refusal to allow inspections pursuant to this chapter;
- (f) Failure or refusal to obey any lawful order of the Director issued pursuant to this chapter;
- (g) Conviction of the Operator, its governing body, administrator, Residence Director, the Chief Executive Officer, or other key staff member of a felony involving the management or operation of a MHCRF, or that is directly related to the integrity of the MHCRF or the public health or safety;
- (h) Any act or failure to act, which constitutes a threat to the health or safety of residents, MHCRF staff, or the public;
- (i) Any other material violation of this chapter.

3816.2 Except as provided in § 3808 with respect to new provisionally licensed MHCRFs, and except for a summary suspension undertaken pursuant § 3815, every holder of a license shall be afforded notice and an opportunity for a hearing pursuant to § 3818 prior to an action of the Director to suspend, revoke, or deny renewal of a license.

3816.3 When the Director plans to suspend, revoke, or deny renewal of a license under this section, the Director shall give the Operator a written notice that includes the following:

- (a) That the Director shall take the proposed action unless the Operator files a written request for a hearing, within fifteen (15) days of the receipt of the notice, with the Director and the administrative hearing body identified by the Director as described in § 3818. In lieu of requesting a hearing, the Operator may submit documentary evidence to the Director for the Department's consideration before the Department takes final action.
- (b) The Director's reasons for the proposed action;
- (c) A statement that if the Operator does not respond to the notice within fifteen (15) days, the Director may take the action proposed in the notice, without a hearing, and shall inform the Owner in writing of the action taken.
- (d) A statement that if the Operator chooses to submit documentary evidence but does not request a hearing, the Director shall consider the material submitted and shall decide, without a hearing, whether to take the proposed action. The Director shall notify the MHCRF in writing of the action taken.

3817 SERVICE OF NOTICE

- 3817.1 Any formal notice issued by the Director, including any notice or order to deny, suspend, convert, deny renewal of or to revoke a license, and any notice of appeal rights or notice of a hearing shall be served:
- (a) By personal service;
 - (b) By certified mail, return receipt requested, to the last known address shown in the Department's licensure records; or
 - (c) By both first-class mail addressed to the Operator and by either facsimile or e-mail to the last known address and e-mail address or facsimile number shown in the Department's licensure records.
- 3817.2 If notice is served personally, it shall be effective when delivery is made personally to the MHCRF or its authorized agent.
- 3817.3 If notice is served by certified mail, it shall be effective on the date written or stamped on the return receipt showing delivery of the notice to the MHCRF, or refusal of the MHCRF to receive the notice.
- 3817.4 If notice is served by first class mail and e-mail or facsimile, it shall be effective three (3) days after mailing and upon receipt of written confirmation that the e-mail or facsimile has been received.

3817.5 If a MHCRF that has been served does not appear for a scheduled hearing and no continuance has been granted, the Administrative Law Judge or Hearing Officer may proceed to hear evidence, consider the matter, and render a decision on the basis of the evidence available.

3818 CONDUCT OF HEARINGS

3818.1 Hearings required by § 3815 and § 3816 shall be conducted in the manner required for contested cases pursuant to the District of Columbia Administrative Procedures Act, and shall be open to the public.

3818.2 Hearings shall be held before an Administrative Law Judge (ALJ) of the District of Columbia Office of Administrative Hearings (OAH), provided the Director maintains an arrangement with OAH to adjudicate the Department's licensure and appeals cases. Hearings before OAH shall be held in conformity with OAH Rules of Practice and Procedure ("OAH Rules").

3818.3 If Department cases are not heard by OAH as provided in § 3818.2, the Director shall appoint a Hearing Officer to conduct hearings required by § 3815 and § 3816.

3818.3 An Operator entitled to a hearing shall have the following rights:

- (a) To present oral and documentary evidence;
- (b) To be represented by counsel;
- (c) To cross-examine opposing witnesses on any matter relevant to the issues; and
- (d) To submit rebuttal evidence.

3818.4 In proceedings before an ALJ or Hearing Officer, if any person fails or refuses to comply with any lawful order of the ALJ or Hearing Officer, the Director may apply to D.C. Superior Court for an order requiring obedience to the administrative order.

3819 FINDINGS AND DECISIONS

3819.1 The ALJ or Hearing Officer shall render a decision in writing that includes findings of fact and conclusions of law. The decision shall include notice of applicable appeal rights.

3819.2 The ALJ or Hearing Officer's decision shall be final, unless an appeal is timely filed pursuant to § 3821 or the ALJ or Hearing Officer reopens the proceedings upon receipt of a timely motion.

3820 RECONSIDERATION AND RELIEF FROM FINAL ORDERS

- 3820.1 A party may file a motion for reconsideration within ten (10) days after service of the decision upon the party.
- 3820.2 Neither the filing nor the granting of the motion shall operate as a stay of a final order unless specifically ordered by the ALJ or Hearing Officer.
- 3820.3 If the case is before the OAH, OAH Rules, 1 DCMR § 2828 shall govern motions for reconsideration or a new hearing, as well as requests for relief from a final order.
- 3820.4 If the case is before a Hearing Officer appointed by the Director of DBH, § 3820.5 through § 3820.10 shall apply.
- 3820.5 The motion shall state briefly and specifically the following:
- (a) Matters of record alleged to have been erroneously decided;
 - (b) Grounds relied upon; and
 - (c) Relief sought.
- 3820.6 If the motion is based on new or additional evidence, the new or additional evidence shall be set forth in an affidavit.
- 3820.7 A stay of the order pending a decision on the motion for reconsideration shall be granted only for good cause.
- 3820.8 The Hearing Officer may permit or require oral argument upon a motion for reconsideration.
- 3820.9 If a person fails to receive notice of a hearing or fails to appear for a requested hearing because of accident, illness, or other good cause, and the person has been diligent in bringing the matter to the Hearing Officer's attention, the Hearing Officer may grant appropriate relief.
- 3820.10 The Hearing Officer shall grant or deny a motion for reconsideration within twenty (20) days after the filing of the petition.

3821 APPEALS

- 3821.1 A person aggrieved by a decision of the ALJ or Hearing Officer may seek a review of the decision by the District of Columbia Court of Appeals by filing a petition for review in that Court in accordance with Section 11 of the Administrative Procedure Act.

3821.2 Failure to seek judicial review in the manner and within the time prescribed by that Act shall result in the ALJ's or Hearing Officer's decision becoming final.

3822 INSURANCE

3822.1 Each MHCRF shall carry the following types of insurance in at least the following amounts:

- (a) Hazards (fire and extended coverage) or resident personal effects coverage in the amount of at least five hundred dollars (\$500) per resident to protect resident belongings, with aggregate coverage of at least \$500 multiplied by the number of residents;
- (b) A commercial policy for general liability and professional liability for at least:
 - (1) Three hundred thousand dollars (\$300,000) per occurrence with a six hundred thousand dollar (\$600,000) aggregate for one (1) to eight (8) beds; or
 - (2) Five hundred thousand dollars (\$500,000) per occurrence with a one million dollar (\$1,000,000) aggregate for nine (9) or more beds; and
- (c) Sexual abuse or molestation coverage to protect MHCRF residents from abuse or molestation by staff or other persons, for a limit of at least one hundred thousand dollars (\$100,000) per occurrence.

3822.2 The insurance required by § 3822.1 shall be issued on an "occurrence" or "claims made" basis. If a "claims made" basis is used, the effective date shall be retroactive to the expiration date of the previous policy or the issuance date of the license.

3822.3 The MHCRF may substitute another form of policy that meets the minimum policy limits and the types of coverage required by § 3822.1, provided that the Operator can demonstrate through the Insurance Certificate, any policy endorsements, and any other documentation required by the Director that the policy will cover claims made against the MHCRF.

3822.4 Before the Director issues or renews a license, the MHCRF shall submit to the Director a certification of insurance issued by the insurance carrier verifying the policy coverage, dates of coverage, and policy limits. Where the MHCRF has been previously insured, the insurance certification shall be issued on or before the expiration date of the previous insurance policy.

- 3822.5 The Operator shall direct the insurance carrier to notify the Director if the policy is not renewed or is cancelled, and the Director may require proof that this direction has been given.
- 3822.6 The insurance shall be issued by an insurance carrier licensed to provide insurance in the District of Columbia, or through a surplus lines producer licensed in the District of Columbia.
- 3822.7 The insurance required by this section shall be maintained in force at all times that the MHCRF is licensed.

3823 RESIDENT'S RIGHTS AND RESPONSIBILITIES

- 3823.1 Each MHCRF shall comply with the Consumers' Rights Act, including affording residents the consumer rights set forth in Section 204 (D.C. Official Code § 7-1231.04).
- 3823.2 Prior to the admission of each prospective resident, the MHCRF shall explain to the prospective resident and to the prospective resident's representative, if any, the consumer's rights and responsibilities, including the additional rights and responsibilities stated in the Consumers' Rights Act and this section.
- 3823.3 The MHCRF shall provide to the resident, and to the resident's representative, if any, a written statement of the consumer's rights and responsibilities which shall be signed by the resident and resident's representative. The MHCRF shall maintain a copy of the signed statement in the resident's record.
- 3823.4 A copy of the consumer's rights statement shall also be posted in a visible location in a common area of the facility where residents congregate, and individual copies shall be available to residents upon request.
- 3823.5 If a resident cannot read or understand English, the Operator, Residence Director, or responsible staff person shall arrange for the notice to be given orally and in writing in a language the resident can understand. The Director or the Core Services Agency shall provide assistance as needed.
- 3823.6 Each resident, or resident's representative acting on the resident's behalf, shall be permitted to register grievances or complaints without the threat of the resident's discharge or other reprisal by the Operator or MHCRF staff.
- 3823.7 Each MHCRF shall provide each resident at the time of admission with a copy of any grievance or complaint procedures. These procedures shall comply with Section 212 of the Consumers' Rights Act (D.C. Official Code § 7-1231.12) and 22-A DCMR, Chapter 3.

- 3823.8 Each resident shall have the right to privacy in the provision of personal and medical care.
- 3823.9 Each resident shall have the right to actively participate in the development of the resident's Individual Recovery Plan (IRP).
- 3823.10 Each resident shall have the right to receive adequate and humane treatment by competent qualified staff and to be free from physical, emotional, sexual, or financial abuse, neglect, harassment, coercion and exploitation when seeking or receiving mental health services and mental health supports.
- 3823.11 Each resident shall have the right to have his or her medical and treatment records and all the information they contain kept confidential in accordance with the Mental Health Information Act and any other District or federal law that governs medical or treatment records.
- 3823.12 Each resident shall have the right to review copies of all treatment plans and all other medical, financial, and administrative records pertaining to the resident that the MHCRF maintains.
- 3823.13 Each resident shall have the right to free communication with and reasonable visitation by his or her personal physician, attorney, clergy, family members, friends, significant other, personal representative, guardian, and other persons of the resident's choosing at reasonable times.
- 3823.14 Each resident shall have reasonable opportunities for social interaction with members of either sex, unless such interaction is specifically limited or withheld under a consumer's Individual Recovery Plan in accordance with Section 204 of the Consumers' Rights Act (D.C. Official Code § 7-1231.04).
- 3823.15 Each resident shall have the right to send and receive sealed mail in conformity with Section 204 of the Consumers' Rights Act (D.C. Official Code § 7-1231.04).
- 3823.16 Each resident shall have the right to communicate freely and confidentially with the resident's attorney, the courts, representatives of the District of Columbia Government, the D.C. Long-Term Care Ombudsman (LTCO), and University Legal Services or any other organization currently responsible for advocacy under the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. §§ 10801 *et seq.*, in the District of Columbia.
- 3823.17 Each resident shall have reasonable access to a telephone to make and receive confidential calls.
- 3823.18 Each resident shall have the right to accept or refuse life sustaining medical treatment and to execute advanced directives about medical treatment decisions.

- 3823.19 Each resident shall have the right to refuse psychiatric treatment and supportive services, subject to applicable federal or District law, court order, or Department rules governing the involuntary administration of medication
- 3823.20 Representatives of the District of Columbia government and the LTCO, upon presentation of proper identification, shall have immediate access to residents in MHCRFs.
- 3823.21 No resident shall have any religious belief or practice imposed upon him or her.
- 3823.22 Each resident shall have the right to participate in social, religious, or community activities that do not interfere with the rights of other residents or cause a substantial disruption to the normal functioning of the residence.
- 3823.23 Representatives of the Office of the District of Columbia LTCO Program shall have access to residents in MHCRFs in accordance with the District of Columbia Long-Term Care Ombudsman Program Act of 1988, effective March 1989 (D.C. Law 7-218; D.C. Official Code §§ 7-701.01 *et seq.*).
- 3823.24 Representatives of the agency responsible for the protection and advocacy system for persons with mental illness shall have access to residents in MHCRFs in accordance with the Protection and Advocacy for Mentally Ill Individuals Act.
- 3823.25 Each resident shall have the right to manage his or her own financial affairs unless the resident has a court-appointed legal guardian or conservator or a duly appointed representative payee.
- 3823.26 A MHCRF shall not:
- (a) Solicit or refer residents to be used as research subjects;
 - (b) Use residents as research subjects; or
 - (c) Receive any money, commission, gift or other thing of value in exchange for soliciting, referring or using residents as research subjects.
- 3823.27 Other than routine household duties, no resident shall be required to perform unpaid work.
- 3823.28 Except as provided in Title 21, Chapter 5 of the District of Columbia Official Code pertaining to hospitalization of the mentally ill, each transfer, discharge or relocation of a resident within a MHCRF shall comply with § 3861 of this chapter.

- 3823.29 Upon admission, each resident shall be provided a copy of the MHCRF's house rules.
- 3823.30 Each MHCRF shall have house rules that are consistent with this chapter and with Model House Rules provided to Operators by the Director and that include, at a minimum, rules concerning:
- (a) The use of tobacco and alcohol;
 - (b) The prohibition of the use and possession of marijuana while on the MHCRF premises;
 - (c) The use of the telephone;
 - (d) Hours for viewing or listening to television, radio, CDs, DVDs, or other media;
 - (e) Movement of residents in and out of the facility;
 - (f) The prohibition against sexual relations between staff and residents; and
 - (g) A prohibition against children and youth under eighteen (18) residing in the MHCRF or visiting overnight at the MHCRF.
- 3823.31 The resident shall comply with the MHCRF's rules during his or her residency at the MHCRF, except where a rule violates other provisions of this chapter or District of Columbia law.
- 3823.32 Each resident shall pay the MHCRF on a monthly basis the amount that has been agreed upon in writing for the care provided to the resident as provided in § 3824.

3824 RESIDENCY CONTRACT BETWEEN MHCRF AND RESIDENT FOR ROOM, BOARD, AND CARE

- 3824.1 Prior to admission, the MHCRF shall give the resident and the resident's representative, if any, a written residency contract for room, board, and care which shall be signed by the Operator or authorized Residence Director and by the resident. An individual holding an appropriate power of attorney or a court-appointed legal guardian or conservator with authority to handle the resident's financial affairs may sign on behalf of the resident as necessary.
- 3824.2 The residency contract shall set forth, at a minimum, the following information:
- (a) The monthly fee payable by the resident;
 - (b) The care and services covered by the monthly fee;

- (c) Any care and services not covered by the monthly fee and the specific charges for all non-covered services;
- (d) Operator obligations to provide notice of relocations, transfers, and discharges in accordance with § 3861 of this chapter; and
- (e) Resident obligations upon vacating the premises and upon discharge.

3824.3 A new residency contract for room, care, and board shall be signed by the parties each time there is a change in the monthly fee payable by the resident or a change in services provided by the MHCRF. Any change to the monthly fee payable by the resident shall comply with § 3838.

3824.4 Residency contracts for each resident shall be maintained at the MHCRF for no fewer than five (5) years and shall be available for inspection by the Director.

3825 GENERAL ELIGIBILITY AND ADMISSION REQUIREMENTS

3825.1 A MHCRF shall admit and retain only those persons with a principal diagnosis of mental illness:

- (a) For whom the MHCRF can safely and adequately provide care; and
- (b) Who require the level of care and supervision available at the facility.

3825.2 Prior to a prospective resident's admission and in accordance with the Mental Health Information Act, each MHCRF shall obtain the following:

- (a) A medical certification completed and signed by a licensed physician, nurse practitioner, or physician assistant within ninety (90) days prior to the person's admission to the MHCRF. The certification shall:
 - (1) Verify that the prospective resident has had a physical examination within the past year;
 - (2) Identify the person's known medical conditions including any significant changes in the person's health status since the last full physical examination; and
 - (3) Include a statement that the person is free of any communicable disease, including tuberculosis, or that any communicable disease the person has does not pose a health risk to other residents or staff and is not in an acute stage;

- (b) The most recent diagnostic assessment for the prospective resident, completed not more than six (6) months prior to admission. Any significant changes since the most recent assessment, should be documented in a signed statement by a member of the treatment team;
- (c) Current doctor's orders including all currently prescribed medications (medical and psychiatric), and a list of each known allergy;
- (d) Special diet instructions, if applicable;
- (e) Current IRP completed or updated within one hundred and eighty (180) days prior to admission, or in accordance with an amended time frame set forth in a duly adopted Departmental policy published on the Department's website;
- (f) For persons within the Department's system of care, the Department's approved functional assessment prepared in accordance with a tool approved by DBH that defines the level of the consumer's housing and personal care needs and is consistent with the level of care provided at the MHCRF, including whether the person is capable of taking his or her own medication or needs assistance with medication administration;
- (g) A copy of the person's records and face sheet, as described in § 3846.2 including demographic information from the MHCRF, CRF, nursing home, or other institution where the person last resided;
- (h) At least a seven (7) day supply of all currently prescribed medications;
- (i) Identification of representative payee, legal guardian, or conservator, if applicable; and
- (j) Income verification or statement of party responsible for payment.

3825.3 When a MHCRF accepts a resident on an emergency basis, the Director may extend the time within which the MHCRF must obtain documents required by § 3825.2, except that in all cases the resident shall be tested for tuberculosis and test results shall be obtained within seven (7) days of acceptance. Current medications shall be obtained within twenty-four (24) hours.

3825.4 The MHCRF shall obtain documents from the resident's Core Services Agency ("CSA") or other healthcare provider and shall immediately inform the Director if a consumer's CSA is not cooperating in providing the MHCRF with documents required pursuant to § 3825.2.

3825.5 A MHCRF shall comply with the Human Rights Act in the admission, placement, and retention of residents and in the provision of services to residents. No MHCRF

shall deny admission based upon the person's age, gender, race, physical or mental disability, HIV status, religion, sexual orientation, national origin, marital status, or source of payment for the service.

3825.6 No MHCRF shall refuse to make reasonable accommodations in accordance with the Human Rights Act necessary to admit or retain a resident who is deaf, blind, non-English speaking, non-ambulatory, or otherwise physically or mentally disabled, unless determined to be inappropriate for placement based on other criteria enumerated in this chapter.

3825.7 In addition to the requirements of § 3825.5, a person may not be disqualified from placement in a MHCRF solely because the person:

- (a) Needs assistance with medication administration, including injections, by a licensed health care professional or Trained Medication Employee or Medication Aide certified by the D.C. Board of Nursing and those services are available to the MHCRF;
- (b) Has a history of substance abuse or has participated in a substance abuse treatment program;
- (c) Needs limited or intermittent nursing care; or
- (d) Does not currently attend or wish to attend a day program outside of the MHCRF.

3825.8 Whenever an MHCRF denies admission to a potential resident, it shall provide written reasons for the denial on the form prescribed by the Department within three (3) days to the Director, the person's treatment team, and, upon request, to the person denied admission. A copy of the written reason for the denial shall be included in the MHCRF's records.

3825.9 An MHCRF that receives contract funding from the Department shall comply with any additional admission requirements contained in the contract.

3825.10 No MHCRF shall limit its admissions to persons served by a particular CSA or agency. Whenever a MHCRF that receives contract funding from the Department has vacancies, it shall immediately report the vacancies to the Director so that they may be listed on the Director's current vacancy listing.

3826 ENVIRONMENTAL REQUIREMENTS

3826.1 No MHCRF shall use a name on the exterior of the building or display any logo that distinguishes the MHCRF from any other residence in the neighborhood.

- 3826.2 The MHCRF shall properly maintain the outside and yard areas of the premises in a clean and safe condition in compliance with § 302 of the D.C. Property Maintenance Code and, if space permits, shall have a green area including plants and trees accessible to all residents.
- 3826.3 Each MHCRF shall be located in an area reasonably free from noxious odors, hazardous smoke, and fumes, and where interior sounds may be maintained at reasonably comfortable levels.
- 3826.4 The interior and exterior of each MHCRF shall be maintained in a safe, clean, orderly, attractive, and sanitary condition and shall be free from accumulations of dirt, rubbish, and objectionable odors.
- 3826.5 Each MHCRF shall be equipped, furnished, and maintained to provide a functional, safe, and comfortable home-like setting.
- 3826.6 Each MHCRF shall provide at least one (1) desk or table and one (1) chair for the use of six (6) or fewer residents, and additional desks or tables and chairs to maintain a ratio of at least one (1) desk or table and chair for every six (6) residents.
- 3826.7 Each resident who is enrolled on a full or part-time basis in a course of academic or vocational study shall be provided with a work area in the MHCRF that is quiet and conducive to study.
- 3826.8 The MHCRF shall operate and maintain an effective pest control program for each MHCRF to keep the premises free from insects and rodents and from debris that might provide harbor for insects and rodents. Failure to maintain an effective pest control program to prevent infestation shall be deemed a serious deficiency and shall be grounds, standing alone, for taking adverse action against a MHCRF including fines, license suspension, conversion, or revocation.
- 3826.9 First aid supplies shall be maintained in a place known and readily accessible to residents and employees and shall be adequate for the number of persons living in the residence.
- 3826.10 Staff bedrooms shall be separate from resident bedrooms and all common living areas.
- 3826.11 Adequate facilities shall be provided for the collection, storage, and removal of all trash and other refuse.
- 3826.12 Each window shall be screened during insect season in compliance with § 301.14 of the D.C. Property Maintenance Code.

- 3826.13 Each rug or carpet in the MHCRF shall be securely fastened to the floor or shall have a non-skid pad.
- 3826.14 Each hallway, porch, stairway, stairwell, and basement shall be kept free from any obstruction at all times.
- 3826.15 Each ramp or stairway used by a resident shall be equipped with a firmly secured handrail or banister.
- 3826.16 Plants and pets may be permitted in a MHCRF at the discretion of the MHCRF and as specified in the Program Statement. All pets shall have current vaccinations. Pets shall be examined by a licensed veterinarian within sixty (60) days of admission to a MHCRF, at least once a year thereafter, or more frequently if necessary.
- 3826.17 Each MHCRF shall have a functioning doorbell or knocker.
- 3826.18 Each exterior stairway, landing, and sidewalk used by residents shall be kept free of snow and ice.
- 3826.19 The MHCRF shall be free of loose or peeling paint, and the MHCRF shall comply with all D.C. Housing Code (14 DCMR § 707) and Property Maintenance Code (12-G DCMR § 304.2) provisions pertaining to loose or peeling paint and to lead-based paint.
- 3826.20 The MHCRF shall comply with all applicable environmental laws and regulations including rules governing lead-based paint, asbestos, heating oil tanks, and hazardous waste.
- 3826.21 Each MHCRF shall provide residents with access to reasonable individual storage space for private use.
- 3826.22 Each MHCRF shall be equipped with a functioning facsimile machine, an operative computer with internet accessibility, and a functioning e-mail address for the MHCRF that the Operator, Residence Director or staff can use for MHCRF business purposes (for example to contact DBH and CSA support workers).
- 3826.23 Each MHCRF shall be equipped with both a functioning landline and mobile telephone. The telephone numbers shall be provided to residents and the Director.
- 3826.24 Each MHCRF shall maintain emergency supplies in a secure location at the facility to include batteries, flashlights, sterno, an extra First Aid kit, other supplies identified in the MHCRF's COOP required by § 3805.7, and an adequate supply of bottled water and non-perishable foods as provided in § 3834.22.

3827 STRUCTURAL AND MAINTENANCE REQUIREMENTS

- 3827.1 A MHCRF may be located in a single or multi-family dwelling.
- 3827.2 The MHCRF shall comply with the District of Columbia Construction Codes, Title 12 DCMR, and shall obtain all permits and approvals required by the Department of Consumer and Regulatory Affairs (DCRA) or any other District agency before engaging in construction, repair or installation activities including:
- (a) Any new construction, alteration, repair, or addition to the structure;
 - (b) A change in use or occupancy, increase in load, or modification of the floor layout of the structure;
 - (c) Repairing fire damage to the structure;
 - (d) Installing electrical systems or fixtures, gas-fueled appliances or equipment, refrigerating and cooling systems, and plumbing systems or fixtures.
- 3827.3 The Operator shall maintain the MHCRF in compliance with all applicable provisions of the D.C. Property Maintenance Code and the D.C. Housing Code, Title 14 DCMR, Chapters 4, 5, 6, 7, 8 and 9, except that an Operator shall not be required to provide residents with keys to the facility pursuant to § 607.2.

3828 LIGHTING AND VENTILATION

- 3828.1 Each room in a MHCRF shall have adequate lighting, and each bedroom shall have sufficient light for reading.
- 3828.2 Each bathroom and hallway shall contain a nightlight, and nightlights shall be offered to residents for use in their sleeping rooms.
- 3828.3 Each outside entrance shall be lighted.
- 3828.4 All habitable rooms used for living or sleeping, including the kitchen, and all bathrooms, hallways, and stairways shall meet the lighting requirements of § 401 of the D.C. Property Maintenance Code and the requirements in the Housing Code at 14 DCMR §§ 502 – 505, except where the Housing Code requirements are superseded by the Property Maintenance Code.
- 3828.5 Every space intended for human occupancy shall be provided with adequate natural or mechanical ventilation as required by § 403 of the Property Maintenance Code.

3829 PLUMBING AND WATER SUPPLY

- 3829.1 Each MHCRF shall ensure that its water supply and distribution system, including all plumbing and water heating facilities, conform to applicable requirements of the D.C. Construction Codes, including the Property Maintenance Code and the Plumbing Code, the D.C. Housing Code, and the D.C. Water and Sewer Authority.
- 3829.2 Each MHCRF shall provide adequate quantities of hot and cold water to serve the number of residents and staff in the facility.
- 3829.3 The temperature of hot water at each fixture used by a resident shall be automatically controlled and shall be maintained within the range of five degrees Fahrenheit (5°F.) over or under one-hundred and twenty degrees Fahrenheit (120°F.).
- 3829.4 The water supply may also include a separate or boosted supply at higher temperatures for the kitchen and for dishwashing and laundry.
- 3829.5 Each MHCRF shall provide hot and cold running water, under pressure, to each sink, bathtub, and shower, to each area where food is prepared and where food equipment, utensils or containers are washed, and to the laundry and bathrooms.
- 3829.6 The MHCRF shall report to the Department any lack of water or disconnection of service within four (4) hours if it occurs during a business day, and within twelve (12) hours if it occurs after business hours or on the weekend.
- 3829.7 If the water to a MHCRF is disconnected or not operating, The MHCRF shall provide bottled water for drinking, which shall be maintained in a secure location at the MHCRF at all times so that a sufficient quantity of bottled water is available. If the water to a MHCRF is disconnected or not operating for more than four (4) hours, the MHCRF shall also provide water for hand-washing and flushing the toilet.

3830 HEAT AND AIR CONDITIONING

- 3830.1 Each MHCRF shall have a heating and cooling system that meets the standards of, and is installed and maintained in compliance with this section, the D.C. Construction Codes, including the Property Maintenance Code, the D.C. Housing Code and any other applicable District laws or regulations. Where the standards in this section are more stringent than the standards in the Property Maintenance Code or the Housing Code, the standards in this section shall apply.
- 3830.2 The MHCRF shall supply sufficient heat from October 1 through May 31 to maintain the following temperatures for every occupied room throughout the residence including, bedrooms, living room, dining room, kitchen, and bathrooms:

- (a) A minimum of seventy degrees Fahrenheit (70°F.) between 6:30 a.m. and 11:00 p.m.; and
- (b) A minimum of sixty-eight degrees Fahrenheit (68°F.) between 11:00 p.m. and 6:30 a.m.

3830.3 Each heating system shall be thermostatically controlled.

3830.4 A MHCRF shall not supplement its heating system with portable room or space heaters, unless their use meets FEMSD standards.

3830.5 A fireplace shall not be utilized unless:

- (a) The Operator can demonstrate that the fireplace and chimney have been inspected and determined to be safe for use within the past twelve (12) months;
- (b) An annual inspection by FEMSD has not revealed any violation or deficiency in the fireplace; and
- (c) An MHCRF staff member is present in the room while it is in use.

3830.6 The MHCRF shall provide air conditioning through individual units or a central system, which shall be maintained in safe and good working condition in accordance with the Property Maintenance Code. The air conditioning shall provide an inside temperature or seventy-eight degrees Fahrenheit (78°F) or at least fifteen degrees Fahrenheit (15°F) lower than the outside temperature between May 15 and September 15.

3830.7 Notwithstanding § 3830.6, if the outside temperature exceeds eighty-five degrees Fahrenheit (85°F) prior to May 15 or after September 15, the MHCRF shall operate air conditioning in the main living room and sleeping rooms to maintain the temperature at or below eighty degrees Fahrenheit (80°F).

3831 BEDROOMS

3831.1 Each bedroom shall comply with the space and occupancy requirements for habitable rooms in Property Maintenance Code and the Housing Code (14 DCMR § 402), and shall require at a minimum:

- (a) If used for sleeping by only one occupant, at least seventy (70) square feet of habitable room area;
- (b) If used for sleeping by two or more occupants, at least fifty (50) square feet of habitable room area for each occupant;

- 3831.2 No sleeping facilities shall be permitted in any room in which there is located a furnace, space heater using an open flame, domestic water heater or gas meter.
- 3831.3 An employee of a MHCRF and a resident of the MHCRF shall not share a bedroom under any circumstances.
- 3831.4 Each resident shall be provided with at least the following items:
- (a) A bed, which shall not be a cot;
 - (b) A mattress that was purchased new by the MHCRF, has a manufacturer's tag or label attached to it, and is in good, sanitary and intact condition without broken springs;
 - (c) A bedside table or cabinet and an individual reading lamp with at least a seventy-five (75) watt bulb;
 - (d) Lockable storage space in a stationary cabinet, chest, or closet that provides at least one (1) cubic foot of space for each resident for valuables and personal items;
 - (e) Sufficient suitable storage space, including a dresser and closet space, for personal clothing, shoes, accessories, and other personal items; and
 - (f) A waste receptacle and clothes hamper with lid.
- 3831.5 Each bed shall be located in a room that is designed and utilized solely as a bedroom.
- 3831.6 Each bed shall be placed at least three (3) feet from any other bed and from any uncovered radiator.
- 3831.7 Each bedroom shall have direct access to a major corridor and at least one (1) window to the outside, unless DCRA has determined that it otherwise meets the lighting and ventilation requirements for habitable rooms pursuant to the D.C. Property Maintenance Code and Housing Code.

3832 BATHING AND TOILET FACILITIES

- 3832.1 Each MHCRF shall provide one or more bathrooms for residents that are equipped with the following fixtures that are properly installed and maintained in good working condition:
- (a) Toilet (water closet);

- (b) Sink (lavatory);
- (c) Shower or bathtub with shower, including a handheld shower; and
- (d) Grab bars in showers and bathtubs.

3832.2 Each MHCRF shall provide at least one (1) bathroom for each six (6) occupants in compliance with 14 DCMR § 602, and shall comply with any subsequently adopted more stringent requirements of the Property Maintenance Code or Housing Code.

3832.3 Each MHCRF shall equip each bathroom with the following:

- (a) Toilet paper holder and adequate toilet paper;
- (b) Paper towel holder and adequate paper towels or clean hand towels;
- (c) Soap;
- (d) Mirror;
- (e) Adequate lighting;
- (f) Waste receptacle;
- (g) Floor mat;
- (h) Non-skid tub mat or decals; and
- (i) Shower curtain or shower door.

3832.4 In addition to complying with § 3832.1(d), each MHCRF shall provide properly anchored grab bars or handrails near the toilet or other areas of the bathroom, if needed by any resident in the facility.

3832.5 Adequate provision shall be made to ensure each resident's privacy and safety in the bathroom.

3833 FIRE SAFETY

3833.1 Each MHCRF shall comply with all applicable provisions of the 2012 edition of the International Fire Code, as amended by the District of Columbia Construction Codes Supplement of 2013, Fire Code Supplement (Title 12-H DCMR) and Property Maintenance Code Supplement, Fire Safety Provisions (Title 12-G DCMR, Chapter 7) or subsequent editions of the International Code and DC Construction Codes Supplements adopted by the DC Council.

- 3833.2 Each MHCRF shall obtain an annual inspection of the facility by FEMSD, which shall determine the facility's compliance or non-compliance with fire safety requirements; provided that fire safety inspections for new construction or substantial renovation of a structure may be performed by DCRA in accordance with DCRA and FEMSD procedures and the requirements of the Construction Codes.
- 3833.3 Each MHCRF shall have a written Emergency Preparedness Plan with instructions that is approved by FEMSD. The plan shall be followed in case of fire, explosion, or any other emergency and shall be available for review in each MHCRF.
- 3833.4 The plan shall include the following:
- (a) Written responsibilities and specific tasks for each staff member;
 - (b) A plan for training staff at least twice a year on the plan;
 - (c) The procedures for reporting a fire or other emergency;
 - (d) Life safety strategies and procedures for notifying, relocating, or evacuating occupants;
 - (e) A site plan indicating an assembly point for occupants;
 - (f) Floor plans identifying the location of:
 - (1) Exits;
 - (2) Primary evacuation routes;
 - (3) Secondary evacuation routes;
 - (4) Accessible egress routes;
 - (5) Manual fire alarm pull stations;
 - (6) Fire alarm annunciators and controls; and
 - (7) Portable fire extinguishers;
 - (g) A list of major fire hazards associated with normal use of the facility, including maintenance and housekeeping procedures;
 - (h) Identification and assignment of personnel responsible for maintenance of systems and equipment installed in the facility to prevent or control fires;

- (i) The signature of the Operator; and
 - (j) The signature of the FEMSD official approving the plan.
- 3833.5 Drills testing the effectiveness of the fire plan shall be conducted:
- (a) For each resident individually upon admission;
 - (b) For current residents within two (2) weeks of the effective date of a new or revised plan; and
 - (c) At least quarterly, with at least one (1) drill per shift, in accordance with the 2012 edition of the International Fire Code, as referenced in § 3833.1.
- 3833.6 Each MHCRF shall maintain in its records the most recent fire inspection report with the date of the latest inspection of the alarm system.
- 3833.7 Each MHCRF shall install and maintain smoke detectors in accordance with the requirements of the 2012 edition of the International Fire Code and D.C. Construction Codes, as referenced in § 3833.1, for smoke detection devices in residential facilities, and any additional requirements of the Smoke Detector Act, effective June 20, 1978 (D.C. Law 2-81; D.C. Official Code §§ 6-751.01 *et seq.*) as determined by DCRA or FEMSD
- 3833.8 Smoke detectors shall be installed to provide protection:
- (a) In each room used for sleeping; or
 - (b) In each corridor outside of or adjacent to a room used for sleeping; and
 - (c) On each story within the facility.
- 3833.9 The MHCRF shall install and maintain a smoke detector system composed of interconnected smoke detectors, as required by DCRA and FEMSD pursuant to the requirements of the 2012 or subsequently approved edition of the International Fire Code and D.C. Construction Codes.
- 3833.10 No MHCRF shall permit smoking in bedrooms.
- 3833.11 A fire extinguisher with a minimum rating of 210 (BC) that is effective in extinguishing grease and oil fires shall be located within fifteen feet (15 ft.) of any stove, oven, cooking burner, or other cooking device.

- 3833.12 Each MHCRF shall have at least one (1) working fire extinguisher with a minimum rating of 210 (BC) on each floor, including the basement and first floor, in a central location accessible to residents and employees.
- 3833.13 A fire extinguisher with a minimum rating of 210 (BC) of a type and capacity sufficient to extinguish fires originating in the main heating plant and hot water heater shall be located within five feet (5 ft.) of this equipment.
- 3833.14 Each fire extinguisher shall be:
- (a) Properly maintained;
 - (b) Approved for its specific use by an official of the FEMSD; and
 - (c) Inspected by FEMSD annually and in accordance with the International Fire and Construction Codes cited in § 3833.1.
- 3833.15 Each fire extinguisher shall be recharged immediately after use and properly tagged.
- 3833.16 Each fire extinguisher shall have attached to it a tag giving the date when the service was performed, a description of the service performed, and the name and address of the person performing the service.
- 3833.17 Each MHCRF shall have a fire exit that is:
- (a) Clearly designated on the MHCRF's emergency preparedness plan;
 - (b) Clearly identified for residents;
 - (c) Kept clear of obstructions; and
 - (d) Accessible from sleeping rooms.
- 3833.18 If the area or floor served by a fire exit door is to be occupied, the door shall not require a key to unlock the door from the inside and shall not require more than thirty (30) seconds to unlock.
- 3833.19 Each MHCRF that has residents in sleeping rooms above the second floor, or that has more than eight (8) residents in sleeping rooms above the street level, shall:
- (a) Provide access to two (2) separate means of exit for sleeping rooms above street level, at least one (1) of which shall consist of an enclosed interior stair, a horizontal exit, or a fire escape, all arranged to provide a safe path of travel to the outside of the building without traversing any corridor or space exposed to an unprotected vertical opening; or

(b) Otherwise comply with the current D.C. Fire Code Supplement.

3834 DIETARY SERVICES

- 3834.1 Each MHCRF shall apply generally accepted principles of nutrition and food management to menu planning, food preparation and handling, kitchen maintenance, and service for residents of the facility.
- 3834.2 Each MHCRF shall have at least one staff member who has obtained a Food Protection Manager (FPM) or Food Safety Manager (FSM) certification from an accredited national test service approved by the D.C. Department of Health. That staff member shall maintain a current certification in accordance with 25-A DCMR § 203.
- 3834.3 In addition to the requirements of § 3834.2, the MHCRF shall ensure that whenever food is being handled or served for human consumption, at least one (1) staff member is present who has a current FPM or FSM certification. That staff member shall ensure the proper preparation, handling, and service of food.
- 3834.4 The MHCRF shall require each certified FPM or FSM to supervise and train any staff members who are not certified as FPMs or FSMs in the storage, handling, and serving of food, and the cleaning and care of equipment used in food preparation in order to maintain sanitary conditions at all times. The kitchen, dining, and food storage areas shall be kept clean, orderly, and protected from contamination.
- 3834.5 Each individual engaged in food preparation, handling, or serving, shall wash their hands and exposed portions of arms frequently, and cover their hair with a net or other head covering.
- 3834.6 The MHCRF shall ensure that no person is involved in food preparation or service who shows signs or symptoms of a contagious illness, has exposed skin lesions, or is otherwise prohibited or restricted from performing these functions pursuant to the D.C. Food Code, 25-A DCMR § 303(a) – 303(e) and §§ 300.4 through 307.10.
- 3834.7 The MHCRF shall provide at least three (3) meals per day and between meal snacks that:
- (a) Provide a nourishing, well-balanced and varied diet in accordance with dietary guidelines established by the United States Department of Agriculture;
 - (b) Are suited to the special needs of each resident; and
 - (c) Are adjusted for seasonal changes, and regularly include seasonal fresh fruits and vegetables.

- 3834.8 The MHCRF shall prepare and post menus on a weekly basis for the residents' review. Menus shall:
- (a) Provide for a variety of foods at each meal;
 - (b) Be varied from week to week;
 - (c) Include special diets; and
 - (d) Reflect meals as planned and as actually served, including hand-written notations in pen of any substitutions made.
- 3834.9 The MHCRF shall retain a copy of each weekly menu and receipts and invoices for food purchases for six (6) months, which shall be subject to review by the Department.
- 3834.10 Each meal shall be scheduled so that the maximum interval between each meal is no more than six (6) hours, with no more than fourteen (14) hours between a substantial evening meal and breakfast the following day.
- 3834.11 If a resident refuses food or misses a scheduled meal, appropriate food substitutions of comparable nutritional value shall be offered.
- 3834.12 If the MHCRF knows or is informed in advance that a resident will be away from the MHCRF during mealtime for necessary medical care, work, a day services program, or other scheduled activities or appointments, the MHCRF shall provide the resident with an appropriate meal and in-between meal snack to carry. The MHCRF shall ensure that the meal is nutritious and suited to the special needs of the resident as required by § 3834.7.
- 3834.13 Each food and drink item purchased, stored, prepared, or served by the facility shall be clean, wholesome, free from spoilage, prepared in a manner that is safe for human consumption, protected from contamination, and properly served in accordance with the requirements of the Food Code, 25-A DCMR §§ 600.1, 700.1, and this section.
- 3834.14 Each MHCRF shall have fresh water and clean drinking glasses available for each resident at all times.
- 3834.15 Each resident who needs assistance to eat or drink shall be given the assistance promptly upon receipt of meals.
- 3834.16 A MHCRF shall not permit smoking or use of tobacco products in the kitchen or in the vicinity of food preparation.

- 3834.17 Each MHCRF shall serve meals at proper temperatures. If an individual requires feeding assistance, food shall be maintained at serving temperature until assistance is provided. Food that is not promptly consumed shall be refrigerated or discarded.
- 3834.18 Food requiring refrigeration shall be promptly refrigerated after purchase and kept properly refrigerated until preparation for consumption or until consumed in pursuant to the Food Code, 25-A DCMR §§ 1005.1 and 1005.2.
- 3834.19 Frozen foods shall be kept in the freezer and maintained frozen until preparation for consumption or until consumed pursuant to the Food Code, 25-A DCMR § 1000.1.
- 3834.20 Food shall be protected from contamination by separating raw animal foods during storage, preparation, and holding from raw fruits and vegetables, cooked ready-to-eat foods, and other raw animal foods except when combining ingredients. (25-A DCMR § 802)
- 3834.21 Raw animal foods, including eggs, fish, meat, poultry, and foods containing these raw animal foods shall be thoroughly cooked and heated to the temperatures required by the District of Columbia regulations for Food and Food Operations, 25-A DCMR § 900.
- 3834.22 Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption. (25-A DCMR § 806.1)
- 3834.23 The MHCRF shall ensure that the facility maintains at least a three (3) day supply of perishable food and a seven (7) day supply of bottled water and nonperishable food in a safe location, based on the menus for both regular and special diets in compliance with the MHCRF's Continuity of Operations Plan.
- 3834.24 Dry or staple food items shall be stored at least twelve inches (12 in.) above the floor in a the kitchen or other dry room not subject to sewage or waste water back flow or contamination by condensation, leakage, rodents, or vermin. Food shall not be stored in a bathroom, garage, or mechanical room.
- 3834.25 All kitchen equipment, utensils, cookware and dishes shall be constructed of safe materials and maintained in good condition. (25-A DCMR § 3804.1)
- 3834.26 All food contact surfaces, counters, sinks and work surfaces shall be smooth, non-absorbent and easily cleanable, and shall be effectively cleaned and sanitized prior to preparation and serving of food and after each use. (25-A DCMR § 3804.2)

- 3834.27 All eating utensils, pots, pans, cooking equipment, dishes, cups, glasses and other table ware shall be thoroughly cleaned and appropriately dried before use, and cleaned and properly stored after each meal to avoid contamination.
- 3834.28 Hot and cold water, soap, and towels shall be provided for hand washing in or adjacent to food preparation areas.
- 3834.29 Each MHCRF shall maintain a sufficient quantity of dishes, utensils, and cook ware to meet the needs of residents and staff.
- 3834.30 Receptacles for storage of garbage and refuse shall be waterproof and properly covered, and shall be emptied and cleaned regularly.
- 3834.31 The dining area shall have a sufficient number of tables and chairs to seat all individuals residing in the home at the same time. Dining chairs shall be sturdy, non-folding, without rollers unless retractable, and designed to minimize tilting.
- 3834.32 Each MHCRF shall promote each resident's participation and skill development in menu planning, shopping, food storage, and kitchen maintenance, to the extent appropriate based on the resident's IRP.

3835 THERAPEUTIC DIETS

- 3835.1 Each MHCRF with a resident who has been prescribed a special or therapeutic diet shall ensure that the resident's meals are planned, prepared, and served as prescribed by the attending physician, nutritionist, or other health care practitioner.
- 3835.2 Each MHCRF with residents who have been prescribed a special or therapeutic diet or who have a condition, such as diabetes or hypertension, that commonly requires a special or therapeutic diet, shall consult with the resident's CSA or other treatment team at least annually to determine whether there are new instructions pertaining to the resident's diet.
- 3835.3 The MHCRF shall allow a visiting dietitian or nutritionist to have access to each resident's record, as authorized by the Mental Health Information Act, which shall contain the physician's prescriptions for medications and special diets. The MHCRF shall advise the visiting dietitian or nutritionist to document in the record each observation, consultation, and instruction regarding the resident's acceptance and tolerance of each prescribed diet.
- 3835.4 Each MHCRF shall ensure that all dietary prescriptions from each resident's physician, health care practitioner, dietitian, or nutritionist are maintained in the resident's medical record and are updated at least annually.

3835.5 Each MHCRF shall ensure that all staff responsible for food preparation and service are kept informed, in writing and verbally, of any dietary restrictions, food allergies, or other special dietary needs of each resident.

3836 HOUSEKEEPING AND LAUNDRY SERVICES

3836.1 Each MHCRF shall be equipped with a washing machine and dryer in good condition in a safe, clean and convenient location within the facility. The MHCRF shall provide adequate facilities and sufficient laundry detergent and other laundry supplies for residents and staff to properly wash and dry clothing and linens.

3836.2 At least three (3) washcloths, two (2) towels, two (2) sheet sets that include pillow cases, a bedspread, a pillow, a blanket, and a mattress cover shall be maintained for each resident in good and clean condition.

3836.3 Each piece of bed linen, towel, and washcloth shall be changed and cleaned as often as necessary to maintain cleanliness, provided that all towels and bed linen shall be changed at least once each week.

3836.4 Each blanket, bedspread, and mattress cover shall be cleaned regularly, whenever soiled, and before being transferred from one (1) resident to another.

3836.5 Each MHCRF shall ensure that the personal laundry of each resident is laundered in a sanitary manner, separate from bed linen. Laundry shall be done by the resident if the resident is capable or by MHCRF staff. The resident shall not be charged in excess of the resident's monthly residence fee for room, board, and care for detergent or other supplies, use of the washer or dryer, or staff assistance,

3836.6 Clean linen and clothing shall be stored in clean, dry, dust free areas that are easily accessible to residents.

3836.7 If it becomes necessary for residents to use a laundromat because the washing machine or dryer is temporarily out of order, the MHCRF shall pay for residents' laundry to be washed and dried.

3837 PERSONAL PROPERTY OF RESIDENTS

3837.1 This section shall apply to the personal property of residents, except for personal funds which are subject to § 3838.

3837.2 Each MHCRF shall permit each resident to bring reasonable personal possessions, including clothing, personal articles, and furnishings to his or her living quarters in the MHCRF unless the MHCRF can demonstrate that it is not practical, feasible, or safe.

3837.3 Each MHCRF shall take appropriate measures to safeguard and account for personal property brought into the facility by a resident. Each MHCRF shall

maintain a current inventory of each resident's personal property. The MHCRF shall update this inventory whenever new items are brought into the MHCRF and at least once annually, and shall provide a copy of the inventory, signed by the resident and staff, to the resident.

- 3837.4 The MHCRF shall provide the resident, or the resident's representative, with a receipt for any personal articles to be held by the MHCRF for safekeeping. The receipt shall include an approximate value for the article and the date it was deposited with the MHCRF. The MHCRF shall also maintain a record of all articles held for safekeeping.
- 3837.5 No MHCRF shall require a resident to give, transfer, or assign to the Operator, Residence Director, employee or volunteer an interest in or title to any property owned by the resident. No Operator, Residence Director, employee or volunteer of the MHCRF may accept such a gift, transfer, or assignment.
- 3837.6 Upon each resident's discharge, the MHCRF shall return to the resident, or the resident's representative, any personal articles held by the MHCRF for safekeeping. The MHCRF shall also ensure that the resident is permitted to take all of his or her personal possessions from the MHCRF. The MHCRF may require the resident or resident's representative to sign a statement acknowledging receipt of the property. A copy shall be placed in the resident's record.
- 3837.7 If a resident is not able to remove all of his or her personal property when the resident moves or is transferred or discharged from the facility, the MHCRF shall retain the resident's property for a minimum of ten (10) days.
- 3837.8 The MHCRF shall notify the resident's representative, the LTCO and the CSA in writing that it has the resident's property, so the resident, resident's representative or CSA can make arrangements to obtain it. The MHCRF may remove the property from the bedroom occupied by the former resident, but shall store it a secure dry location within the facility.

3838 FINANCES OF RESIDENTS

- 3838.1 Except as provided in § 3838.10, no MHCRF shall increase the fee for room, care, and board in a MHCRF more often than once a year, unless:
- (a) The increase is justified in writing;
 - (b) The increase is caused by an unusual escalation in the expenses of the facility or the cost of services to the resident;
 - (c) The resident and the Department is given sixty (60) days written notice of the effective date of the increase; and

- (d) The resident signs a new residency contract as required by § 3824, which includes the increased fee.

3838.2 Each MHCRF shall obtain written authorization from the resident and the resident's representative or representative payee before handling or managing the resident's personal funds. The authorization shall be reviewed and signed by the resident and the resident's representative or representative payee at least annually.

3838.3 Each MHCRF shall maintain a separate and accurate record of all funds the resident or the resident's representative or representative payee deposits with the MHCRF for safekeeping. The record shall include the following:

- (a) A written authorization signed by the resident and the resident's representative or representative payee authorizing the MHCRF to handle the resident's personal funds;
- (b) Any instructions received from the resident's representative or representative payee and agreed to by the MHCRF pertaining to disbursement of the funds;
- (b) The date and the amount of all money received;
- (c) The date and amount of each withdrawal by the resident or disbursement by the MHCRF for the resident's benefit, including signed receipts;
- (d) The items or purposes for which disbursements were made by the MHCRF;
- (e) The current balance; and
- (f) The signature of the resident for each withdrawal and the signature of facility staff for each deposit and disbursement made on behalf of a resident.

3838.4 Each MHCRF shall make a copy of the records required in § 3824.2 and § 3838.3 available to the resident and the Resident's representative or representative payee:

- (a) On at least a quarterly basis;
- (b) At least ten (10) business days before the resident is to be transferred or discharged from the facility or as soon as possible prior to the discharge; and
- (c) Upon request by the resident, the resident's representative, or representative payee.

- 3838.5 Upon admission of a resident, each MHCRF shall explain to the resident and the resident's representative or representative payee how the resident's personal needs allowance and any other personal funds shall be handled during his or her stay at the MHCRF. This explanation shall include the resident's right to manage the money himself or herself, absent a court order appointing a guardian or conservator to administer the resident's financial or personal affairs.
- 3838.6 No MHCRF shall serve as representative payee for a resident of the MHCRF.
- 3838.7 No MHCRF Residence Director, staff member or volunteer shall serve as representative payee for any resident of the MHCRF.
- 3838.8 Each MHCRF shall, upon request, make resident financial records available for inspection, review, and copying by the Department, the D.C. Department of Healthcare Finance, the LTCO, and any entity authorized by the resident to review such records.
- 3838.9 Upon each resident's discharge from the MHCRF, the MHCRF shall promptly provide the resident's remaining personal funds to the resident, the resident's court-appointed representative to administer his or her financial and personal affairs, or the resident's representative payee. The MHCRF shall require the resident, court-appointed representative, or representative payee to sign a statement acknowledging receipt of the funds. A copy shall be placed in the resident's record.
- 3838.10 Notwithstanding § 3838.1, any increase in a resident's Social Security or State Optional Payment shall be distributed to the MHCRF for room, board and care in accordance with Section 549 of the District of Columbia Public Assistance Act of 1982, effective April 26, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.49), unless the Department of Health Care Finance has published an increase in the personal needs allowance in 29 DCMR § 1450.

3839 MEDICATION

- 3839.1 When a resident is admitted, and for as long as the resident resides in the facility, the MHCRF shall maintain current doctor's orders for every medication the resident is taking, plus a list of each known allergy and each prescribed controlled substance. The MHCRF shall obtain this information from the resident's CSA, treatment team, or health care provider.
- 3839.2 The MHCRF shall keep each resident's medications secure in a locked drawer or cabinet, separate from those of other residents, and shall ensure they are not accessible to other residents or visitors. Each medication shall be properly identified and shall be maintained under proper conditions of light and temperature as indicated on the medication's label.

- 3839.3 Each medication of each resident shall be stored in its original container and shall not be transferred to another container or to another resident. Medication for external use shall be stored separately from medication for internal use.
- 3839.4 Each MHCRF shall comply with District and federal law and regulations governing the procurement, handling, storage, administering, recording, dispensing and disposal of medications and controlled substances.
- 3839.5 The Operator, Residence Director, or designated staff shall ensure that each resident who is capable of self-administering his or her medication takes his or her medication as prescribed. The staff member who supervises a resident's self-administration of medication shall properly and promptly record and initial each dose of medication taken by the resident in the resident's medication record.
- 3839.6 If a resident cannot self-administer a medication, the MHCRF shall allow a licensed or certified healthcare professional who is authorized to administer medication under District of Columbia law to administer the medication. The MHCRF shall ensure that the administration of the medication is recorded in the resident's medication record.
- 3839.7 Each medication error or adverse reaction to a medication shall be immediately reported to the resident's physician. If the MHCRF is unable to report to the resident's physician, the MHCRF shall report the error or adverse response to the resident's treatment team. In all cases, the MHCRF shall document the error or adverse response in the resident's record, and in cases of a severe adverse reaction shall prepare and submit a Major Unusual Incident Report to the Department pursuant to § 3848.
- 3839.8 Each resident's refusal of a medication shall be documented in his or her medication record and reported to the resident's physician or treatment team.
- 3839.9 Each MHCRF shall remove and dispose properly of expired medication and medication that is no longer in use.
- 3839.10 The MHCRF shall inform each resident's treatment team when the resident has only seven (7) days of medication remaining to ensure that the resident always has a sufficient supply of the medication prescribed by his or her physician.

3840 MEDICAL SERVICES

- 3840.1 Each resident shall have the right to choose his or her own medical and dental care, and shall provide for it at his or her own expense or under relevant provisions of the Social Security Act. Alternatively, each eligible resident may seek medical or dental care from a public agency at public expense in accordance with laws and regulations governing the agency.

- 3840.2 To ensure that each resident is examined by a physician at least once a year, each MHCRF shall provide written notice to the resident and the CSA ninety (90) days in advance:
- (a) Reminding each resident that he or she must provide the results of a physical examination prior to renewal of a residency contract; and
 - (b) Advising the CSA that it is time for the resident's annual physical examination.
- 3840.3 The physician or other licensed healthcare professional performing the annual physical examination shall provide, at a minimum, a medical certification in accordance with § 3825.2(a), prescriptions for any medications in accordance with § 3825.2(c), and any special diet instructions in accordance with § 3825.2(d).
- 3840.4 Each resident's permanent records shall include copies of his or her medical certifications, all physicians' orders and reports, and the physicians' recommendations for the resident's care.
- 3840.5 If a resident is unable to make arrangements for his or her annual medical examination or any other medical or dental examination, the Residence Director or designee shall assist the resident in making arrangements for the examinations.
- 3840.6 Each MHCRF shall maintain in the residence a list of the names and telephone numbers of each resident's physician and CSA.

3841 RESIDENT ACTIVITIES

- 3841.1 Each MHCRF shall, encourage and arrange for suitable activities for each resident to stimulate the resident, promote his or her well-being, encourage independence, and maintain normal activity and an optimal level of functioning in coordination with the resident's CSA. These activities may include education in independent living skills such as grocery shopping, cooking, housekeeping chores, personal and household laundering, money management, and use of recreational time.
- 3841.2 Each MHCRF shall, insofar as possible and consistent with the proper care of each resident, maintain normal routines and procedures, providing for sleeping periods, meal times, social and recreational activities, responsibilities, and a level of resident autonomy similar to the living patterns of independent persons in the community.
- 3841.3 Each MHCRF shall encourage each resident to engage in daytime activities, including education, socialization, psycho-social day programs, and employment, and shall take advantage of public and voluntary resources in promoting resident participation in activities.

3841.4 Each MHCRF shall have books, periodicals, games, current newspapers, radio, and a television available and accessible to residents. The MHCRF shall, to the extent possible, provide recreational and leisure activities that reflect the residents' interests.

3841.5 Attendance at a day program shall not be mandatory for residents in a MHCRF.

3842 ASSISTING RESIDENTS TO RECEIVE MENTAL HEALTH SERVICES

3842.1 If a resident is not already enrolled with a Department-certified Core Services Agency or other provider of mental health services, the MHCRF shall assist the resident in enrolling with a CSA or other provider of the resident's choice and shall document this assistance in the resident's files.

3842.2 If the MHCRF learns that a resident is no longer receiving mental health services, the MHCRF shall offer to assist the resident in obtaining these services and shall document such assistance or the resident's refusal to accept assistance in the resident's files.

3843 SERVICE COORDINATION WITH CORE SERVICES AGENCY OR OTHER PROVIDER OF MENTAL HEALTH SERVICES AND MHCRF SERVICE COORDINATION PLAN

3843.1 Each MHCRF shall maintain regular contact with the CSA's designated staff member to determine whether the resident's needs are being met and shall be available to the resident and the CSA's designated staff member to assist when issues or concerns involving the resident arise.

3843.2 Each MHCRF, in conjunction with the CSA's treatment team or other mental health services provider, shall regularly monitor each resident's progress and status at the MHCRF, which shall include transition planning.

3843.3 Each MHCRF shall grant access to and cooperate with CSA treatment team members and any licensed or certified health care practitioner assigned to deliver services to a resident, upon presentation of proper identification and credentials.

3843.4 Each MHCRF shall report to the designated CSA treatment team, or other mental health services provider, if it appears that the resident needs assistance obtaining financial services, social services, health care services, or recreational and leisure activities. The report shall be made both in writing and by phone or in person.

3843.5 If after contacting a resident's assigned CSA treatment team or other mental health services provider, the CSA or other provider fails to provide requested medical records, or in the opinion of the MHCRF is not providing the services that should be provided, the MHCRF shall inform the Director in writing.

3844 INDIVIDUAL RECOVERY PLAN (IRP)

- 3844.1 Each MHCRF shall participate in the development of an Individual Recovery Plan (IRP) for each resident enrolled with a CSA and shall maintain a copy of the current IRP in the resident's record.
- 3844.2 The MHCRF shall describe to the CSA treatment team, the following in writing:
- (a) The resident's functional strengths and limitations in performing activities of daily living (ADLs);
 - (b) Any medical or health conditions observed that are relevant to the services needed by the resident;
 - (c) The resident's behaviors and any changes in the resident's behaviors; and
 - (d) Transition planning actions or activities for the resident.
- 3844.3 The MHCRF shall provide the information required by § 3844.2 to any other mental health, health services, or community support provider authorized by the resident.

3845 RESTRAINTS AND SECLUSION

- 3845.1 No restraints or seclusion shall be used in a MHCRF.
- 3845.2 No resident shall be confined in a locked room and no resident shall be locked in or out of the facility or a bedroom at any time.

3846 RESIDENT RECORDS

- 3846.1 Each MHCRF shall maintain a permanent record on each resident in a secure location at the MHCRF for as long as the resident remains at the MHCRF, and shall retain it for at least three (3) years after the resident's discharge or death. The permanent record may be maintained at an Owner's business office in the District of Columbia after the resident's discharge or death, provided that it shall be accessible to the Department upon request.
- 3846.2 Each resident's record shall include a current face sheet which documents the following information on each resident:
- (a) Administrative and demographic information, including name, date of birth, sex, social security number, marital status, and last known address;
 - (b) Medical insurance numbers, including Medicare and Medicaid, if any;
 - (c) Date of admission and diagnoses;

- (d) Names, addresses, and telephones numbers of the resident's representative(s), representative payee, if any, involved family members, and next-of-kin;
- (e) Names, addresses and telephone numbers of the resident's current personal physician(s), dentist, and any other regular health care practitioners;
- (f) Names and up-to-date contact information for the resident's CSA treatment team or other mental health services, substance use disorder or community support providers, and for his or her day program provider and employer, as applicable;
- (g) Religious affiliation, if any, including the names and telephone numbers of the resident's minister, priest, or rabbi; and
- (h) Resident's allergies.

3846.3 The MHCRF shall also maintain an accessible and up-to-date record that documents:

- (a) The resident's medication as provided in § 3839;
- (b) Any special diet;
- (c) Any treatment or other procedure that is required for the safety and well-being of the resident;
- (d) Any Major Unusual Incidents directly involving the resident, reported in accordance with § 3848;
- (e) All records required by § 3825.2.

3846.4 Each resident's record shall be current with each entry legible, in ink, dated, and signed with the full name of the record keeper. Errors shall be corrected by crossing out, but shall not be erased.

3846.5 Each MHCRF shall maintain a roster of current residents and shall submit a copy of the roster to the Department when the residence is first occupied, whenever there is a change of one or more residents, and when an application for license renewal is submitted.

3847 CONFIDENTIALITY OF RECORDS

3847.1 Each resident's record and any record maintained by the MHCRF that has information identifying a resident shall be confidential and maintained in a secure location at the MHCRF.

3847.2 Disclosure and re-disclosure of information pertaining to a resident's mental health and a resident's access to his or her own records shall be governed by the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code §§ 7-1201.01 *et seq.*), HIPAA, and any other District or federal law or regulation governing mental health or other health records.

3847.3 If a resident authorizes release of information to a third party, a copy of the resident's written authorization on the form prescribed by the Department shall be maintained in the resident's records and shall conform to the Mental Health Information Act and HIPAA.

3848 MAJOR UNUSUAL INCIDENTS AND UNUSUAL INCIDENTS

3848.1 The Operator, Residence Director, or staff member who witnesses or discovers a major unusual incident (MUI) shall orally notify the Department and the resident's representatives, if any, immediately. MUIs include death, serious illness, medical emergency, physical injury, accident, physical assault or abuse, suicide attempt, severe adverse reaction from medication, or other major unusual incident involving the resident or staff. The notification shall be in compliance with this section and DMH Policy 480.1C or subsequently adopted Department policy. The Operator, Residence Director, or staff member shall document the incident in the resident's permanent record.

3848.2 Each oral notice required by § 3848.1 shall be followed by a written unusual incident report to the Department within twenty-four hours (24 hrs.) of the MUI or on the next business day. The MUI report shall be prepared in conformity with DMH Policy 480.1C by the staff member who witnessed or discovered the incident. The MHCRF shall ensure that a copy of the unusual incident report is maintained in the residence.

3848.3 The Operator, Residence Director or staff member shall prepare and submit to the Department a follow-up report within ten (10) days of the incident if full details were not provided in the initial report or if follow-up actions were needed.

3848.4 The Operator, Residence Director, or staff member who witnesses or discovers an unusual incident that does not rise to the level of a MUI, shall report the UI in writing, to the Department in conformity with DMH Policy 480.1C, within seven (7) business days of the incident and shall maintain a copy of the report at the MHCRF.

3848.5 In addition to filing the unusual incident report required by § 3848.2 each MHCRF shall thoroughly investigate all MUIs occurring at the MHCRF, including any allegations of mistreatment by a MHCRF employee, volunteer, resident, or any other person.

3848.6 The MHCRF shall promptly report findings made and actions taken as a result of the investigation to the Department. The investigation shall be documented in a report that is signed and dated by the Operator or Residence Director.

3849 RESIDENT STATUS PROCEDURES

3849.1 Each MHCRF shall provide a resident roster to DBH as admissions occur after initial licensure until at full capacity, whenever there is a new admission or change in residents within the facility, and at the time of application for annual licensure renewal.

3849.2 Each MHCRF shall maintain a “day-night book” in which emergencies and other unusual occurrences are recorded by the responsible staff person on duty. Staff on duty shall observe and assess the behavior and wellbeing of each resident prior to the end of his or her work day and shall record any emergencies, unusual occurrences or significant behavioral or health concerns in the day-night book, and also alert incoming staff.

3849.3 Each MHCRF shall inform the Department whenever a resident moves from the facility, is missing for twenty-four (24) hours or more, or left the facility to visit friends or relatives and has not returned within the expected time frame. This information shall also be recorded in the day and night book.

3849.4 Each MHCRF shall notify the Department of an increase in the occupancy level at the MHCRF.

3849.5 If a resident dies, the Owner, Residence Director, and staff on duty shall:

- (a) Not disturb the body;
- (b) Promptly notify the resident’s attending physician, next-of-kin, legal guardian, if any, the Department, the resident’s CSA treatment team or other mental health care provider, the District’s Metropolitan Police and the LTCO;
- (c) If the circumstances of the death are suspicious, the death is sudden, unexpected or unexplained, or the death is violent including accidental, homicidal or suicidal, promptly notify the Office of the Chief Medical Examiner; and
- (d) Abide by the District laws governing the investigation and reporting of deaths under the jurisdiction of the Medical Examiner.

3850 MINIMUM QUALIFICATIONS FOR PERSONS WORKING IN MHCRF

3850.1 Every Residence Director and staff person employed by the MHCRF shall meet the following requirements prior to commencing work at the facility and maintain compliance with these requirements:

- (a) Be at least eighteen (18) years of age;
- (b) Have a high school diploma or the equivalent;
- (c) Have at least one (1) year of experience working with persons with mental illness or one (1) year of education in human services, or a combination of education and experience totaling at least one year;
- (d) Have met criminal background check requirements as set forth in §§ 3850.10 through 3850.14;
- (e) Have had a physical examination completed by a licensed physician or other licensed and qualified health care provider, and submitted a certification that he or she is free of communicable disease to the MHCRF prior to commencing work and annually thereafter;
- (f) Have produced a current health certification that includes the result of an intra-dermal tuberculin skin test or chest x-ray indicating no active tuberculosis and documentation of any other screenings, immunizations or certifications that may be required by the Department of Health prior to commencing work and annually thereafter;
- (g) Have a current First Aid Certificate from the Red Cross or other organization recognized by the Department, including training in the Heimlich maneuver;
- (h) Have a current CPR (cardio-pulmonary resuscitation) Certificate from the Red Cross or other organization recognized by the Department;
- (i) Have a current FPM or FSM certification, if engaged in any food preparation at the facility, as provided in § 3834.1 and § 3834.2;
- (j) Meet any additional education, experience, licensure, or certification qualifications required pursuant to a current contract with the Department.

3850.2 The MHCRF shall also ensure timely renewal of all certifications required by §§ 3850.1 (e), (f), (g), (h) and (i), and attendance at periodic training as required by the Department, including attendance by new staff at the first Mental Health First Aide course offered by DBH after hire.

- 3850.3 A volunteer may provide additional support services at the MHCRF while staff is present if the volunteer meets the requirements of §§ 3850.1(a), (c), (d), (e) and (f), and, if engaged in food preparation, (i).
- 3850.4 No person who is not a staff member can reside at the MHCRF, unless:
- (a) The MHCRF has provided written notice to the Department that the person will be residing at the facility;
 - (b) The individual has met the requirements of §§ 3850.1 (a), (c), (d), (e) and (f), and, if engaged in food preparation, (i); and
 - (c) The individual's presence does not cause the MHCRF to exceed occupancy limits.
- 3850.5 A home health aide or personal care aide providing services to individual residents shall provide documentation of certification by the D.C. Board of Nursing pursuant to 17 DCMR, Chapter 93, and if providing services reimbursed by Medicaid, shall meet applicable requirements in 29 DCMR Chapter 51.
- 3850.6 Each personal care aide providing services to individual residents shall provide documentation of training and certification pursuant to 29 DCMR, Chapter 50, shall be employed by a District licensed home health agency in good standing with the D.C. Department of Health, and shall be supervised by a physician or nurse in accordance with 22-B DCMR, Chapter 39.
- 3850.7 An individual providing other support services at a MHCRF shall have the requisite professional license or certificate to perform the applicable service.
- 3850.8 No person shall provide services to residents at the MHCRF who does not meet the requirements of this section, except District of Columbia licensed health care professionals or identified members of the resident's CSA treatment team.
- 3850.9 No child or youth under the age of eighteen (18) shall reside in a MHCRF.
- 3850.10 Each MHCRF shall ensure that a criminal background check in accordance with the Criminal Background Check Act and any applicable District implementing regulations is obtained for each "unlicensed person" as defined in this chapter, who will work in the facility as an employee or contract worker or who will have unsupervised access to the facility and residents, including the Operator, the Residence Director, staff, or volunteers. Any unlicensed person who has not had a criminal background check must remain in the immediate presence of the Operator or a staff person at all times.
- 3850.11 The Operator shall ensure that the background check is completed and obtain verification that there is no disqualifying history prior to allowing an unlicensed

person to work at the facility or have unsupervised access to the facility and residents.

3850.12 No person, who has been convicted of a disqualifying crime within the seven (7) years preceding the background check or whose name appears on one of the following registers or websites shall work at the MHCRF as an Operator, Residence Director, contractor, employee or volunteer, or have unsupervised access to the facility and residents:

- (a) The Nurse Aide Abuse Registry maintained by the Mayor;
- (b) The Dru Sjodin National Sex Offender Public Website, (or other sex offender registry or website subsequently mandated by District rules), or
- (c) The D.C. Child and Family Services Agency Child Protection Register,

3850.13 The MHCRF shall ensure that each unlicensed person undergoes a criminal background check every four (4) years, unless excepted pursuant to 22-B DCMR, Chapter 47.

3850.14 If an MHCRF learns that a person is working at the facility or has unsupervised access to the facility and residents in violation of § 3850.12 and the Criminal Background Check Act, the MHCRF shall inform DBH within forty-eight (48) hours.

3851 ADDITIONAL QUALIFICATIONS APPLICABLE TO OPERATORS AND RESIDENCE DIRECTORS

3851.1 In addition to meeting the requirements of § 3850.1 for staff, the Operator and Residence Director shall:

- (a) Have at least two (2) years of experience in human services including (1) year of working with persons with mental illness prior to employment;
- (b) Have a Bachelor of Arts (“B.A.”) or Bachelor of Science (“B.S.”) degree or equivalent experience in addition to the experience required in (a).
- (c) Be able to demonstrate computer literacy and competence in budget planning, financial management, and program development;
- (d) Demonstrate, through references, documentation of education and experience, and compliance with this chapter, the ability to carry out the responsibilities set forth in §§ 3852 and 3853 prior to employment;

- (e) Participate in training, workshops, and seminars developed for Operators and Residence Directors by the Department within ninety (90) days after hire.

3851.2 If the Operator is incorporated, the Residence Director acting on behalf of the corporation shall meet the requirements of § 3851.1.

3852 MINIMUM STAFFING REQUIREMENTS

3852.1 Each MHCRF shall ensure that:

- (a) Every person who provides direct services to residents at the MHCRF or who regularly visits the MHCRF is properly screened to ensure he or she meets the requirements of § 3850 and that all credentials are documented and current, except that the MHCRF shall not be required to review the credentials of Department or certified CSA personnel who may periodically visit and provide services at the facility;
- (b) Qualified staff who are employed by and responsible to the Operator are on site at the MHCRF twenty-four hours (24 hrs.) hours a day, and that the MHCRF is properly supervised by competent staff at all times. These staff shall be capable of recognizing visible changes in each resident's physical and mental condition and taking responsible action in the case of an emergency;
- (c) The MHCRF maintains staffing ratios and staff qualifications consistent with:
 - (1) Its designated licensure category as set forth in §§ 3857, 3858 3859 and 3860;
 - (2) The terms of any current contract with the Department for residential services; and
 - (3) The needs of the residents as determined by a needs-assessment conducted using a Department-selected assessment instrument;
- (d) Its Residence Director is responsible for the overall management and operation of not more than five (5) MHCRFs housing not more than a total of thirty (30) residents, or such lesser number of MHCRFs and residents as may be required by contract with DBH;
- (e) Volunteers, home health aides, personal care aides reimbursed by Medicaid, and any other persons not employed by the MHCRF are not used as substitutes for MHCRF staff and are not left in charge of the facility;

- (f) Home health aides or personal care aides assigned to individual residents are not directed to perform and do not perform general staff duties at the facility;
- (g) Employees and volunteers providing services at the MHCRF are properly supervised, trained, and directed in applying MHCRF policies and procedures, including the MHCRF Emergency Preparedness Plan, COOP, health care emergency procedures, and the requirements of this chapter;
- (h) The facility is in compliance with District and federal wage and hour laws and staffing is adequate to ensure that no staff member is required to work an unreasonable number of hours without appropriate relief or staff rotation;
- (i) Staff require each person other than a resident who enters or leaves the facility, to sign in and sign out, with his or her name, title, reason for visiting and time in and out.

3852.2 Staff shall be on-site and provide supervision, meals, and assistance with the tasks of daily living to the residents. On-site staff shall also ensure the overall health, safety, and welfare of the residents.

3852.3 The MHCRF shall not require residents to attend day programs or activities or be absent from the MHCRF during the day. Residents shall be permitted to remain in the MHCRF, work, or participate in a structured day program or other daily activity.

3852.4 Each person who requires licensure, certification or registration to provide care to residents shall be licensed, certified, or registered under the laws and regulations of the District.

3852.5 Each employee shall be assigned duties consistent with his or her license, job description, training, and experience.

3853 RESPONSIBILITIES OF OPERATORS AND RESIDENCE DIRECTORS

3853.1 In addition to meeting the requirements of § 3852 and other requirements set forth in this chapter, each Operator and Residence Director shall be responsible for:

- (a) Supervising the day-to-day management and operation of the MHCRF, including supervision of staff, hiring and firing, purchase of food and supplies, arranging repairs, medication management, sanitation, safety, laundry, dietary services, and other services relating to the health and welfare of each resident;

- (b) Implementing the policies, practices, and procedures of the MHCRF, including required screening of prospective residents and staff;
- (c) Ensuring that all MHCRF procedures, records and reports required by §§ 3824, 3825, 3838, 3839, 3846, and 3854 are properly developed and maintained in one or more secure files at the facility;
- (d) Keeping the Department informed of any changes in the phone number, facsimile number, or e-mail address for the MHCRF;
- (e) Ensuring that residents are provided with a current telephone number where residents can, at all times, contact the MHCRF and the MHCRF staff person on duty to allow residents to inform the MHCRF and staff of an emergency or other concerns
- (f) Ensuring that the Department is provided with a current telephone number at which the MHCRF and MHCRF staff can be contacted at all times;
- (g) Ensuring that a current listing of the following telephone numbers is readily accessible to all staff:
 - (1) 911;
 - (2) The Comprehensive Psychiatric Emergency Program (CPEP);
 - (3) The Department's Office of Consumer and Family Affairs;
 - (4) The organization responsible for the protection and advocacy system under the federal Protection and Advocacy for Individuals with Mental Illness Act of 1986, 42 U.S.C. §§ 10801 *et seq.* Mentally Ill Individuals Act;
 - (5) Adult Protective Services; and
 - (6) The LTCO; and
- (h) Ensuring that staff can readily access individual information on residents including the information required by § 3846.

3853.2

The Operator and Residence Director shall ensure that no employee or volunteer provides direct services to residents while the person:

- (a) Is under the influence of alcohol or any mind-altering drug, substance, or combination thereof; or

- (b) Has a communicable disease that poses a health risk to residents and cannot be safely addressed by universal precautions.

3854 PERSONNEL RECORDS

3854.1 Each MHCRF shall have written personnel policies, which shall be available to each staff member and shall include the following:

- (a) The hours of work, policies regarding on duty requirements, compensation time, night-time duties, work relief provisions for live-in employees, vacations, sick leave, insurance, and other benefits, if any;
- (b) A description of the duties for each category of employee;
- (c) Provisions for new staff orientation and annual in-service training of staff; and
- (d) Provisions for disciplinary action or termination for illegal activity, negligence, or misconduct that occurs on the job.

3854.2 Each MHCRF shall maintain accurate personnel records for each Residence Director, staff member, and volunteer in a secure location at the facility that shall include the following information:

- (a) Name, address, gender, and social security number;
- (b) Current professional license or registration number, if any;
- (c) Record of education, training, prior employment, and evidence of attendance at orientation, training, workshops, and seminars sponsored by the Department;
- (d) Current health certification, including results of an annual intra-dermal tuberculin skin test or chest x-ray indicating no active tuberculosis;
- (e) Verification of previous employment, if any;
- (f) Documentation that the employee or volunteer has had a criminal background check in accordance with § 3850 and has not been convicted of a disqualifying crime, in accordance with the Criminal Background Check Act and 22-B DCMR, Chapter 47;
- (g) Documentation of certification in emergency first aid, CPR, and the Heimlich Maneuver;

- (h) Documentation of certification as an FPM or FSM if engaged in food preparation;
- (i) Dates of employment;
- (j) Position held by the employee;
- (k) Copy of the employment agreement between the MHCRF and employee, which shall include basic terms of employment including, at a minimum:
 - (1) Salary or hourly rate of pay;
 - (2) Hours;
 - (3) Duties;
 - (4) Benefits; and
 - (5) A statement that employees hold a position of trust in relation to residents, that employees shall not harass, exploit, or physically, emotionally, or sexually abuse residents, or have sexual relations with residents, and that any violation of these prohibitions shall be grounds for immediate termination and may also result in a report to Adult Protective Services and the police.

3854.3 Each MHCRF shall also maintain a record of the dates and times that each volunteer is present or assisting at the facility.

3854.4 Each MHCRF shall maintain payroll records and weekly staff schedules for each Residence Director and employee for a period of at least six (6) months.

3854.5 Each MHCRF shall maintain copies of any agreements with contractors or consultants related to the operation of the MHCRF.

3855 FINANCIAL RECORDS

3855.1 Each MHCRF shall maintain all financial records related to the building where the MHCRF is located and the MHCRF business as provided in this section.

3855.2 Financial records related to the building where the MHCRF is located shall include all mortgage, rent, utilities, tax and insurance payments, home repairs, and renovations and shall be maintained in an orderly file for a period of at least three (3) years.

- 3855.3 Other business financial records shall include receipts for food purchases, household supplies, and pesticides, and shall be maintained in an orderly file for at least one (1) year.
- 3855.4 Financial records shall be maintained at the facility or at the Operator's business office in the District of Columbia and shall be available for inspection by the Director or provided to the Director upon request.
- 3855.5 Where an Operator operates several facilities and buys food, pesticides, or other household supplies for several facilities at one time, the Operator shall document on the financial records and receipts the dollar amount allocable to each MHCRF.
- 3855.6 Each MHCRF shall submit a financial report to the Director every six (6) months in accordance with DBH policies and directives and any current contract between DBH and the MHCRF Operator.

3856 PAYMENT OF DISTRICT FUNDS

- 3856.1 No District of Columbia funds for room and board shall be paid to any MHCRF or to any person residing in a MHCRF for his or her maintenance in that facility unless the MHCRF is licensed pursuant to this chapter.
- 3856.2 No person shall be referred by the Director or designee for the Optional State Payment who is residing in an unlicensed facility. Further, no unlicensed facility, rooming house, or boarding house shall be entitled to receive the Optional State Payment for the maintenance of a person residing in the facility, unless the facility is licensed pursuant to this chapter.

3857 SUPPORTED RESIDENCE

- 3857.1 A Supported Residence (SR) shall meet the minimum requirements for a home-like living environment, staffing, and resident care set forth in §§ 3800, 3850 and 3852.
- 3857.2 An SR shall be appropriate for a maximum of eight (8) adults with a principal diagnosis of serious and persistent mental illness who require twenty-four hour (24 hr.) supervision. A higher number of residents may be allowed where "grand-fathered" or specifically authorized by the Director pursuant to § 3800.5.
- 3857.3 Each person seeking residential placement in an SR shall have a principal diagnosis of mental illness and be in need of twenty-four hour (24 hr.) staff supervision to assist with ADLs, meals, lodging, and recreation. Residents may remain in the residence, work, or participate in a structured day program, or other daily activity. Attendance at a day program shall not be mandatory for persons seeking placement in an SR.

- 3857.4 There shall be an assigned Residence Director for each SR who shall provide or arrange for supervision and coordinate services to ensure that each resident's health, safety, and welfare are protected.
- 3857.5 An SR shall maintain a minimum ratio one (1) staff member for each eight (8) residents or fewer, at all times.
- 3857.6 An SR shall provide awake supervision a minimum of sixteen (16) hours a day, and shall provide awake supervision during the night when required to adequately address the needs of one or more residents experiencing a period of destabilization, an emergency, or other situation requiring prompt attention.
- 3857.7 The resident's treatment team and the facility's Residence Director, in conjunction with the Department, shall determine whether a person is appropriately placed in an SR.
- 3857.8 The Residence Director and staff at an SR shall also meet any additional qualifications or higher staff-to-resident ratios required pursuant to a current contract between the MHCRF and the Department for SR services.

3858 SUPPORTED REHABILITATIVE RESIDENCE

- 3858.1 A Supported Rehabilitative Residence (SRR) shall provide on-site rehabilitative services in addition to meeting the minimum MHCRF requirements for a home-like environment, staffing, and resident care set forth in §§ 3800, 3850 and 3852.
- 3858.2 An SRR shall be appropriate for a maximum of eight (8) adults (unless a higher number is specifically authorized pursuant to § 3800.5) with a principal diagnosis of serious and persistent mental illness who require twenty-four hour (24 hr.) supervision and on-site rehabilitation and who may require specialized services on-site.
- 3858.3 Each person seeking residential placement in an SRR shall have a principal diagnosis of mental illness, be in need of twenty-four hour (24 hr.) staff supervision to assist with ADLs, meals, lodging, and recreation, and shall also require on-site rehabilitation. Residents may remain in the residence, work, or participate in a structured day program or other daily activity. Attendance at a day program shall not be mandatory for persons seeking placement in an SRR.
- 3858.4 Specialized services, such as medication administration, limited or intermittent nursing care, or physical therapy, shall be provided as necessary on a scheduled basis as established in the resident's IRP. These services shall be provided by appropriate and qualified:
- (a) District of Columbia licensed health care professionals; or

- (b) Nursing assistive personnel, such as Trained Medication Employees, Medication Aides, or Certified Nursing Assistants certified by the D.C. Board of Nursing and working within the scope of their certification with required supervision.
- 3858.5 An SRR shall maintain a staff to resident ratio of at least one (1) to eight (8), twenty-four hours (24 hrs.) per day, and at least two (2) staff persons for every five (5) to eight (8) residents during periods of peak activity as provided in §§ 3858.6 and 3858.7. If there are four (4) or fewer residents, a second staff person is not required, except as provided in § 3858.8
- 3858.6 An SRR shall determine the hours of peak activity based upon the hours that meals are served and when most residents are home and awake. At a minimum, the following are peak hours for purposes of complying with this section and receipt of the per diem payments: 6:00 a.m. to 9:00 a.m. and 5:00 p.m. to 8:00 p.m., Monday through Friday, and 8:00 a.m. to 8:00 p.m. on weekends and holidays.
- 3858.7 The Department may approve a written MHCRF staffing plan with different peak hours upon a showing that the MHCRF is providing adequate staffing coverage based upon the residents' individual schedules. The SRR shall maintain a record of any changes in the peak activity hours and work schedules and the reason for the changes.
- 3858.8 An SRR shall provide awake supervision a minimum of sixteen hours (16 hrs.) a day and shall provide awake supervision twenty-four hours (24 hrs.) a day when required to adequately address the needs of one or more residents experiencing a period of destabilization or residents who require twenty-four hour (24 hr.) awake supervision on an ongoing basis in order to be maintained within the SRR and in the community.
- 3858.8 An SRR shall have the capacity to provide one-to-one support to residents on a periodic basis, as needed, to care for and safeguard the resident and other residents of the facility.
- 3858.9 In addition to the general staff requirements in this chapter, staff shall be responsible for providing rehabilitative services, therapeutic support, and management consistent with the resident's IRP. Staff shall provide a consistent and therapeutic environment where through daily contact and interaction the resident's needs and progress are assessed.
- 3858.10 Rehabilitation in an SRR shall be coordinated under the direction of the resident's designated clinical treatment team in conjunction with the Residence Director and facility staff.

- 3858.11 There shall be an assigned Residence Director who shall provide or arrange for supervision and coordination of rehabilitative and other required services at the SRR to ensure that each resident's health, safety, and welfare are protected.
- 3858.12 The resident's clinical treatment team and the facility's Residence Director, in conjunction with the Department shall determine whether a person is appropriately placed in an SRR.
- 3858.13 The Residence Director and staff at an SRR shall also meet any additional qualifications or higher staff-to-resident ratios required pursuant to a current contract between the MHCRF and the Department for SRR services.

3859 INTENSIVE RESIDENCE

- 3859.1 An Intensive Residence (IR) shall provide on-site medical assistance, nursing, and rehabilitative services, in addition to meeting the minimum MHCRF requirements for a home-like environment, staffing, and resident care set forth in §§ 3800, 3850 and 3852.
- 3859.2 An IR is appropriate for a maximum of eight (8) adults with a principal diagnosis of serious and persistent mental illness who have special needs due to co-morbid medical conditions that cannot be adequately provided for in an SR or SRR. These residents require twenty-four hour (24 hr.) staff supervision and enhanced care, and may need periodic one-to-one support for medical conditions or due to the intensity of psychiatric symptoms.
- 3859.3 An IR shall have a staff-to-resident ratio of two (2) to eight (8), for sixteen hours (16 hrs.) a day during awake hours, whenever a resident is present. Additional staff shall be available during times of peak activity.
- 3859.4 An IR shall have the capacity to provide one (1) on one (1) staffing when necessary as determined by the resident's treatment plan and the immediate needs of the resident and other residents in the facility.
- 3859.5 Awake staff is required twenty-four hours (24 hrs.) per day in an IR.
- 3859.6 Staffing shall be provided in accordance with the special program needs of residents including geriatric, dual diagnosis, behavioral, or nursing care, and may include medical, psychiatric, nursing, behavioral, social, and recreational services.
- 3859.7 The Residence Director or a staff member shall be present whenever residents are at the residence. In addition, the Residence Director or designee shall arrange for clinical back-up services. The mental health professional designated to provide back-up services shall:
- (a) Be available by telephone at all times;

- (b) Be able to reach the residence within thirty (30) minutes in case of an emergency; and
- (c) Be identified by name with an emergency telephone number provided to residents and staff.

3859.8 Each Residence Director of an IR shall meet the requirements of § 3851 and shall also meet any additional professional license or experience qualifications, or higher Residence Director-to-resident ratios required pursuant to a current contract between the MHCRF and the Department for IR services.

3859.9 Each IR shall have a full-time Registered Nurse at the facility a minimum of eight hours (8 hrs.) per day. In addition, a Licensed Practical Nurse (LPN) shall be on duty at the facility the remaining sixteen hours (16 hrs.) a day or whenever an RN is not on duty.

3859.10 “On call” RN nursing consultation, supervision, and support shall be available to the LPN and any other staff on duty whenever an RN is not on duty at the facility. The LPN shall be under the general supervision of a Registered Nurse at all times.

3859.11 The resident's clinical treatment team and the facility’s Residence Director in conjunction with the Department, shall determine whether a person is appropriately placed in an IR.

3859.12 An IR shall be in compliance with applicable requirements under the Americans with Disabilities Act, including accessibility requirements for bedrooms, living spaces and bathrooms.

3860 TRANSITIONAL RESIDENTIAL BEDS

3860.1 Transitional residential beds shall be located in a Supported Residence facility and shall meet all requirements of a SR MHCRF; except that a SR-Transitional may have up to ten (10) beds in a single facility and may maintain a staff to resident ratio of one (1) to (10).

3860.2 A SR-Transitional is a MHCRF designed for individuals who currently require the care and supervision provided in a SR, but who have been assessed by their treatment team and DBH as having the potential to live independently with necessary recovery and transition planning assistance.

3860.3 Individuals appropriate for placement in a SR-Transitional include adults who may be at risk of becoming homeless, have been recently hospitalized, have been dually diagnosed with a substance abuse disorder, or otherwise lack essential skills necessary to move immediately to permanent supported housing or independent living in the community.

- 3860.4 The length of stay in a SR-Transitional is intended to range from six (6) months to a maximum of one (1) year, based upon the temporary resident's ability to accept a permanent living arrangement. The one (1) year maximum period can be extended by the Department on a monthly basis for cause, upon request by the MHCRF.
- 3860.5 Not more than ten (10) transitional residential beds shall be located in one (1) facility, unless a waiver is specifically authorized by the Director.
- 3860.6 A SR-Transitional shall assess the resident's needs upon admission and develop a transition plan for each resident in coordination with the resident and his or her CSA. The transition plan shall include specific goals and objectives and the specific services, and behavioral and psycho-educational supports that will be provided to enable the resident to transition to supported housing or independent living.
- 3860.7 A SR-Transitional shall meet all requirements and provide all deliverables required by any contract between the Department and the transitional MHCRF, in addition to meeting all requirements of this chapter.
- 3860.8 Notwithstanding § 3860.1, the Department may require by contract that a MHCRF with transitional beds maintain a higher staff to resident ratio than a one (1) to ten (10) staff to resident ratio. Failure to comply with the ratio mandated by contract shall be a violation of this section.
- 3860.9 Each SR-Transitional shall work with the resident, the resident's treatment team and the Department to ensure that the individual is appropriately placed in a SR-Transitional and is transferred to more permanent housing as soon as appropriate.
- 3860.10 When applying for a MHCRF license pursuant to § 3805, the Operator shall specify that it wishes to receive a license for a SR-Transitional.

3861 MHCRF TRANSFER, DISCHARGE, AND RELOCATION

- 3861.1 The MHCRF shall promptly notify the Director, the resident's CSA treatment team or other mental health care provider, and the resident's physician when the resident's physical or mental condition changes and the resident requires services or supports that may require discharging, or transferring the resident, or relocating the resident within the facility.
- 3861.2 Every discharge, transfer, or relocation of any resident shall be in full compliance with title III of the Nursing Home and Community Residence Facility Residents' Protection Act ("CRF Residents' Protection Act"), including the MHCRF's reasons for seeking to transfer, discharge, or relocate the resident, and all notice and hearing requirements. The discharge, transfer, or relocation of any resident

shall also comply with the requirements of the DBH Model Discharge Plan Policy.

- 3861.3 A discharge, transfer, or relocation of any resident shall be consistent with the resident's IRP.
- 3861.4 The discharge, transfer, or relocation of a resident of a MHCRF that receives contract funds from the Department shall be subject to prior approval by the Director in addition to the other requirements of this section.
- 3861.5 Prior to the issuance of a twenty-one (21) day notice for an involuntary transfer or discharge, the MHCRF shall schedule a case conference with the resident and a representative of the CSA and shall notify the Director and the LTCO of the date and time of the meeting.
- 3861.6 Notwithstanding §§ 3861.2, 3861.4, and 3861.5, a resident may be temporarily transferred from the MHCRF for voluntary or involuntary hospitalization.
- 3861.7 If the MHCRF wants to permanently transfer, discharge, or relocate a resident who was temporarily transferred for hospitalization, the MHCRF shall be required to provide the resident with written notice as required by the CRF Residents' Protection Act, the Department's Model Discharge Policy, and this section, unless the MHCRF has received written notice from the resident and resident's representative (if any) that the resident will not be returning to the facility and arrangements have already been made between the resident or resident's representative and the MHCRF for removal of the resident's belongings.
- 3861.8 A MHCRF shall also comply with any additional requirements for transferring or discharging residents and for allowing residents to return to a facility after hospitalization or other absence from the facility, required by a current contract for MHCRF residential services between the Department and the MHCRF.
- 3861.9 A resident who receives Supplemental Security Income and is admitted to a public institution, the primary purpose of which is the provision of medical or psychiatric care, or to a public or private Medicaid-certified medical treatment facility, shall be allowed to return to the MHCRF within ninety (90) days if:
- (a) A physician has certified in writing to the Social Security Administration that he or she expects the recipient to be medically confined for ninety (90) consecutive days or less;
 - (b) The resident's Supplemental Security Income has been continued during the period of hospitalization so that the resident may continue to maintain a home or living arrangement;

- (c) The MHCRF is receiving payment for the room occupied by or held for the resident; and
- (d) The resident's needs are consistent with services provided by the MHCRF as determined by the resident's treatment team in conjunction with the resident.

3861.10 In the case of an emergency situation caused by a natural disaster, extreme heat or cold, extended power outage, or other emergency where the MHCRF cannot safely care for residents at the facility and residents need to be temporarily transferred immediately, the MHCRF shall call both the LTCO and the Department and advise them of the situation and the actions the MHCRF plans to take. If the MHCRF is not able to make direct contact, and time or conditions do not permit it to obtain advance authorization, the MHCRF shall leave a detailed message at both numbers, including the address or addresses to which residents are being relocated, and a phone number where the Operator can be reached.

3861.11 Where the MHCRF temporarily transfers residents under the conditions described in § 3861.10 without advance authorization by the Ombudsman, without the Department's participation, and without a variance granted by the Department pursuant to § 3812, the Operator shall make oral and written contact with the Department and the Ombudsman as quickly as possible after the temporary transfer of residents. The MHCRF shall cooperate with the Department and the Ombudsman to facilitate inspections, comply with legal requirements, and address resident needs.

3861.12 Whenever an Operator needs to temporarily transfers residents under the conditions described in § 3861.10, the Operator shall ensure that the temporary transfer location or locations are:

- (a) In the District of Columbia;
- (b) Safe for occupancy; and
- (c) Have adequate bathroom facilities and adequate accommodations for eating and sleeping.

3861.12 If occupancy limits are exceeded at another MHCRF to accommodate residents who have to be transferred, the Operator shall ensure that the temporary increased occupancy does not create a hazard or danger for residents, and that resident needs are met.

3899 DEFINITIONS

3899.1 When used in this chapter, the following terms shall have the meanings ascribed:

- “**Activities of daily living**” – include ambulating and transferring, bathing, dressing, grooming, toileting, and eating.
- “**Administrative Procedure Act**” – the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code §§ 2-501 *et seq.*).
- “**Adult Protective Services Act**” – the Adult Protective Services Act of 1984, effective March 14, 1985 (D.C. Law 5-156; D.C. Official Code §§ 7-1901 *et seq.*).
- “**Americans with Disabilities Act**” – The Americans with Disabilities Act of 1990, approved July 26, 1990 (Pub. L. 101-336, 104 Stat. 328; 42 U.S.C §§ 12101 *et seq.*).
- “**Applicant**” – an individual, corporation, partnership, or agency that applies for a license or renewal license to operate a MHCRF, is the Operator of the MHCRF business, and has an ownership or leasehold interest in the property where the MHCRF will be located.
- “**Awake supervision**” – supervision by a staff person who is no sleeping or resting, is alert, on duty, and is prepared to address the needs of residents and any situations which may arise including matters requiring prompt attention and emergencies.
- “**Behavioral Health Establishment Act**” -- the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-0061; D.C. Official Code §§ 7-1141 *et seq.*).
- “**Business days**” – calendar days excluding Saturdays, Sundays, and legal holidays.
- “**Civil Infractions Act**” – the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801 *et seq.*).
- “**Civil Infractions Rules**” – Title 16 DCMR, Chapters 31, 32 and 35.
- “**Clean Hands Act**” – the Clean Hands Before Receiving A License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118; D.C. Official Code §§ 47-2861 *et seq.*).
- “**Community Residence Facility**” – a facility that provides a sheltered living environment for individuals, eighteen (18) years of age or older, who desire or need such an environment because of their physical, mental, familial, social, or other circumstances, and who are not in the custody of

the Department of Corrections. *See* § 2 of the Licensure Act (D.C. Official Code § 44-501). A community residence facility is included within the definition of a “community-based residential facility” under the District of Columbia Construction Codes Supplement, 12-A DCMR, § 202.

“Consumer” or “Consumers” – person or persons who seek or receive mental health services or supports funded or regulated by the Department of Behavioral Health.

“Consumers’ Rights Act” – the Mental Health Consumers’ Rights Protection Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code §§ 7-1231.01 *et seq.*)

“Core Services Agency” or “CSA” – a community-based provider of mental health services and mental health supports that is certified by the Department and that acts as a clinical home for consumers of mental health services.

“Criminal Background Check Act” – Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code §§ 44-551 *et seq.*)

“DCRA” – the District of Columbia Department of Consumer and Regulatory Affairs.

“Department” – the Department of Behavioral Health.

“Dietitian” – an individual who meets the qualifications and standards for membership in the American Dietetic Association and who applies the principles of nutrition and management to menu planning, food preparation, and service.

“Director” – the Director of the Department of Behavioral Health or the Director’s designee.

“Discharge” – termination of the resident’s stay at the MHCRF, due to action taken by the MHCRF or the Mayor, or by the choice of the resident consumer.

“District of Columbia Construction Codes” – Title 12 DCMR, “Construction Codes Supplement of 2013” or currently adopted version of Construction Codes.

“District of Columbia Fire Prevention Code” – Title 12-H DCMR, Fire Code Supplement of 2013.

“District of Columbia Housing Code” – Title 14 DCMR.

“District of Columbia Property Maintenance Code” – Title 12-G DCMR, Property Maintenance Code Supplement of 2013.

“Disqualifying crime” – a conviction of one of the following crimes within seven (7) seven years prior to a criminal background check: (1) murder, attempted murder, or manslaughter; (2) arson; (3) assault, battery, assault and battery, assault with a dangerous weapon, mayhem, or threats-to-do bodily harm; 4) burglary; 5) robbery; 6) kidnapping; 7) theft, fraud, forgery, extortion or blackmail; 8) illegal use or possession of a firearm; 9) rape, sexual assault, sexual battery, or sexual abuse; 10) child abuse or cruelty to children; 11) unlawful distribution, or possession with intent to distribute, of a controlled substance; or 12) the equivalent of any of the foregoing in another state or territory.

“Food Code” – District of Columbia Food and Food Operations Code, Title 25-A DCMR.

“Habitable room” – an undivided, enclosed space with natural light and ventilation, including a room for living, eating, or sleeping, that complies with applicable District of Columbia Building and Housing Codes regulations.

“Home-like environment” – a setting in which the amenities and living areas are comfortable and suitable for long-term residence by individuals and are similar to those found in typical private residences or apartments.

“HIPAA” – the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (Pub. L. 104-191, 110 Stat. 1936), and the HIPAA Standards for Privacy of Individually Identifiable Health Information (the Privacy Rule), 45 C.F.R. Parts 160 and 164.

“Human Rights Act” – the District of Columbia Human Rights Act, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code §§ 2-1401 *et seq.*).

“Independence” – the quality of being self-reliant and free from the control of others.

“Independent living” – living alone or with friends or relatives in a private home, apartment, or rooming house.

“Individual Recovery Plan” or “IRP” – a written plan for a resident’s continued treatment and care that includes goals, objectives, and interventions

developed by a multi-disciplinary treatment team in consultation with the resident.

“Licensee” – a person or entity to whom a license to operate a MHCRF has been issued.

“Licensure Act” – the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 44-501 *et seq.*).

“Limited or intermittent nursing care” – simple nursing care provided on a periodic basis in a MHCRF, including blood pressure monitoring, insulin injections, and dressing changes, provided by a licensed RN or LPN, or under the supervision of a RN or LPN by a D.C. Board of Certified Nursing Assistant, Medication Aide, or other certified nursing assistive personnel, within the scope of their certification.

“Long-Term Care Ombudsman” or “LTCO” – the person designated under the Long-Term Care Ombudsman Act and referenced in § 101(7) of the Nursing Home and Community Residence Facility Residents Protection Act of 1985 to perform the functions of the Long-Term Care Ombudsman in the District of Columbia.

“Long-Term Care Ombudsman Act” – the District of Columbia Long-Term Care Ombudsman Program Act of 1988, effective March 1989 (D.C. Law 7-218; D.C. Official Code §§ 7-701.01 *et seq.*).

“Major unusual incident” (“MUI”) – An adverse event that can compromise the health, safety, or welfare of persons, employee misconduct, fraud, and actions that are violations of law or policy.

“Mayor” – the Mayor of the District of Columbia or his or her authorized designee.

“Medication Aide” – an individual who has been certified by the District of Columbia Board of Nursing to perform nursing assistive tasks and to administer medication under the supervision of a licensed nurse. A Medication Aide has met education, experience, and examination requirements pursuant to rules to be adopted by the D.C. Board of Nursing.

“Mental Health Information Act” – the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law. 2-136; D.C. Official Code §§ 7-1201.01 *et seq.*).

- “Mental health professional”** – a person who is specifically trained and, if required, licensed to provide services to mentally ill persons.
- “MHCRF”** – refers to Mental Health Community Residence Facility, the Operator, Residence Director and staff members, as applicable.
- “Non-ambulatory”** – unable to walk or move from one place to another without personal or mechanical assistance.
- “Nursing Home and Community Residence Facility Residents’ Protection Act”** - the Nursing Home and Community Residence Facility Residents’ Protection Act of 1985, effective April 18, 1986 (D.C. Law 6-108; D.C. Code §§ 44-1001.01 *et seq.*).
- “OAH Rules of Practice and Procedure”** – District of Columbia Office of Administrative Hearings Rules of Practice and Procedure, Title 1, Chapter 28 of the District of Columbia Municipal Regulations. (1 DCMR Chapter 28)
- “Operator”** – the person or entity that owns the MHCRF business and who applies for and holds an MHCRF license as provided in §§ 3802.1 and 3805.1.
- “Optional State Payment”** – A supplemental payment for room, board, and care paid to District of Columbia residents who receive Supplemental Security Income and who live in a community residence facility or an assisted living facility as provided for in Section 549 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.49).
- “Personal assistance”** – help with grooming, bathing, eating, walking, toileting, budgeting, making appointments, arranging transportation, and other activities associated with daily living. Personal assistance may involve supervision, prompting, oversight, or hands-on care.
- “Physical restraint”** – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the consumer’s body that he or she cannot easily remove and that restricts his or her freedom of movement or normal access to his or her body.
- “Primary diagnosis of mental illness”** – identification of a mental, behavioral, or emotional disorder as described in Section 102(24) of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.02 (24)) as a person’s predominant disease requiring ongoing care.

“Provider” – a person, agency, or organization that provides health or support services to a resident, including the Department, Core Services Agencies, the Comprehensive Crisis Emergency Program, agencies that contract with the District of Columbia to provide mental health, behavioral health, medical health, and other services, hospitals, private clinics, and Medicaid providers.

“Provisional license” – a license issued for not to exceed ninety (90) days to new MHCRFs to afford the Mayor sufficient time and evidence to evaluate whether the new facility is capable of complying with this chapter, or issued to a regular license holder with deficiencies as provided in this chapter.

“Regular license” – a license issued for not to exceed one (1) year to a MHCRF that is in compliance with all applicable laws and regulations.

“Relocation” – the movement of a resident from one part or room of the MHCRF where he or she resides to another, whether voluntary or involuntary, pursuant to the Nursing Home and Community Residence Facility Residents’ Protection Act.

“Representative Payee” – an individual or organization appointed by the Social Security Administration to receive Social Security or Supplemental Security Income (SSI) benefits for someone who cannot manage or direct someone else to manage his or her money. The main responsibilities of a representative payee are to use the benefits to pay for the current and foreseeable needs of the beneficiary, properly save any benefits not needed to meet current needs, and keep records of expenses.

“Residence Director” – the individual responsible for the overall management and operation of the MHCRF, including hiring and firing, purchase of food and supplies, arranging repairs, and supervision of employees and volunteers. As provided in § 3804.1(d), a distinct Residence Director is required if the Operator is a corporation or partnership, or if the Operator does not personally manage the facility.

“Resident” – a consumer who lives in a MHCRF and has or should have a Room, Board and Care Agreement with the Owner.

“Resident’s representative” –

- (A) Any person who is knowledgeable about a resident’s circumstances and has been designated by that resident in writing to represent him or her;

- (B) Any person other than a facility who has been appointed by a court either to administer a resident's financial or personal affairs or to protect or advocate for a resident's rights; or
- (C) The Long-Term Care Ombudsman or his or her designee, if no person has been designated or appointed in accordance with subparagraphs (A) or (B) of this paragraph.

“Restraint” – the application of physical force to stop or limit a person's free movements or a drug that is used to stop, prevent, or limit a person's free movements. A physical hold (meaning the application of physical force without the use of any mechanical device to stop, prevent, or limit a person's free movements) for a duration of fifteen (15) minutes or less is not a restraint.

“Restricted license” – a license issued for not to exceed ninety (90) days which permits operation of a MHCRF but includes restrictions on the facility's operations including a prohibition against the MHCRF accepting new residents or from delivering services that it would otherwise be authorized to deliver.

“Seclusion” – the involuntary confinement of a resident alone in a room or an area from which the resident is either physically prevented from leaving, or from which the resident is led to believe he or she cannot leave at will.

“Substantial compliance” – meets most important requirements of the rules, has only a small number of outstanding deficiencies, and is without deficiencies or violations that are life threatening, pose an immediate or serious danger to the residents or facility staff, or jeopardize public health, safety or welfare.

“Transfer” – the voluntary or involuntary movement of a resident from one MHCRF to another facility including another CRF, nursing home, or assisted living facility pursuant to the Nursing Home and Community Residence Facility Residents' Protection Act. A “transfer” does not include a temporary transfer either to a hospital for treatment or due to an emergency condition at the facility.

“Trained Medication Employee” – an individual employed to work in a program, including a MHCRF, who has successfully completed a training program approved by the District of Columbia Board of Nursing and is certified to administer medication to MHCRF residents under the general supervision of a registered nurse licensed in the District of Columbia in accordance with Title 17 DCMR Chapter 61.

“Unlicensed person” – A person not licensed by one of the health occupation boards 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 §§ 3-1201.01 *et seq.*), Chapter 12 of D.C. Official Code Title 3, who functions in a complementary or assistance role to licensed health care professionals in providing direct patient care or in performing common nursing tasks. The term “unlicensed person” includes nurse aides, orderlies, assistant technicians, attendants, home health aides, personal care aides, medication aides, geriatric aides, or other health aides. The term “unlicensed person” also includes housekeeping, maintenance, and administrative staff or contractors who will foreseeably come in direct contact with patients.

“Unusual incident” – Any significant occurrence or extraordinary event different from the regular routine or established procedure that does not rise to a MUI.

Chapter 38, COMMUNITY RESIDENCE FACILITIES FOR MENTALLY ILL PERSONS, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is repealed in its entirety.

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Ms. Atiya Frame-Shamblee, Esq., Deputy Director of Accountability, Department of Behavioral Health at 64 New York Avenue, NE, 3rd Floor, Washington, D.C. 20002-4347. Interested persons may also send comments electronically to Atiya.Frame@dc.gov. Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the Department of Behavioral Health’s website at www.dbh.dc.gov.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2012 Repl.)), hereby gives notice of corrections to the Notice of Proposed Rulemaking issued by the Public Employee Relations Board, and published in the *D.C. Register* on June 5, 2015 at 62 DCR 8066.

Information regarding the submission of comments on the proposed rulemaking was omitted. Comments on the proposed rulemaking shall be submitted in writing to Erica J. Balkum, Public Employee Relations Board, 1100 4th Street, SW, Suite E630, Washington, D.C. 20024; sent by an email to perb@dc.gov; or sent by fax to (202) 727-9116. Comments shall be submitted within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained by writing to Clarene Phyllis Martin, Executive Director, Public Employee Relations Board, 1100 4th Street, SW, Suite E630, Washington, D.C., 20024.

DEPARTMENT OF MOTOR VEHICLES**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Motor Vehicles (“Director”), pursuant to the authority set forth in Sections 1 and 7 of An Act to provide for annual inspection of all motor vehicles in the District of Columbia, approved February 18, 1938 (52 Stat. 78; D.C. Official Code §§ 50-1101 and 50-1107 (2014 Repl.)) and Mayor’s Order 94-176, dated August 2, 1994, hereby gives notice of the intent to adopt the following rulemaking that will amend Chapter 6 (Inspection of Motor Vehicles) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (“DCMR”).

The proposed rules will revise the safe operating condition and compliance inspection of taxicabs and other vehicles for hire from semi-annual to annual and will modify the inspection fee to seventy dollars (\$70).

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

Chapter 6, INSPECTION OF MOTOR VEHICLES, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:**Section 601, INSPECTION REQUIREMENTS, is amended as follows:****Subsection 601.6 is amended as follows:**

Subparagraph (2) is amended by striking the word “semiannually” and inserting the word “annually” in its place.

Subsection 601.8 is amended as follows:

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

Paragraph (i) is amended to read as follows:

- (i) Taxicabs and other vehicles for hire: \$70;

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

- (j) All other motor vehicles: \$35.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024 or online at www.dcregs.dc.gov. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposal may be obtained, at cost, by writing to the above address.

OFFICE OF TAX AND REVENUE

NOTICE OF PROPOSED RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR), of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code § 47-1335 (2012 Repl.), Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; Pub. L. 109-356; D.C. Official Code § 1-204.24d (2014 Repl.)), and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of its intent to amend Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (DCMR).

The proposed amendments to Section 316 (Real Property Tax Sale Redemption and Tax Deed Issuance Rules) are necessary to be consistent with recent changes to D.C. Official Code §§ 47-1330, *et seq.*, related to the conduct and procedure of real property tax sales in the District.

OTR gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 3, REAL PROPERTY TAXES, of Title 9 DCMR, TAXATION AND ASSESSMENTS, is amended as follows:

Section 316, REAL PROPERTY TAX SALE REDEMPTION AND TAX DEED ISSUANCE RULES, is amended by striking the subsection in its entirety and replacing it with the following:

- 316.1 This section shall apply to any tax sale conducted pursuant to Chapter 13A of Title 47 of the D.C. Official Code.
- 316.2 Tax Sale.
- (a) A prospective tax sale purchaser shall have on deposit with the Cashier's Office of the D.C. Treasurer twenty percent (20%) of the total purchase price.
 - (b) If a prospective tax sale purchaser does not have twenty percent (20%) of the purchase price on deposit, a sale cannot be completed, and the property will be re-auctioned immediately or as soon as possible.
 - (c) If a prospective tax sale purchaser bids on multiple properties, the deposit on record shall be applied to his or her winning bids in the consecutive order that the bids were placed. If a prospective tax sale purchaser bids on a property for which the deposit or any remaining deposit is insufficient,

the property for which there is insufficient deposit shall be re-auctioned.

- (d) Final payment for all properties purchased is due within five (5) business days from the last day of the tax sale.
- (e) If final payment is not received within five (5) business days, 20% of the remaining deposit will be forfeited to the District and the sale of the property will be voided. If a tax sale purchaser purchased multiple properties and can only make a partial payment, the Office of Tax and Revenue will only select as sold to the tax sale purchaser as many of the properties as sold in consecutive order whose combined purchase price does not exceed the amount timely paid by the tax sale purchaser.

316.3 Forbearance.

A real property owner may apply to forbear a tax amount. Such application shall be submitted to OTR up to thirty (30) days prior to the first day of the tax sale. OTR shall review and either approve or deny the application within ninety (90) days of receipt of the application. The application shall be approved if the real property receives a homestead deduction and the tax amount to be sold is less than or equal to seven thousand, five hundred dollars (\$7,500). OTR, in its discretion, may also approve an application that demonstrates hardship even if the real property is not receiving the homestead deduction, or the tax amount to be sold is more than \$7,500. Upon approval of an application for forbearance, OTR shall remove the real property from the tax sale to which the approved forbearance corresponds or, if the tax sale has already occurred, cancel the sale. Penalties and interest shall continue to accrue on any tax amounts subject to forbearance from tax sale.

316.4 Redemption prior to the initiation of a foreclosure action in the Superior Court of the District of Columbia.

- (a) A real property owner shall meet the following conditions:
 - (1) Pay all real property taxes (including amounts certified to OTR pursuant to D.C. Official Code § 47-1340), business improvement district (BID) taxes, and vault rents to bring the real property's account to current.
 - (2) Pay the reimbursable Pre-Complaint Legal Expenses the tax sale purchaser has incurred prior to the initiation of a foreclosure action in the Superior Court of the District of Columbia, as provided in D.C. Official Code § 47-1377(a)(1)(A).

- (3) Pay all delinquent special assessments owed pursuant to an energy efficient loan agreement under subchapter IX of Chapter 8 of Title 47.
- (b) The real property owner shall make all payments to the District in the manner provided in this section and the tax sale purchaser shall not accept any payment. Pre-Complaint Legal Expenses are collected by the District and reimbursed to the tax sale purchaser.
- (c) The real property's account shall be deemed to have been brought to current for purposes of redemption if the amounts payable to the Mayor, including tax, interest, penalties and expenses falls below one hundred dollars (\$100). The remaining balance shall remain due and owing and any remaining expenses shall thereafter be deemed a real property tax.
- (d) To stop further adverse actions to enforce collection of the lien sold at tax sale, the property owner shall provide OTR with proof of payment of all outstanding taxes, assessments, fees, costs and expenses in the manner provided below:
 - (1) If the real property owner pays the real property tax, vault rent, BID tax or other lien certified pursuant to D.C. Official Code § 47-1340, the property owner shall provide OTR with:
 - (A) A copy of the bill reflecting the outstanding real property taxes, vault rent, BID tax or other lien certified pursuant to D.C. Official Code § 47-1340, fees and costs; and
 - (B) A copy of the paid receipt issued by the bank; or
 - (C) A copy of the check or money order, remitted in payment of any tax stated in § 316.4(d)(A) if payment is made via US Mail.

316.5 Prerequisites to begin the processing of a Tax Sale Refund prior to the initiation of a foreclosure action in the Superior Court of the District of Columbia.

- (a) To begin the processing of a Tax Sale Refund, the property's real property taxes, vault rents, BID taxes and expenses payable to the Mayor shall be current or paid to within one hundred dollars (\$100) or the tax sale shall have been cancelled in accordance with the requirements set forth in Subsection 316.11.
- (b) Upon notification from OTR or information obtained from OTR records,

including information on the OTR website, of payment of all real property taxes, vault rents, BID taxes, liens certified pursuant to D.C. Official Code § 47-1340, fees and charges payable to OTR on account of the real property, the tax sale purchaser shall surrender the original Certificate of Sale to OTR at the address provided on the Certificate of Sale.

- (c) Upon receipt of a copy of the Certificate of Sale, OTR shall process the Tax Sale Refund.
- (d) The Tax Sale Refund shall be comprised of the amount paid at tax sale, including any Surplus, and Statutory Interest.
- (e) Interest payable to the tax sale purchaser shall cease to accrue once the taxes on the real property tax bill, BID taxes and vault rents have been paid to current, subject to the liability threshold of D.C. Official Code § 47-1361(b-2).
- (f) To collect the reimbursable Pre-Complaint Legal Expenses, the tax sale purchaser shall provide the following documentation:
 - (1) A copy of the Tax Sale Certificate; and
 - (2) Receipt issued for the rendering of the Pre-Complaint Legal Expenses; or
 - (3) An affidavit or a declaration from legal counsel attesting to the fact that the Pre-Complaint Legal Expenses were rendered. Such affidavit or declaration shall state when such expenses were incurred. Pre-Complaint Legal Expenses incurred within four (4) months from the last day of the tax sale shall not be reimbursed.
- (g) The documentation required in Subsection 316.5(f) shall be provided to OTR at the address on the Certificate of Sale.
- (h) Upon receipt of the documentation required in Subsection 316.5(f), OTR shall process the refund of the Pre-Complaint Legal Expenses. Interest shall not be paid on the Pre-Complaint Legal Expenses.

316.6 Payment of subsequent real property taxes by the tax sale purchaser.

- (a) The tax sale purchaser shall pay the Tax Sale Purchaser's Bill at the Cashier's Office of the DC Treasurer. Once payment has been remitted, the tax sale purchaser shall immediately provide OTR with a copy of the paid receipt issued by the Cashier's Office of the DC Treasurer and retain

a copy of the receipt for the tax sale purchaser's record.

- (b) Any intended subsequent tax payment made against the Real Property Tax Bill instead of against a Tax Sale Purchaser's Bill shall be applied to the real property taxes due and owing against the real property as if the payments were made by the property owner. The tax sale purchaser shall not receive credit for any payment of subsequent real property taxes unless payment is made on a Tax Sale Purchaser's Bill in the manner provided in Subsection 316.6(a).
- (c) Any payments made by a tax sale purchaser pursuant to a Tax Sale Purchaser's Bill shall be applied to the real property tax account at the time a Tax Deed is issued to the tax sale purchaser.
- (d) The Tax Sale Purchaser's Bill shall include all interest and penalty due and owing on the real property. All liabilities on the Tax Sale Purchaser's Bill shall be paid by the tax sale purchaser.

316.7

Notices.

- (a) The notices of delinquency required by D.C. Official Code § 47-1341 and the post-sale notice required by D.C. Official Code § 47-1353.01 shall be available on OTR's website.
- (b) OTR shall mail a notice of tax delinquency on or before May 1st to the person who last appears as the owner of the real property on the tax roll, at the last mailing address shown on the tax roll, in accordance with D.C. Official Code § 47-1341(a). OTR shall mail a second notice at least two (2) weeks before the tax sale to the person who last appears as the owner of the real property on the tax roll, at the last mailing address shown on the tax roll, in accordance with D.C. Official Code § 47-1341(b-1). OTR shall also mail duplicate notices to the premise address if different from the mailing address, addressed to "Property Owner".
- (c) Within thirty (30) days after the date of the tax sale, OTR shall send a post-sale notice to the last known address of the owner in accordance with D.C. Official Code § 47-1353.01. OTR shall also mail a duplicate notice to the premise address if different from the mailing address, addressed to "Property Owner". A copy of either version of the notice shall be posted to the property by the tax sale purchaser at least forty-five (45) days before the filing of the Complaint to Foreclose the Right of Redemption. The post-sale notice cannot be posted to the property until at least four (4) months from the date of the tax sale.

- (d) The tax sale purchaser shall provide notice of the filing of the action to foreclose the right of redemption in the Superior Court of the District of Columbia by filing a notice of the pendency of the action (*lis pendens*), within thirty (30) days, in the Office of the Recorder of Deeds, pursuant to D.C. Official Code §§ 42-1207, *et seq.*
- (e) The tax sale purchaser shall notify OTR and the Real Property Tax Ombudsman of filing of the Complaint to Foreclose the Right of Redemption within thirty (30) days of the filing. Such notification shall be by electronic mail to OTR's Tax Sale Unit at taxsale@dc.gov and to the Real Property Tax Ombudsman at realpropertytax@dc.gov. The subject line of such electronic mail shall state: "Foreclosure Action Filed." The electronic mail shall contain as attachments copies of the complaint and certificate of sale. OTR and the Real Property Tax Ombudsman shall provide reply confirmations to the purchaser by electronic mail within five (5) business days of receipt of the notice from the tax sale purchaser.

316.8 Redemption after initiation of an action to foreclose the right of redemption in the Superior Court of the District of Columbia.

- (a) To qualify the property for redemption, the real property owner shall pay in full the following:
 - (1) Pay all real property taxes (including amounts certified pursuant to D.C. Official Code § 47-1340), BID taxes, and vault rents to bring the real property current.
 - (2) Pay the reimbursable Pre-Complaint Legal Expenses the tax sale purchaser has incurred prior to the initiation of a foreclosure action in the Superior Court of the District of Columbia, as provided in D.C. Official Code § 47-1377(a)(1)(A);
 - (3) Pay all Post-Complaint Legal Expenses to which the tax sale purchaser is entitled to reimbursement under D.C. Official Code § 47-1377(a)(1)(B) where an action to foreclose the right of redemption has been filed;
 - (4) Pay all delinquent special assessments owed pursuant to an energy efficiency loan agreement under subchapter IX of Chapter 8 of Title 47.
- (b) With the exception of Post-Complaint Legal Expenses, the real property owner shall make all payments to the District and the tax sale purchaser shall not accept any payment. Pre-Complaint Legal Expenses are collected

by the District and reimbursed to the tax sale purchaser. The tax sale purchaser shall not include Pre-Complaint Legal Expenses in Post-Complaint Legal Expenses.

- (c) Upon notification that the property owner is attempting to Redeem, OTR may request a Payoff Statement from the tax sale purchaser that indicates all allowable, reimbursable Post-Complaint Legal Expenses.
- (d) Within fourteen (14) days of a request for a Payoff Statement made by OTR, the tax sale purchaser shall provide the property owner and OTR with a Payoff Statement reflecting the amount necessary to satisfy the Post-Complaint Legal Expenses. If the tax sale purchaser fails to respond to the request for a Payoff Statement, OTR will send by certified mail a request to the tax sale purchaser for a Payoff Statement.
- (e) Failure to provide OTR with a copy of the Payoff Statement within fourteen (14) days from the date of the request sent by certified mail may result in the issuance of a Certificate of Redemption to the owner, upon request.
- (f) If there is a dispute regarding the amount required to satisfy the Post-Complaint Legal Expenses, any party shall apply to the Superior Court of the District of Columbia for an order fixing the amount of expenses.
- (g) The property owner shall pay in full the reimbursable Post-Complaint Legal Expenses payable to the tax sale purchaser. All payments of reimbursable Post-Complaint Legal Expenses shall be made to the tax sale purchaser, not to OTR.
- (h) The real property's account shall be deemed to have been brought to current for purposes of redemption if the amounts payable to the Mayor, including tax, interest, penalties and expenses is less than one hundred dollars (\$100). The remaining balance shall remain due and owing and any remaining expenses shall thereafter be deemed a real property tax.
- (i) At the time the property owner pays the Post-Complaint Legal Expenses as provided in this section, the tax sale purchaser shall provide to the property owner a receipt showing full satisfaction of said expenses.
- (j) If the tax sale purchaser has filed a Lis Pendens at the Recorder of Deeds, within thirty (30) days from redemption, as provided in Subsection 316.8(a), the tax sale purchaser shall file a Release of Lis Pendens with the Recorder of Deeds.

316.9 Collection of the Tax Sale Refund after the initiation of a foreclosure action in the Superior Court of the District of Columbia.

- (a) The tax sale purchaser shall submit the following documentation to begin the processing of a Tax Sale Refund, provided that all amounts required to be paid to OTR under Subsection 316.8 shall have been paid or the tax sale shall have been cancelled in accordance with the requirements set forth in Subsection 316.11:
 - (1) Copy of Tax Sale Registration Form with D.C. Cashier's receipt documenting payment;
 - (2) Copy of Tax Sale Certificate, if issued to Purchaser or assignor;
 - (3) Proof of subsequent tax payments, if applicable, in the form of a copy of the D.C. Cashier's receipt or a copy of the front and back of the cancelled check;
 - (4) Proof of the incurred Pre-Complaint Legal Expenses in the same manner as provided in Subsection 316.5(f).
- (b) Upon receipt of the documentation required in paragraph (a) of this section, OTR shall process the Tax Sale Refund.
- (c) The Tax Sale Refund shall be comprised of:
 - (1) The amount paid for the property sold at tax sale, including Surplus, and Statutory Interest. Statutory Interest shall be paid on the amount for which the property was sold (excluding Surplus). Statutory Interest shall not be paid on the Surplus.
 - (2) The Pre-Complaint Legal Expenses; and
 - (3) The amount paid pursuant to a Tax Sale Purchaser's Bill to satisfy the subsequent real property taxes inclusive of interest.
- (d) The Statutory Interest is paid on the amount of the real property tax delinquency sold at tax sale and accrues at a rate of 1 1/2 percent per month or part thereof.
- (e) Interest is paid only on the base tax amount paid by the tax sale purchaser for the subsequent real property taxes and accrues at a rate of one and one-half percent (1½ %) per month or part thereof. No interest shall be paid for penalty and interest paid by the tax sale purchaser, although same shall

be paid by the tax sale purchaser in addition to base tax. The interest shall begin to accrue on the first day of the month following the date the subsequent tax payment was made and shall cease to accrue on the date of cancellation or the Date of Redemption.

316.10 Issuance of a Tax Deed.

- (a) To apply for a Tax Deed, the tax sale purchaser shall submit to OTR a certified copy, including an electronically issued copy with the official court date stamp and issuing judge's electronic signature, of the final judgment issued by the Superior Court of the District of Columbia that forecloses the right of redemption to the real property and orders the issuance of a Tax Deed to the tax sale purchaser upon payment of the amounts specified in a Bill for Tax Deed.
- (b) Upon proper application to OTR for a Tax Deed, the tax sale purchaser shall be issued a Bill for Tax Deed.
- (c) The Bill for Tax Deed shall be satisfied no less than thirty (30) days from the date of issuance and may include the following: (1) a Real Property Tax Bill; (2) BID tax bill; (3) Vault Rent Bill; and (4) Payoff Statements from subsequent and prior year tax sale purchasers.
- (d) Payment of the Bill for Tax Deed may be made in the following ways:
 - (1) Any Surplus shall be applied to the outstanding taxes, assessments, fees and other costs due and owing against the real property. Any remaining surplus shall appear as a credit on the real property tax account and shall be refunded to the party who made the overpayment only upon receipt of a written request for refund that includes proof of payment; or
 - (2) If the Surplus (if applicable) is insufficient to pay the total taxes, assessments, fees and other costs due, the amount necessary to pay the total taxes, assessment, fees and other costs shall be paid in the form of cash, certified check, cashier's check or money order.
- (e) If the payment is made by certified check, cashier's check or money order, the tax sale purchaser shall provide OTR with:
 - (1) A copy of the certified check, cashier's check or money order remitted in payment of the Bill for Tax Deed;
 - (2) A copy of the receipt issued by the bank, the Cashier's Office of

the D.C. Treasurer and/or Third-Party Assignee; and

- (3) A copy of the release showing that the Payoff Statement from the Third-Party Assignee and/or prior years or subsequent years tax sale purchasers has been satisfied.
- (f) If payment is made by cash, the tax sale purchaser shall so indicate on the receipt and provide OTR with:
- (1) A copy of the receipt issued by the bank, Cashier's Office of the D.C. Treasurer and/or Third-Party Assignee indicating payment by cash;
 - (2) A copy of the release showing that the Payoff Statements from any and all Third-Party Assignees and prior years' and subsequent years' tax sale purchasers have been satisfied.
- (g) The tax sale purchaser may forfeit all monies paid for the property at tax sale and any payments made toward the subsequent real property taxes if the tax sale purchaser fails to satisfy the Bill for Tax Deed on or before the due date provided on the Bill for Tax Deed.
- (h) The tax sale purchaser shall provide Payoff Statements and receipts from prior years and subsequent years tax sale purchasers. Proof of payment includes:
- (1) Copies of certified payments and receipts showing that the prior years and subsequent years tax sale purchasers' Post-Complaint Legal Expenses were paid; and
 - (2) If applicable, signed releases from prior years and subsequent years tax sale purchasers or tax sale purchasers' representatives that all Post-Complaint Legal Expenses were paid.

316.11 These are rules and prerequisites for Cancellation of a Certificate of Sale by OTR.

- (a) A Certificate of Sale may be cancelled to prevent an injustice to the real property owner or to a person with an interest in the real property.
- (b) A Certificate of Sale shall be canceled where:
 - (1) The amount set forth in the notice of delinquency in order to avoid the tax sale is timely paid;

- (2) A forbearance authorization has been approved in writing for the applicable tax sale, in accordance with the requirements of Subsection 316.3;
 - (3) The amount of tax sold was less than two thousand, five hundred dollars (\$2,500) for improved Class 1 properties;
 - (4) The property is a Class 1 property that receives the homestead deduction with respect to which there is an outstanding non-void certificate of sale that was issued within three (3) years of the date of the tax sale; or
 - (5) The property is a Class 1 property with five (5) or fewer units and the record owner or other person with an interest proves:
 - (A) A failure of OTR to mail any of the notices required by §§ 47-1341(a), 47-1341(b) or 47-1353.01; or
 - (B) OTR did not correctly or substantively update or change the address of the person who last appears as the record owner as properly updated by the record owner by the filing of a change of address.
- (c) If a Certificate of Sale is cancelled, the tax sale purchaser shall be refunded the following:
- (1) The amount paid for the property sold at tax sale, including Surplus and Statutory Interest;
 - (2) The Pre-Complaint Legal Expenses actually paid and properly incurred, with proof of such expenses to be submitted to OTR in the same manner as Subsection 316.5(f);
 - (3) The amount paid to satisfy the subsequent real property taxes and Statutory Interest;
 - (4) Post-Complaint Legal Expenses as permitted under D.C. Official Code § 47-1377(a)(1)(B).
- (d) When cancelled, OTR shall provide to the tax sale purchaser a notice of cancellation of the tax sale.
- (e) If the tax sale is cancelled after the initiation of a foreclosure action in the Superior Court of the District of Columbia, the tax sale purchaser shall

provide OTR with the following documents upon receiving notification of cancellation of the tax sale:

- (1) A Payoff Statement, signed by the tax sale purchaser's attorney of record, for the expenses incurred as a result of the initiation of the foreclosure action; or
 - (2) A copy of the paid receipt issued for the rendering of services for the initiation of a foreclosure action; and
 - (3) An affidavit attesting that services were rendered for the initiation of a foreclosure action.
- (f)
- (1) Post-Complaint Legal Expenses shall not be reimbursed to the tax sale purchaser when any of the following circumstances would have put the tax sale purchaser on notice to suspend further action to foreclose and to request authorization from OTR to proceed (and OTR timely responded by cancelling the sale within forty-five (45) days or before the complaint was filed, whichever is later):
 - (A) Errors in ownership obtainable from a title report;
 - (B) Selling a real property under the threshold;
 - (C) Property was sold within three (3) years of the date of the Certificate of Sale and there is an outstanding non-void certificate of sale; or
 - (D) Property was sold in violation of a bankruptcy stay.
 - (2) Timely disclosure of the foregoing shall be made to the Tax Sale Unit Manager via electronic mail to taxsale@dc.gov.
- (g) Sales of properties owned by low-income seniors who later deferred taxes pursuant to D.C. Official Code § 47-845.03 shall be cancelled. Notwithstanding such a cancellation, the amount of accrued attorneys' fees paid to a tax sale purchaser by the District when a sale is so cancelled shall remain the liability of the property owner. Upon payment of the refund to the tax sale purchaser, OTR shall add the amount representing the legal fees to the real property tax account of the low-income senior.

316.12 Assignment of the Certificate of Sale.

- (a) The assignee of the Certificate of Sale shall notify OTR's Tax Sale Unit via electronic mail at taxsale@dc.gov of the assignment within thirty (30) days from the assignment of the Certificate of Sale. The assigned Certificate of Sale must meet the following requirements:
- (1) A written agreement, executed and acknowledged in the same manner as an absolute deed, that contains the assignee's name, address, telephone number and taxpayer identification number, notification of an assignment of the interest in the payment of other taxes and liabilities (subsequent taxes), and the legal identification of the property; and
 - (2) The notice of assignment must be signed and acknowledged by the parties agreeing to the assignment and recorded among the land records in the Recorder of Deeds to be effective as to any person not having actual notice.

Recording of the Certificate of Assignment with the Recorder of Deeds shall not constitute notice to OTR. Actual notice shall include a copy of the Certificate of Sale, and be sent to OTR. An assignee shall be compliant with D.C. Official Code § 47-1346(a)(5) [Clean Hands].

- (b) At the time that OTR receives notice of the Assignment of the Certificate of Sale, the assignee of the Certificate of Sale shall submit a completed "Compliance Certification for Tax Sale Assignees."
- (c) If an assignee of the Certificate of Sale shall be found in violation of D.C. Official Code § 47-1346(a)(5), the assignee shall forfeit at the discretion of OTR all monies paid for the Certificate of Sale and any monies paid toward the subsequent real property taxes.
- (d) Once the Certificate of Sale has been assigned, the assignee becomes the tax sale purchaser of the property associated with the certificate. The assignee shall be bound by all rules and regulations pertaining to a tax sale purchaser, including all rules of forfeiture.

316.13 These are rules and prerequisites to be followed for the filing of a Certificate of Redemption or a Praeceptum of Dismissal with the Recorder of Deeds.

- (a) After redeeming the property pursuant to Subsection 316.4 or 316.8, as applicable, a property owner may request a Certificate of Redemption or a certified copy of the Praeceptum of Dismissal filed in the foreclosure action be filed with the Recorder of Deeds to cause a release of the Certificate of Sale. If a Praeceptum of Dismissal is to be filed, it shall contain the square,

suffix, and lot numbers, or parcel and lot numbers of the real property.

- (b) OTR will process a Certificate of Redemption within sixty (60) days of receipt of a request.
- (c) Upon issuance, a Certificate of Redemption releases the Certificate of Sale.

316.14 These definitions are essential to clarify the tax sale process.

- (a) **Assignment of the Certificate of Sale** - The act of transferring all rights acquired in the Certificate of Sale.
- (b) **Bill For Tax Deed** - A special tax bill required to be obtained by the tax sale purchaser, after the Superior Court of the District of Columbia has issued a judgment of foreclosure, to pay all real property taxes (together with penalties and interest), vault rents, BID taxes, liens certified pursuant to D.C. Official Code § 47-1340, fees, costs and expenses due and owing to the District of Columbia or other tax sale purchasers before a tax deed is issued.
- (c) **Certificate of Redemption** - A document that confirms that all outstanding real property taxes (together with penalties and interest), vault rents, BID taxes, liens certified pursuant to D.C. Official Code § 47-1340, fees, costs and expenses have been paid for purposes of redemption only. This document statutorily releases any encumbrance created by the recordation of a certificate of sale.
- (d) **Certificate of Sale** - A document issued to a tax sale purchaser that evidences that its holder is the purchaser of a tax lien.
- (e) **Date of Cancellation** - Date a Certificate of Sale is cancelled.
- (f) **Date of Redemption** - The date of payment of all real property taxes, penalties, interest, vault rents, BID taxes, liens certified pursuant to D.C. Official Code § 47-1340, costs and expenses.
- (g) **OTR** - Office of Tax and Revenue.
- (h) **Payoff Statement** - A document prepared by the tax sale purchaser that itemizes the allowable Post-Complaint Legal Expenses incurred as a result of filing and pursuing a foreclosure action in the Superior Court of the District of Columbia.

- (i) **Praecipe of Dismissal** - a document submitted to the Superior Court of the District of Columbia by the tax sale purchaser to end all legal action to foreclose the owner's right of redemption subsequent to the owner having made all payments required to redeem or the tax sale being cancelled under the statute and regulations.
- (j) **Pre-Complaint Legal Expenses** – Pursuant to D.C. Official Code § 47-1377(a)(1)(A), the tax sale purchaser's reimbursable expenses incurred prior to an action to foreclose the right of redemption being filed, which includes the costs of a title search (limit to three hundred dollars (\$300)), posting the notice required by § 47-1353.01 (\$50), and the recordation fee charged by the District of Columbia to record the Certificate of Sale at the Recorder of Deeds.
- (k) **Post-Complaint Legal Expenses** – Pursuant to D.C. Official Code § 47-1377(a)(1)(B), the tax sale purchaser's reimbursable expenses incurred for filing and pursuing an action to foreclose the right of redemption in the Superior Court of the District of Columbia, including expenses incurred for personal service of process, service of process by publication, for publication, for postage and reasonable attorney's fees.
- (l) **Real Property Owner** - An owner of record of real property, or a party with a reasonably ascertainable ownership interest in the real property.
- (m) **Real Property Tax Bill** - The tax bill mailed to a property owner semi-annually for the collection of real property taxes.
- (n) **Redeem** - The payment of all outstanding real property taxes, penalties, interest, vault rents, BID taxes, liens certified pursuant to D.C. Official Code § 47-1340, costs and expenses (including Pre-Complaint Legal Expenses and Post-Complaint Legal Expenses) due and owing on the real property.
- (o) **Statutory Interest** - The monthly simple interest (one and one-half percent (1½ %)) that accrues on the amount paid for the purchase of properties sold or bid off at tax sale, excluding surplus, and which begins accruing the first day of the month following the tax sale and ends on the Date of Redemption or Date of Cancellation.
- (p) **Surplus** - The portion of the bid for the property that exceeds the taxes, penalties, interest and costs for which the property was sold.
- (q) **Tax Deed** - The document that transfers fee simple interest in real property, as described in the Certificate of Sale, to the tax sale purchaser

pursuant to D.C. Official Code § 47-1382 and subject to (a) a lien filed by a taxing agency under D.C. Official Code § 47-1430(c) (tax deeds arising from sales under § 47-1353(a)(3) or (b) excepted); (b) the tenancy of a residential tenant (other than a tenant described in D.C. Official Code § 47-1371(b)(1)(C) and (D)); (c) easements of record and any other easement that can be observed by an inspection of the real property; (d) an instrument securing payment of a promissory note executed under D.C. Official Code § 47-1353(a)(3); (e) an energy efficiency loan agreement under subchapter IX of Chapter 8 of Title 47, and related documents or instruments and the obligation to pay the special assessment; and (f) a ground lease described in D.C. Official Code § 47-1345(b), any recorded covenant, agreement, or other instrument, and any other document incorporated by reference into a recorded covenant, agreement, or other instrument to which a ground lessor as described in D.C. Official Code § 47-1345(b) is a party or beneficiary.

- (r) **Tax Sale Purchaser's Bill** - A special tax bill, which includes accrued penalty and interest, requested by the tax sale purchaser to facilitate the payment of current and prior tax liabilities that have not been sold or bid off at tax sale. Payment of these tax liabilities is credited to the Bill for Tax Deed. Interest is tolled for the tax sale purchaser beginning on the first day of the month following the date payment is made. Interest continues to accrue for the owner.
- (s) **Tax Sale Refund** - Comprises the amount paid at tax sale, Statutory Interest, and the Pre-Complaint Legal Expenses.

Comments on this proposed rulemaking should be submitted to Robert McKeon, Deputy Chief Counsel, Office of Tax and Revenue, no later than thirty (30) days after publication of this notice in the *D.C. Register*. Robert McKeon may be contacted by: mail at DC Office of Tax and Revenue, 1101 4th Street, SW, Suite 750, Washington, DC 20024; telephone at (202) 442-6513; or, email at robert.mckeon@dc.gov. Copies of this rule and related information may be obtained by contacting Robert McKeon as stated herein.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-160
June 10, 2015

SUBJECT: Appointment — Interim Real Property Tax Ombudsman

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and pursuant to D.C. Official Code § 47-805, it is hereby **ORDERED** that:

1. **BRENDA DONALD** is appointed as Interim Real Property Tax Ombudsman of the Office of the Real Property Tax Ombudsman, and shall serve in that capacity at the pleasure of the Mayor.
2. The Real Property Tax Ombudsman may delegate his or her authority to subordinates under his or her jurisdiction.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to January 2, 2015.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-161
June 10, 2015

SUBJECT: Amendment - Mayor's Order 2012-21, dated February 9, 2012,
Establishment - Saint Elizabeth's Redevelopment Initiative Advisory
Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), it is hereby **ORDERED** that:

1. Section VIII.B of Mayor's Order 2012-21, dated February 9, 2012, is amended to read as follows:

"B. The SERI Board shall sunset not later than August 31, 2017."
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

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

Mayor's Order 2015-162

June 11, 2015

SUBJECT: Establishment - Undergrounding Project Consumer Education Task Force**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), it is hereby **ORDERED** that:

I. ESTABLISHMENT

There is hereby established within the executive branch of the government of the District of Columbia the Undergrounding Project Consumer Education Task Force ("**Task Force**").

II. PURPOSE

The Task Force shall monitor the implementation by the District Department of Transportation and the Potomac Electric Power Company of the consumer education and outreach provisions of the DC Power Line Undergrounding ("**DC PLUG**") education plan. Based on consumer feedback, the Task Force shall, as necessary, advise the District Department of Transportation and the Potomac Electric Power Company on ways to better educate consumers on the implementation of DC PLUG to best achieve responsive and reliable communication throughout the project lifecycle.

III. FUNCTIONS

The Task Force shall:

1. Monitor implementation of the consumer education and outreach provisions of the DC PLUG education plan, to help ensure that the communication and engagement needs of the power line undergrounding initiative are achieved;
2. Advise the DC PLUG project team on the structure, content, and distribution of materials designed to educate and inform the public on DC PLUG project planning, implementation timelines, potential consumer impacts, and work progress;

3. Contribute guidance on the proper development of a community input management system that includes transparent information on how to submit community comments, questions, recommendations, and complaints and procedures for internally processing, tracking, and following up on input received through the system;
4. Recommend improvements to the undergrounding process based on consumer feedback and complaints filed with the Task Force, the DC PLUG project team, or Task Force entities; and
5. Transmit to the Public Service Commission (“**Commission**”) the reports required by section VI.C of this Order.

IV. MEMBERSHIP

Members of the Task Force shall be appointed by the Mayor and shall include:

1. The City Administrator, or the City Administrator’s designee, who shall serve as chairperson of the Task Force.
2. A representative from the Office of the Deputy Mayor for Planning and Economic Development;
3. A representative from the District Department of Transportation;
4. A representative from the Potomac Electric Power Company;
5. A representative from the Public Service Commission;
6. A representative from the Office of the People’s Counsel;
7. A representative from the Apartment and Office Building Association of Metropolitan Washington;
8. A representative from D.C. Climate Action;
9. An Advisory Neighborhood Commissioner from Ward 3;
10. An Advisory Neighborhood Commissioner from Ward 4;
11. An Advisory Neighborhood Commissioner from Ward 5;
12. An Advisory Neighborhood Commissioner from Ward 7;
13. An Advisory Neighborhood Commissioner from Ward 8; and

14. Any additional representatives of District government agencies deemed appropriate by the Mayor.


V. TERMS

- A. Each member of the Task Force shall serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, approved by the Commission on November 12, 2014, unless earlier removed by the Mayor. Task Force members shall serve at the pleasure of the Mayor.
- B. New Task Force members may be appointed to support a second Triennial Underground Infrastructure Improvement Projects Plan, as applicable.
- C. A vacancy on the Task Force shall be filled in the same manner that the original appointment was made.
- D. Members of the Task Force shall not be entitled to reimbursement for expenses incurred in the performance of their duties as Task Force members and shall not be compensated for time expended in the performance of those duties.


VI. ADMINISTRATION

- A. The Office of the City Administrator shall manage and coordinate the work of the Task Force.
- B. Meetings of the Task Force shall be held at such times and locations as are designated by the chairperson. For the initial six (6) months of DC PLUG implementation, the Task Force shall meet monthly. Thereafter, the Task Force shall meet at least quarterly. Each meeting shall include a period of time for the public to comment on issues being considered by the Task Force.
- C. The Task Force shall submit reports to the Commission that include DC PLUG education and engagement performance issues identified by the Task Force, consumer communication improvement recommendations from the Task Force, and Task Force meeting minutes. For the initial six (6) months of Task Force operations, reports shall be transmitted monthly to the Commission. Thereafter, reports shall be submitted quarterly.
- D. The District Department of Transportation shall provide administrative support to the Task Force.

VII. EFFECTIVE DATE: This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-163
June 11, 2015

SUBJECT: Delegation of Authority - Director of the Department of Motor Vehicles to Accept and Remit Donations to the District of Columbia Donor Registry

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(6) (2014 Repl.) and section 115 of the District of Columbia Appropriations Act, 2003, approved February 20, 2003, 117 Stat. 123, Pub. L. 108-7, D.C. Official Code § 1-329.01 (2014 Repl.), it is hereby **ORDERED** that:


1. Notwithstanding any provision in Mayor's Memorandum 2012-3, issued May 16, 2012, the Director of the Department of Motor Vehicles is delegated the Mayor's authority to accept donations from an applicant for a new or renewed driver license, permit, or identification card, to the District of Columbia's Donor Registry, established pursuant to section 20 of the Uniform Anatomical Gift Revision Act of 2008, effective April 15, 2008 (D.C. Law 17-145; D.C. Official Code § 7-1531.19) (2012 Repl.), and administered and maintained by the federally designated organ procurement organization (FDOPO), pursuant to the authority and provisions of section 371 of the National Organ Transplant Act, approved October 19, 1984 (98 Stat. 2339; 42 USC § 273).
2. The donations accepted pursuant to paragraph 1 of this Order shall be collected and deposited in a manner established by the Office of the Chief Financial Officer (OCFO).
3. The collected donations shall be remitted to the FDOPO serving the District of Columbia at such intervals as the OCFO shall establish.
4. DMV and OCFO shall keep accurate and detailed records of the acceptance and use of the collected donations, and shall make such records available for audit and public inspection.
4. The remittance of the collected donations to the FDOPO shall be conditioned on the FDOPO using the donations only for functions or duties associated with the administration and maintenance of the District of Columbia's Donor Registry and

reporting to the OCFO, DMV and the Office of Partnership and Grants Services on a quarterly basis the amounts and purposes for which the donations were used.

- 5. This Order supersedes all previous Mayor's Orders and Mayor's Memoranda to the extent of any inconsistency therein.
- 6. **EFFECTIVE DATE.** This Order shall be effective *nunc pro tunc* to April 1, 2015.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-164
June 12, 2015

SUBJECT: Appointment – Acting Director/Chief Risk Officer, Office of Risk Management


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), it is hereby **ORDERED** that:

1. **JED ROSS** is appointed Acting Director/Chief Risk Officer, Office of Risk Management and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-057, dated January 29, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 11, 2015.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-165
June 15, 2015

SUBJECT: Establishment – Procurement Accountability and Review Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to sections 422(11) and 449 of the District of Columbia Home Rule Act, Pub. L. 93-198, 87 Stat. 790, D.C. Official Code §§ 1-204.22(11) and 1-204.49 (2014 Repl.), it is hereby **ORDERED** that:

I. ESTABLISHMENT

There is established within the executive branch of the Government of the District of Columbia a Procurement Accountability and Review Board (“Board”).

II. APPLICABILITY

This Mayor's Order applies to all agencies that are subject to the Procurement Practices Reform Act, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.* (2012 Repl.)), and the executive authority of the Mayor.

III. PURPOSE

- A. The purpose of the Board is to improve the quality, efficiency, and integrity of the contracting and procurement process within the District government.
- B. To do so, the Board shall review: (1) general concerns with contracting-related processes or procedures that impact the quality, efficiency, or effectiveness of the contracting process; (2) specific contracting-related actions, such as retroactive contracts, contract appeals, and contractor claims, that indicate that there has been inadequate adherence to applicable laws, regulations, processes, or procedures; and (3) identified conditions and operations within a specific agency that negatively impact the quality, efficiency, or effectiveness of the contracting process.
- C. The goal of the Board is not to consider each potential problem with the contracting process or each potential contracting error. Instead, the goal of the Board is to select matters that, when reviewed and resolved, are likely to result in substantial, widespread, or long-term improvements to the contracting process.

- D. The activities of the Board are part of the deliberative process of the Mayor, City Administrator, Chief Procurement Officer, and executive branch of government.

IV. COMPOSITION

- A. The Board shall consist of the following three (3) members:
1. The Mayor or the Mayor's designee;
 2. The City Administrator or the City Administrator's designee; and
 3. The Chief Procurement Officer.
- B. The Mayor shall serve as the chairperson of the Board; provided, in the Mayor's absence, the City Administrator shall serve as the chairperson of the Board.

V. BOARD MEETINGS

- A. The Board shall meet at least once quarterly, at the call of the chairperson, to consider matters referred to it under section VII.
- B. The Board may meet at any other time at the call of the chairperson.

VI. PREPARATORY MEETINGS

- A. The Chief Procurement Officer shall meet monthly with the Office of the City Administrator to review matters that may be referred to the Board under section VII and to otherwise prepare for the upcoming Board meeting.
- B. At each monthly meeting:
1. The Chief Procurement Officer shall provide a briefing to the Office of the City Administrator on each new matter described in section VII.A of this Order. The Chief Procurement Officer and the Office of the City Administrator may agree jointly that a matter identified under section VII.A of this Order will not be referred to the Board;
 2. The Chief Procurement Officer and Office of the City Administrator shall review the recommendations of the Chief Procurement Officer regarding whether a matter described in section VII.B of this Order should be referred to the Board;
 3. The Chief Procurement Officer shall provide a briefing to the Office of the City Administrator on any matters referred to the Board under section VII.D of this Order; and

4. The Office of the City Administrator and Chief Procurement Officer shall determine which of the matters described in sections VII.A, VII.B, and VII.D of this Order will be referred to the Board.

VII. MATTERS TO BE CONSIDERED; REFERRALS TO THE BOARD

- A. Except as provided in section VI.B.1 of this Order, the following matters are required to be referred to the Board for consideration:
 1. Contracts submitted to Council for retroactive approval;
 2. Decisions by the Contract Appeals Board or a court overturning a contracting action or otherwise holding that the action was contrary to law;
 3. Findings of the District of Columbia's internal auditors, the Inspector General, District of Columbia Auditor, Attorney General, and third-party auditors (including the auditors performing the Consolidated Annual Financial Report audit and the Single Audit) indicative of a significant or widespread non-compliance with a contracting or procurement law, regulation, or process or a significant concern with an individual contract or contract action.
- B. The Chief Procurement Officer, or his or her designee, shall regularly review the following matters to determine whether they should be referred to the Board for consideration:
 1. Sole source and emergency procurements where their use may be inconsistent with the preference for open, competitive procurements;
 2. Agency procurement planning;
 3. Inter-agency coordination on contracting matters; and
 4. Other challenges, special conditions, or policies and procedures that may impact procurement service delivery.
- C. In determining whether a matter described in section VII.B of this Order should be referred to the Board, the Chief Procurement Officer, or his or her designee, shall consider whether the issue is common and whether the resolution of the issue is likely to result in substantial, widespread, or long-term improvements to the contracting process.
- D. The Board shall also accept referrals of a matter from the Mayor, City Administrator, or a member of the Board. The Board may also accept a referral of a matter from an agency director or an agency's chief procurement officer.

Prior to the consideration of any such referral at a Board meeting, the Chief Procurement Officer shall assess the referral under the standards described in section VII.C of this Order to determine whether the matter should be considered by the Board at a quarterly meeting.

- E. A referral to the Board is not an allegation of wrongdoing. The objective of the Board is to improve the quality, efficiency, and integrity of the procurement process and to increase the accountability of executive agency directors and staff for such quality, efficiency, and integrity throughout the District of Columbia.

VIII. PROCEDURES

- A. Prior to a meeting of the Board, the Chief Procurement Officer, or his or her designee, shall prepare a briefing package describing in detail each matter before the Board. For each such matter, the package shall describe the specific factors, conditions, and actions that have culminated in the current status of the matter or may influence subsequent steps in response to the matter. The briefing package shall also include supporting documents for Board review. The Chief Procurement Officer may request other agency directors submit relevant documents or information for inclusion in, or in support of preparation of, the package.
- B. The City Administrator shall request that parties with pertinent information on each matter at issue attend the Board meeting. Such parties should generally include, at a minimum, the agency Director, a representative from the program that initiated the procurement, and the procurement officer responsible for the procurement. Other parties may include, but are not limited to, representatives of the Office of the Chief Financial Officer, the Mayor's Office of Legal Counsel, and the Office of Policy and Legislative Affairs, senior procurement staff, and attorneys with significant procurement law experience.
- C. Each person coming before the Board shall present a summary of facts related to the matter before the Board, describe relevant actions, policies, procedures, and systems, and answer any questions posed by the members of the Board.
- D. Notwithstanding section VIII.C, the Board may, at the discretion of the chairperson, consider matters based on the information in the briefing package provided pursuant to section VIII.A, without following the procedures set forth in section VIII.C.
- E. The Chief Procurement Officer shall be responsible for ensuring that detailed minutes are taken of each meeting.

IX. RECOMMENDATIONS OF THE BOARD

- A. After each meeting, the Chief Procurement Officer, in consultation with the Office of the City Administrator, shall promptly prepare and transmit to the Mayor a draft report that includes a description of the matters that were before the Board, proposed findings and conclusions, proposed recommendations, and proposed action items and an associated timeline.
- B. The proposed recommendations shall be focused on establishing or modifying processes, procedures, regulations, or laws in order to strengthen operations, resolve deficiencies, improve quality, and ensure compliance with all laws and regulations. The recommendations may also provide strategic guidance to ensure that procurement operations remain responsive to the District's needs for goods and services, including recommendations regarding inter-agency cooperation and coordination to facilitate timely and proficient development and execution of procurements and contracts and recommendations for training. The Board's recommendations may be directed to staff involved in the procurement process (including agency program staff, contracting officers, contracting and purchasing officials, funding approvers, and agency contract administrators) or any other District of Columbia staff if such recommendations are likely to improve the contracting process.
- C. Although the Board is not a disciplinary body, the report may include a recommendation that an agency director consider disciplinary action where it is likely that an employee engaged in misconduct.
- D. After the Mayor's review of each report, the Chief Procurement Officer shall finalize the report based on any comments received from the Mayor..
- F. The Chief Procurement Officer shall provide the Board with a quarterly report, at each Board meeting, on the status of any approved recommendations and action items.

IX. LIMITATIONS

- A. The Board shall not take actions that may interfere with the integrity of the procurement process.
- B. The Board is not expected to provide guidance or recommend action that is inconsistent with current District laws and regulations; however it is recognized that the Board may make recommendations that will require legislative or regulatory changes.
- C. The Board shall not serve in the capacity of the Contract Appeals Board ("CAB"). Contract protests, appeals, and claims shall continue to be heard by the CAB.

X. ADMINISTRATION

- A. The Office of the Chief Procurement Officer shall provide administrative support to the Board. The Office of the City Administrator may also provide administrative support to the Board, at the request of the chairperson.
- B. Each District agency shall cooperate with the Board and shall provide documents or information in a timely manner when requested by the Board, the City Administrator, or the Chief Procurement Officer to carry out the provisions of this Order.

XI. EFFECTIVE DATE

This Order shall become effective immediately.



 MURIEL E. BOWSER
 MAYOR

ATTEST: 

 LAUREN C. VAUGHAN
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-166
June 16, 2015

SUBJECT: Appointments – Undergrounding Project Consumer Education Task Force

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as the Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), (11) (2014 Repl.), and pursuant to sections IV and V of Mayor's Order 2015-162, dated June 11, 2015, establishing the Undergrounding Project Consumer Education Task Force, it is hereby **ORDERED** that:


1. **BARRY KREISWIRTH** is appointed as a member of the Undergrounding Project Consumer Education Task Force ("Task Force"), as the designee of the City Administrator, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
2. **TIMOTHY WHITE** is appointed as a member of the Task Force, as the representative of the Office of the Deputy Mayor for Planning and Economic Development, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
3. **ALBERTA PAUL** is appointed as a member of the Task Force, as the representative of the District Department of Transportation, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
4. **MARC BATTLE** is appointed as a member of the Task Force, as the representative of the Potomac Electric Power Company, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
5. **MAURICE SMITH** is appointed as a member of the Task Force, as the representative of the Public Service Commission, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
6. **THADDEUS JOHNSON** is appointed as a member of the Task Force, as the representative of the Office of the People's Counsel, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.

7. **KIRSTEN BOWDEN** is appointed as a member of the Task Force, as the representative of the Apartment and Office Building Association of Metropolitan Washington, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
8. **NINA DODGE** is appointed as a member of the Task Force, as the representative of D.C. Climate Action, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
9. **LEE BRIAN REBA** is appointed as a member of the Task Force, as an Advisory Neighborhood Commissioner from Ward 3, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
10. **DAVE WILSON** is appointed as a member of the Task Force, as an Advisory Neighborhood Commissioner from Ward 4, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
11. **MONIQUE SMITH** is appointed as a member of the Task Force, as an Advisory Neighborhood Commissioner from Ward 5, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
12. **ANTAWAN HOLMES** is appointed as a member of the Task Force, as an Advisory Neighborhood Commissioner from Ward 7, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
13. **CYNTHIA SIMMS** is appointed as a member of the Task Force, as an Advisory Neighborhood Commissioner from Ward 8, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
14. **PHYLLIS LOVE** is appointed as a member of the Task Force, as an additional representative of a District government agency, the Office of Contracting and Procurement, as deemed appropriate by the Mayor, to serve throughout the execution of the Triennial Underground Infrastructure Improvement Projects Plan, at the pleasure of the Mayor.
15. **BARRY KREISWIRTH** shall serve as chairperson of the Task Force.

16. EFFECTIVE DATE: This Order shall become effective immediately.



MURIEL E. BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-167
June 16, 2015

SUBJECT: Amendment — Mayor's Order 2012-28, Sub-delegation and Delegation of Personnel Authority - Director, D.C. Department of Human Resources and Chief of Police, dated February 21, 2012; Ratification of Personnel Decisions; Superseding and Independent Authority

ORIGINATING AGENCY: Office of the Mayor

BACKGROUND:

The Mayor and the Chief of Police seek to ensure public safety in the District of Columbia and to be able to adjust work schedules to address predictable spikes in crime, without requiring personnel to work overtime at great cost to the city. The Fraternal Order of Police/Metropolitan Police Department (FOP) have challenged the delegation of personnel authority which the Chief of the Metropolitan Police Department (Chief) invoked when the work schedules of FOP members were changed to implement the Chief's All Hands on Deck (AHOD) initiative. AHOD was based upon the Chief's determination that, absent its deployment, the functions and mission of the Metropolitan Police would be seriously handicapped and that costs would be substantially increased. The FOP has repeatedly challenged the Chief's implementation of AHOD and has successfully argued to arbitrators and the Public Employee Relations Board that the Chief lacked the delegated authority to alter tours of duty. *See PERB Case No.13-A-08*. While this Mayor's Order does not attempt to disturb the law of the case for matters already decided, it seeks to clarify the authority vested in the Mayor and the Chief to order AHOD, and to ratify the authority exercised in past AHOD initiatives.

PURPOSES:

The purposes of this Mayor's Order are to: (1) clarify the personnel authority previously granted to the Chief; (2) grant such authority retroactively to the Chief to cover all periods of time from February 26, 1997 until the present; and (3) ratify any personnel decisions made by the Chief to modify tours of duty upon a determination by the Chief that the Metropolitan Police Department would be seriously handicapped in carrying out its functions or that costs would be substantially increased absent such modification pursuant to section 1201(b) of the CMPA (D.C. Official Code § 1-612.01(b)) or any other authority possessed by the Mayor. By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(3) and (6) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.22(3) and (6) (2014 Repl.), and pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979, as amended, D.C. Law 2-139, D.C. Official Code § 1-601.01 *et seq.* (2014 Repl.), it is hereby **ORDERED** that:

AMENDMENTS TO MAYOR'S ORDER 2012-28:

Paragraphs C., D., and E., of Mayor's Order 2012-28, dated February 21, 2012 are amended to read as follows:

C. Further Delegation of Personnel Authority to the Metropolitan Police Department

(1) Notwithstanding paragraph A of this Order, the Chief, Metropolitan Police Department (MPD), is delegated all personnel and rulemaking authority vested in the Mayor over the employees of the Metropolitan Police Department under the CMPA and the authority vested with the Mayor over employees of the Metropolitan Police Department as codified in Title 5 of the D.C. Official Code. This expressly includes, but is not limited to the authority under section 1201(b) of the CMPA (D.C. Official Code § 1-612.01(b)) (2014 Repl.) to modify tours of duty upon a determination that the Metropolitan Police Department would be seriously handicapped in carrying out its functions or that costs would be substantially increased absent such modification. “

(2) Paragraph C. shall be effective retroactive to February 26, 1997.

D. Rescissions:

1. Except to the extent necessary to give paragraph C. of this Order retroactive effect to February 26, 1997, Mayor's Order 2008-81, dated June 5, 2008, is hereby rescinded.
2. To the extent that it negates the retroactive effect of Paragraph C of this Order to February 26, 1997, Section D (Rescission) of Mayor's Order 2008-92, dated June 26, 2008, is hereby rescinded;
3. Except to the extent necessary to give paragraph C. of this Order retroactive effect to February 26, 1997, Mayor's Order 2009-117, dated June 19, 2009, is hereby rescinded.

E. EFFECTIVE DATE: This Order shall become effective immediately, except that paragraph C. shall be effective as of February 26, 1997.

RATIFICATIONS:

Any personnel decisions made by the Chief since February 26, 1997, to modify tours of duty upon a determination that the Metropolitan Police Department would be seriously handicapped in carrying out its functions or that costs would be substantially increased absent such modification, pursuant to section 1201(b) of the CMPA (D.C. Official Code § 1-612.01(b)), or pursuant to any other authority possessed by the Mayor, are hereby confirmed and ratified retroactively as personnel actions of the Mayor of the District of Columbia as of the date the personnel decisions were taken by the Chief.


SUPERSEDING AND INDEPENDENT AUTHORITY:

This Order supersedes any provision of any outstanding Mayor's Order that is inconsistent with achieving the above-stated purposes. To the extent that the amendments to Mayor's Order 2012-28 are construed to be ineffective to achieve the stated purposes or are construed as an inadequate delegation of personnel authority to the Chief, this Order shall serve as independent and superseding authority for achieving the stated purposes, including delegating all personnel and rulemaking authority vested in the Mayor over the employees of the Metropolitan Police Department under the CMPA and the authority vested with the Mayor over employees of the Metropolitan Police Department as codified in Title 5 of the D.C. Official Code, to expressly include, but is not limited to, the authority under section 1201(b) of the CMPA (D.C. Official Code § 1-612.01(b)) (2012 Repl.) to modify tours of duty upon a determination that the Metropolitan Police Department would be seriously handicapped in carrying out its functions or that costs would be substantially increased absent such modification. This Order's independent delegation of authority shall be effective retroactive to February 26, 1997 and all orders, regulations, circulars or other directives issued and all other action taken prior the date of this order that would be valid under the authority delegated by this Order, are hereby confirmed and ratified and shall be deemed to have been issued under this Order.

EFFECTIVE DATE:

This order shall become effective immediately, except that the amendments to Mayor's Order 2012-28 shall take effect as described therein including the retroactive effect of paragraph C. as of February 26, 1997, and the retroactive ratifications and confirmations by the Mayor of the personnel actions of the Chief shall take effect as of the date the personnel decisions were taken by the Chief.


MURIEL E. BOWSER
MAYOR

ATTEST: 
LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

ACHIEVEMENT PREP PUBLIC CHARTER SCHOOL (APrep)**REQUEST FOR PROPOSALS****Multiple Services**

Achievement Prep PCS (APrep) is seeking competitive bids for Special Education Services, Mental Health and Related Services, and Information Technology Services. Proposals must be received by Friday, June 26, 2015. Please find RFP specifications at www.achievementprep.org under News.

1. RFP for Special Education Service Providers. APrep is seeking competitive bids for Special Education Services, including but not limited to: evaluation services; data collection; administration of assessment tools; and other assessment protocols and functional behavioral assessments as needed. The vendor of special education services will perform the following services: consultative and psychological assessment services, maintain telephone and personal contact with clients, and perform all services in accordance with professional standards set by the American Psychological Association. These services are to be offered at APrep during school hours to students who require specialized services. Bids must include evidence of experience in field, qualifications and estimated fees. Please send proposals to bids@achievementprep.org and include "RFP SPED" in heading. Proposals must be received no later than the close of business Friday June 26, 2015.
2. RFP for Mental Health and Related Service Providers. APrep is seeking competitive bids for Mental Health and Related Services, including but not limited to: prevention, early intervention, clinician services, speech and language services, and occupational therapy. The vendor of mental health and related services will perform the following services: support a safer and more supportive school environment; provide professional development for staff on a variety of behavioral health topics; perform case management for scholars; be on hand in the aftermath of traumatic events effecting the school environment; and provide certified and licensed speech and language pathologists. Bids must include evidence of experience in the industry, qualifications and estimated fees. Please send proposals to bids@achievementprep.org and include "RFP Mental Health and Related Services" in heading. Proposals must be received no later than the close of business Friday June 26, 2015.
3. RFP for IT Service Providers. APrep is seeking competitive bids for Information Technology (IT) Services, included but not limited to: desktop application support; network administration services; server and workstation administration services; email, security, and backup efforts; and planning for major system enhancements and/or upgrades to existing systems. The vendor of IT services will perform the following services: network management and infrastructure support; system monitoring and response; network security; management of network backup software; help desk support; email software support; hardware management and support; application management and support; remote communications support; on-site support for services that require in-

person attention; system and application documentation; license, warranty, and asset tracking; ongoing IT enhancement consultation; and quarterly reporting on system monitoring, help desk activities, software updates, and patch management. Bids must include evidence of experience in the industry, qualifications and estimated fees. Please send proposals to bids@achievementprep.org and include "RFP Mental Health and Related Services" in heading. Proposals must be received no later than the close of business Friday June 26, 2015.

Achievement Prep reserves the right to cancel the abovementioned RFPs at any time. Please find RFP specifications at www.achievementprep.org under News.

**DISTRICT OF COLUMBIA COMMISSION ON
SELECTION AND TENURE OF
ADMINISTRATIVE LAW JUDGES OF
THE OFFICE OF ADMINISTRATIVE HEARINGS**

**NOTICE SEEKING COMMENTS REGARDING REAPPOINTMENT OF
ADMINISTRATIVE LAW JUDGE**

The Commission on Selection and Tenure of Administrative Law Judges (“Commission”) seeks comments regarding the potential reappointment of Administrative Law Judge Claudia A. Crichlow.

This is to notify members of the District of Columbia Bar and the general public, pursuant to section 3705.7 of Title 6 of the District of Columbia Municipal Regulations (“DCMR”), that the Commission has begun reviewing Administrative Law Judge Crichlow’s qualifications for reappointment to the District of Columbia Office of Administrative Hearings. Administrative Law Judge Crichlow has filed a statement with the Commission requesting reappointment to a six-year term upon the expiration of his six-year term on November 26, 2015.

Section 3705.21 of Title 6 of the DCMR provides:

In deciding whether to reappoint an Administrative Law Judge, the Commission shall consider all information it has received concerning the reappointment, and the voting members shall give significant weight to the recommendation of the Chief Administrative Law Judge, unless they determine that the recommendation is not founded on substantial evidence. The Commission shall reappoint the Administrative Law Judge if it finds that the Administrative Law Judge has satisfactorily performed the responsibilities of his or her office and is likely to continue to do so.

In addition to the specific qualifications contained in Section 3703 of Title 6 of the DCMR (*Appointment, Reappointment, Discipline and Removal of Administrative Law Judges by the Commission on Selection and Tenure of Administrative Law Judges*), applicable to all Administrative Law Judges, Section 3703.5 of Title 6 of the DCMR states: “An Administrative Law Judge shall possess judicial temperament, judgment, expertise and analytical and other skills necessary and desirable for an Administrative Law Judge.”

The Commission hereby requests that members of the Bar and other attorneys, litigants, interested organizations, and members of the public submit any information bearing on Administrative Law Judge Crichlow’s qualifications, which they believe will aid the Commission in deciding whether to reappoint this Administrative Law Judge. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting information shall be kept confidential unless expressly authorized by the person submitting the information.

All communications must be received by the Commission on or before July 19, 2015. All communications must be mailed or delivered in a sealed envelope marked "Confidential – ALJ Reappointments," addressed to:

Commission on Selection and Tenure of Administrative Law Judges
Office of Administrative Hearings
District of Columbia Government
441 4th Street, N.W.
Suite 450N
Washington, D.C. 20001

The members of the Commission are:

The Honorable Yvonne Williams
Chief Administrative Law Judge Eugene A. Adams
James W. Cooper, Esq.
Nadine C. Wilburn, Esq.
Joseph N. Onek, Esq.

DC MAYOR'S OFFICE ON AFRICAN AFFAIRS**NOTICE OF FUNDING AVAILABILITY (NOFA)
FY2016 African Community Grant****Background Information:**

The Mayor's Office on African Affairs (OAA) is soliciting grant applications from qualified community-based organizations (CBOs) serving the District's African constituents [residents and/or business owners] - for its FY16 African Community Grant. The grant is intended to fund programs that provide targeted services and resources to the District's African residents and/or business owners in areas of need in the community. Funding priority areas identified for FY16 are jobs and workforce development; linkage to health, wellness, and human services; youth engagement; and promotion of arts, culture, and the humanities.

Amount of Number of Awards:

OAA expects to award up to 10 grants. Eligible organizations can be awarded up to **\$20,000**.

Length of Award: Grant awards will be for one (1) year.

Eligibility Criteria: Organizations may apply if they meet all of the following eligibility requirements at the time of application:

- Be a community-based or faith-based organization with a 501(c)(3) status
- Organization or program serves the District's African residents or business owners
- Organization or program is located in the District of Columbia
- **New to FY16:** Applicants who have received African Community Grants for three consecutive award cycles are NOT eligible to apply for a period of one fiscal year following their last award

Program Scope:

For FY16, OAA's African Community Grant will fund culturally and linguistically appropriate programs with demonstrated tie into the Mayor's priority areas and community needs in the following program areas: economic and workforce development, youth engagement and education, health education and linkage to human services, and promotion of the arts and humanities [see RFA for details].

Availability of RFA:

June 19, 2015

The RFA will be posted on OAA's website (www.oaa.dc.gov) & the on the District's Grant Clearinghouse Website at <http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>.

Grant Orientation:

July 1, 2015 | 10:00am – 12:00pm

Franklin D. Reeves Center of Municipal Affairs
2000 14th Street, NW
2nd Floor Edna Cromwell Community Room
Washington, DC 20009

Contact Name:

Heran Sereke-Brhan, Deputy Director
Phone: (202)-724-7670
Email: heran.sereke-brhan@dc.gov

Deadline for Submission: 5:00 pm on July 10, 2015

Franklin D. Reeves Center of Municipal Affairs
2000 14th Street, NW Suite 400 North
Washington, DC 20009
Phone: (202)-727-5634
E-mail: oaad@dc.gov
Website: www.oaad.dc.gov

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JUNE 24, 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

- Protest Hearing (Status)** **9:30 AM**
Case # 15-PRO-00036; O'Connor's Liquor Incorporated t/a O'Connor's Liquors
2900 Minnesota Ave SE, License #60231, Retailer A, ANC 7B
Application to Renew the License
- Protest Hearing (Status)** **9:30 AM**
Case # 15-PRO-00030; Sylvia & David Industries, t/a Sosnick's Liquors, 2318
4th Street NE, License #72301, Retailer A, ANC 5E
Application to Renew the License
- Protest Hearing (Status)** **9:30 AM**
Case # 15-PRO-00038; Yoef, Inc., t/a Stanton Liquors, 1044 Bladensburg Road
NE, License #71601, Retailer A, ANC 5D
Application to Renew the License
- 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 # 15-251-00099; 1010 V, LLC, Josephine, 1010 Vermont Ave NW
License #76906, Retailer CT, ANC 2F
Failed to Follow Security Plan
- 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)

Board's Calendar
June 24, 2015

Show Cause Hearing*

10:00 AM

Case # 14-CMP-00785; CSBT, Inc., t/a Town House Tavern Restaurant, 1637 R Street NW, License #24682, Retailer CR, ANC 2B

No ABC Manager on Duty

Show Cause Hearing*

11:00 AM

Case # 15-AUD-00017; P.J. Clarke's Washington, LLC, t/a P.J. Clarke's And SideCar, 1600 K Street NW, License #84688, Retailer CR, ANC 2B

Failed to File Quarterly Statements (3rd Quarter 2014)

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Protest Hearing*

1:30 PM

Case # 15-PRO-00016; T & L Investment Group, LLC, t/a Panda Gourmet 2700 New York Ave NE, License #86961, Retailer CR, ANC 5C

Substantial Change (Entertainment Endorsement to Allow Computer Programmed Playlist, Live Disc Jockey, Dancing and a Jazz Band)

***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, JUNE 24, 2015
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On June 24, 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-CMP-00335 The Ugly Mug Dining Saloon, 723 8TH ST SE Retailer C Restaurant, License#: ABRA-071793

2. Case#15-251-00098 LOOK, 1909 K ST NW Retailer C Restaurant, License#: ABRA-077812

3. Case#15-CMP-00317 Las Placitas, 517 8TH ST SE Retailer C Restaurant, License#: ABRA-003812

4. Case#15-CMP-00340 Zest Bistro, 735 8TH ST SE Retailer C Restaurant, License#: ABRA-082432

5. Case#15-251-00078(a) Da Luft Restaurant & Lounge, 1242 H ST NE Retailer C Restaurant, License#: ABRA-087780

6. Case#15-CMP-00341 Fuel Pizza & Wings, 600 F ST NW Retailer C Restaurant, License#: ABRA-088727

7. Case#15-251-00042 The Huxley, 1730 M ST NW Retailer C Nightclub, License#: ABRA-089394

8. Case#15-CMP-00318 Franklin Liquors & Market, 2723 7TH ST NE Retailer A Retail - Liquor Store, License#:ABRA-089748

9. Case#15-CMP-00339 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern,
License#: ABRA-092773

10. Case#15-CMP-00336 The Big Stick, 20 M ST SE Retailer C Restaurant, License#: ABRA-
094844

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LEGAL AGENDA

WEDNESDAY, JUNE 24, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Amendment to Settlement Agreement between ANC 2F and Barrel House Liquors, dated June 3, 2015. *Barrel House Liquors*, 1341 14th Street, N.W., Retailer A, License No.: 023984.*

2. Review of Settlement Agreement between ANC 6B and JJ Mutt Wine & Spirits, dated June 9, 2015. *JJ Mutt Wine & Spirits*, 643 Pennsylvania Avenue S.E., Retailer A, License No.: 025523.*

3. Review of Settlement Agreement between ANC 6A and Master Liquors, dated June 5, 2015. *Master Liquors*, 1806 D Street N.E., Retailer A, License No.: 074594.*

* 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, JUNE 24, 2015 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping Status of License – Original Request. ANC 2F. SMD 2F06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **9 & P Street Liquor**, 1428 9th Street NW, Retailer A Liquor Store, License No. 093199.

2. Review Request for Change of Hours. **Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday-Saturday 10:30am to 11:30pm. **Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday-Thursday 9am to 2am, Friday-Saturday 9am to 3am. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **DC Pizza**, 1103 19th Street NW, Retailer DR, License No. 094699.

3. Review Request for Change of Hours. **Approved Hours of Operation:** Monday-Saturday 7am to 11pm. **Approved Hours of Alcoholic Beverage Sales and Off-Premise Consumption:** Monday-Saturday 9am to 11pm. **Approved Hours of Alcoholic Beverage Sales and On-Site Consumption:** Monday-Saturday 1pm to 9pm. **Proposed Hours of Operation:** 12am to 12am (24 hour operations). **Proposed Hours of Alcoholic Beverage Sales and Off-Premise Consumption:** Sunday-Saturday 7am to 12am. **Proposed Hours of Alcoholic Beverage Sales and On-Site Consumption:** Sunday-Saturday 1pm to 9pm. ANC 5D. SMD 5D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **One-Eight Distilling**, 1135 Okie Street NE, Manufacturer A, License No. 092751.

4. Review Application for Sidewalk Café Endorsement. ANC 2A. SMD 2A07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Beefsteak**, 800 22nd Street NW, Retailer CR, License No. 097148.

5. Review Application for Sidewalk Café Endorsement. ANC 1B. SMD 1B05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Creme*, 2436 14th Street NW, Retailer CR, License No. 093542.
-

6. Review Application for additional Summer Garden with 136 seats and Entertainment Endorsement. Entertainment to include dancing. ANC 3C. SMD 3C08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *The Savoy Suites Hotel*, 2505 Wisconsin Avenue NW, Retailer CH, License No. 090804.
-

7. Review Request to Expand Seating in Restaurant to 98 and Seating in Bar/Lounge to 58. ANC 3C. SMD 3C08. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *The Savoy Suites Hotel*, 2505 Wisconsin Avenue NW, Retailer CH, License No. 090804.
-

8. Review Application for Entertainment Endorsement. Entertainment to include occasional band, DJ, or karaoke for cultural food events. ANC 5E. SMD 5E02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Mess Hall*, 703 Edgewood Street NE, Retailer CT, License No. 095398.
-

***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

The Interim Director of the Department of Behavioral Health (DBH), pursuant to the authority set forth in sections 5113, 5115, 5117, 5118 and 5119 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-0061; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06, 7-1141.07 and 7-1141.08)(2013 Supp.), hereby gives notice that effective June 15, 2015, DBH will accept new certification applications for: 1) Mental Health Rehabilitation Services (MHRS) Community-Based Intervention (CBI) Level I, II, III, or IV providers with the capacity to deliver culturally competent bi-lingual CBI services, 2) MHRS Child Choice Providers as defined by 22 DCMR A35, and 3) currently certified substance use disorder service providers seeking to open a new location in the District and who are not seeking new or additional DBH funds. DBH will accept certification applications until September 15, 2015.

The moratorium on processing applications for other Mental Health Rehabilitation Services (MHRS) certifications, effective August 18, 2012, will remain in effect. The moratorium on processing applications for other new substance use disorder programs and facilities, effective May 2, 2014, will also remain in effect. Applications for other MHRS or substance use disorder services not covered in this Notice will be returned to the applicant and will not be reviewed or processed by DBH.

The Department of Behavioral Health Establishment Act of 2013 authorizes DBH to “plan, develop, coordinate, and monitor comprehensive and integrated behavioral health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of behavioral health services and behavioral health supports and to assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available.” DBH has identified a need for culturally competent bilingual CBI providers in order to maintain access to services for non-English speaking residents and Child Choice Providers in order to provide a comprehensive array of services and supports to meet the unique needs for children, youth and their families. DBH has also identified a need to certify additional sites of service for current substance use disorder providers who are not seeking additional DBH resources.

All questions regarding this Notice should be directed to Atiya Frame-Shamblee, Deputy Director of Accountability, DBH, at 64 New York Ave. NE, 3rd floor, Washington D.C. 20002; or Atiya.Frame@dc.gov; or (202) 673-2245.

CHILDREN'S GUILD DC PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Multiple Services**

The CG DC PCS seeks qualified vendors/contractors to submit proposals the following areas:

1. Copier Supplier and Maintenance.
2. Transportation Services for Students.
3. Food Service – Breakfast/Lunch/Dinner/Snack
4. Classroom and Office Furniture
5. Janitorial Services
6. Janitorial Supplies
7. Installation of Classroom Instructional Audio / Video Equipment

For deadlines, specifications and other bid requirements pertaining to the RFP visit <http://www.childrensguild.org/rfp/>.

DC BILINGUAL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

DC Bilingual Public Charter School is advertising the opportunity to bid on the provision of the following services in the school building at 33 Riggs Rd NE, Washington DC 20011:

- **Copier Machines.** Bids should include price and dates available for installation.
- **Student Food Services**
- **Janitorial Services**
- **Janitorial Supplies**
- **IT Services**
- **Preventative Maintenance Services**
- **Security Services**
- **Transportation Services**
- **Waste Management Services**

All bids not addressing areas outlined in the appropriate RFP will not be considered.

All RFPs can be found at <http://dcbilingual.org/who-were-looking>.

PROPOSALS WILL BE ACCEPTED BY EMAIL UNTIL 7/3/15.

For more information, please contact:

Hannah Buie,
Operations Manager
828-301-7143.
hbuie@centronia.org

EAGLE ACADEMY PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS

Lead Mentor for Charter Dissemination Grant Program

Project Summary

Your firm is invited to submit qualifications to provide Lead Mentor services under the FY2015 OSSE Charter Dissemination Grant. As per the approved grant, Eagle has to contract with a Lead Mentor to provide the specific services listed below.

The firm must provide on-site support directly to Eagle Academy PCS and Bridges PCS equivalent to 1.25 FTEs.

Specific Responsibilities:

1. The Lead Mentor will be explicitly focused on building the foundation for the implementation of the program for both Eagle Academy PCS and Bridges PCS.
2. The Lead Mentor will have familiarity with multi-tiered behavioral interventions/frameworks as well as knowledge of PBIS, Responsive Classroom, and Second Step.
3. The Lead Mentor will (a) conduct collaborative meetings and evaluate trending data, accounting for EOY behavioral metrics, and how that impacts academic achievement at Bridges; (b) examine to what extent instructional staff at Bridges are currently implementing a behavioral and/or classroom support intervention system, determining what elements seem to be succeeding or creating areas for growth; (c) create an initial scope of work that is responsive to the needs and responsibilities of all involved personnel; and (d) formalize the PRIDE model as it has been adapted for implementation by Bridges PCS.
4. As part of initial planning between the two LEAs, the Lead Mentor will lead the collaboration on accountability measures, and a collective agreement on what metrics need to be tracked (academically, behaviorally, and as they pertain to staff implementation day-to-day through teacher observations) to assess impact and fidelity of implementation.
5. The Lead Mentor will work closely with the Project Director at Eagle and the point of contact at Bridges to create the training agenda and materials, and determine the best breakout method to facilitate small-group learning. Once the initial training has been conducted in mid-August, the Lead Mentor will provide on-site observation for Bridges instructors (rotation method TBD in consultation with Bridges PCS) that will facilitate understanding as they see live demonstrations at Eagle Academy Capitol Riverfront campus.

This contract will begin July 6, 2015 and end July 29, 2016.

Qualifications for contract and staffing should be submitted with proposal.

Date and Location Submittal is Due: Friday, June 26, 2015 by 5:00 p.m.

For submittal requirements, send request to the attention of Mayra Martinez-Fernandez, mmartinez@eagleacademypcs.org

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

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 3C04

Petition Circulation Period: **Monday, June 22, 2015 thru Monday, July 13, 2015**
Petition Challenge Period: **Thursday, July 16, 2015 thru Wednesday, July 22, 2015**

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

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

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

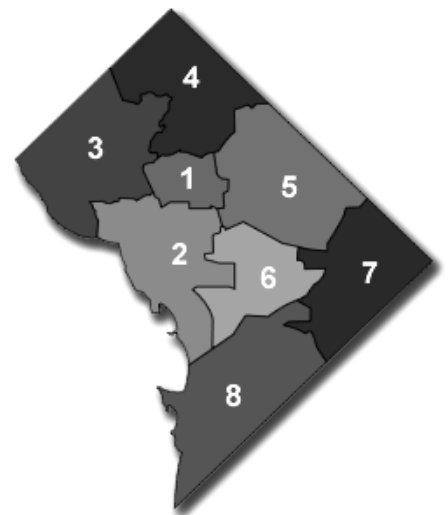
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of MAY 31, 2015**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	43,521	2,835	760	120	131	11,807	59,174
2	29,305	5,672	214	157	112	10,922	46,382
3	36,277	6,682	371	114	101	11,300	54,845
4	47,576	2,265	547	72	132	9,130	59,722
5	50,124	2,092	577	85	152	8,800	61,830
6	51,620	6,534	526	165	166	12,965	71,976
7	48,922	1,266	441	26	120	7,096	57,871
8	43,638	1,196	386	25	143	7,146	52,534
Totals	350,983	28,542	3,822	764	1,057	79,166	464,334
Percentage By Party	75.59%	6.15%	.82%	.16%	.23%	17.05%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF MAY 31, 2015

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
<http://www.dcboee.org>



D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of MAY 31, 2015

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,407	33	7	2	7	220	1,676
22	3,735	350	31	10	10	998	5,134
23	2,812	188	55	11	5	755	3,826
24	2,413	254	36	10	6	779	3,498
25	3,764	424	65	10	6	1,154	5,423
35	3,401	218	61	13	5	951	4,649
36	4,221	266	73	7	9	1,156	5,732
37	3,169	136	56	8	8	755	4,132
38	2,732	131	61	11	11	728	3,674
39	4,131	222	85	8	16	1,024	5,486
40	3,951	210	103	10	15	1,131	5,420
41	3,353	189	69	11	17	1,074	4,713
42	1,773	70	32	3	8	483	2,369
43	1,678	71	19	4	4	372	2,148
137	981	73	7	2	4	227	1,294
TOTALS	43,521	2,835	760	120	131	11,807	59,174

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of MAY 31, 2015

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	759	169	10	10	9	480	1,437
3	1,446	367	16	9	12	665	2,515
4	1,686	474	6	12	4	783	2,965
5	2,116	661	15	12	7	821	3,632
6	2,180	867	21	9	16	1,221	4,314
13	1,273	248	6	4		428	1,959
14	2,790	473	20	16	7	1,002	4,308
15	2,984	339	25	14	12	912	4,286
16	3,523	403	24	14	11	938	4,913
17	4,619	634	35	21	20	1,536	6,865
129	2,072	345	13	14	4	809	3,257
141	2,266	293	13	14	8	695	3,289
143	1,591	399	10	8	2	632	2,642
TOTALS	29,305	5,672	214	157	112	10,922	46,382

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of MAY 31, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,251	404	20	3	2	586	2,266
8	2,381	620	28	4	7	768	3,808
9	1,113	475	8	11	7	487	2,101
10	1,748	417	18	6	8	660	2,857
11	3,346	952	43	15	10	1,403	5,769
12	455	186	1	0	2	207	851
26	2,758	348	22	9	4	895	4,036
27	2,430	280	18	10	3	625	3,366
28	2,192	499	34	8	5	724	3,462
29	1,236	245	11	4	7	398	1,901
30	1,252	215	15	3	4	282	1,771
31	2,336	320	22	3	8	582	3,271
32	2,653	315	25	3	5	610	3,611
33	2,807	324	30	8	7	714	3,890
34	3,398	422	32	12	7	1,059	4,930
50	2,060	272	17	5	9	479	2,842
136	777	110	7	2	1	302	1,199
138	2,084	278	20	8	5	519	2,914
TOTALS	36,277	6,682	371	114	101	11,300	54,845

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of MAY 31, 2015

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,194	73	37	6	5	438	2,753
46	2,849	85	38	5	10	547	3,534
47	2,998	150	42	5	11	739	3,945
48	2,733	132	31	7	5	563	3,471
49	828	45	16	0	4	198	1,091
51	3,246	539	23	6	6	645	4,465
52	1,280	178	5	0	3	223	1,689
53	1,230	75	21	1	5	263	1,595
54	2,356	91	29	2	5	494	2,977
55	2,406	71	23	3	10	444	2,957
56	3,083	90	35	6	10	675	3,899
57	2,489	76	38	6	14	465	3,088
58	2,262	60	18	2	4	372	2,718
59	2,560	91	32	6	9	422	3,120
60	2,142	77	24	3	5	676	2,927
61	1,581	53	10	2	2	280	1,928
62	3,130	123	30	2	3	375	3,663
63	3,493	134	55	1	11	660	4,354
64	2,229	56	18	5	5	332	2,645
65	2,487	66	22	4	5	319	2,903
Totals	47,576	2,265	547	72	132	9,130	59,722

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of MAY 31, 2015

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,115	193	68	10	6	959	5,351
44	2,818	225	29	4	16	673	3,765
66	4,448	111	42	4	8	525	5,138
67	2,925	96	23	2	7	401	3,454
68	1,905	134	31	9	7	396	2,482
69	2,094	73	15	2	11	271	2,466
70	1,441	72	22	1	3	215	1,754
71	2,370	64	26	2	9	332	2,803
72	4,349	117	28	3	17	746	5,260
73	1,897	88	28	5	5	344	2,367
74	4,182	217	59	8	10	814	5,290
75	3,441	162	63	16	6	809	4,497
76	1,342	59	14	2	4	263	1,684
77	2,779	99	25	5	10	480	3,398
78	2,865	78	36	3	8	458	3,448
79	1,980	75	17	3	10	337	2,422
135	3,006	183	43	5	11	541	3,789
139	2,167	46	8	1	4	236	2,462
TOTALS	50,124	2,092	577	85	152	8,800	61,830

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of MAY 31, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,133	451	44	14	14	1,084	5,740
18	4,408	298	41	12	12	979	5,750
21	1,171	59	15	2	2	269	1,518
81	4,682	381	44	7	18	969	6,101
82	2,561	252	27	11	8	588	3,447
83	4,200	527	39	20	9	1,117	5,912
84	1,993	432	27	8	6	541	3,007
85	2,664	505	23	11	9	757	3,969
86	2,190	281	28	4	8	485	2,996
87	2,725	239	19	3	10	567	3,563
88	2,187	310	15	3	8	555	3,078
89	2,590	666	25	13	7	766	4,067
90	1,629	272	11	6	8	472	2,398
91	4,054	376	39	13	15	988	5,485
127	3,989	300	57	13	12	842	5,213
128	2,341	209	36	6	7	649	3,248
130	786	324	9	3	3	300	1,425
131	1,950	485	12	13	6	648	3,114
142	1,367	167	15	3	4	389	1,945
TOTALS	51,620	6,534	526	165	166	12,965	71,976

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of MAY 31, 2015

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,484	83	13	1	4	269	1,854
92	1,622	38	11	2	6	248	1,927
93	1,583	45	19	2	5	224	1,878
94	2,058	50	20	0	3	303	2,434
95	1,692	43	18	0	2	300	2,055
96	2,396	67	23	0	9	381	2,876
97	1,475	39	17	1	4	210	1,746
98	1,837	42	22	2	5	260	2,168
99	1,423	39	14	2	5	234	1,717
100	2,247	45	16	1	4	283	2,596
101	1,636	31	17	1	6	181	1,872
102	2,509	53	23	0	7	331	2,923
103	3,646	91	37	2	13	586	4,375
104	3,090	83	23	2	12	452	3,662
105	2,395	64	23	3	4	393	2,882
106	2,982	62	23	0	8	447	3,522
107	1,899	57	18	1	5	297	2,277
108	1,125	27	7	1		127	1,287
109	958	33	7	0	1	97	1,096
110	3,788	94	25	3	6	425	4,341
111	2,585	61	29	0	6	390	3,071
113	2,230	58	21	1	2	282	2,594
132	2,262	61	15	1	3	376	2,718
TOTALS	48,922	1,266	441	26	120	7,096	57,871

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of MAY 31, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,063	58	11	0	8	304	2,444
114	3,123	105	23	1	19	520	3,791
115	2,743	66	22	7	8	604	3,450
116	3,794	96	36	2	12	598	4,538
117	1,908	44	18	0	7	311	2,288
118	2,572	62	27	0	5	416	3,082
119	2,821	110	37	0	11	538	3,517
120	1,875	31	16	2	4	300	2,228
121	3,120	71	27	1	9	458	3,686
122	1,666	37	14	0	6	238	1,961
123	2,186	95	25	4	13	345	2,668
124	2,522	55	13	1	4	343	2,938
125	4,458	115	36	1	13	732	5,355
126	3,583	116	36	5	11	685	4,436
133	1,331	39	13	0	2	185	1,570
134	2,078	39	24	1	4	296	2,442
140	1,795	57	8	0	7	273	2,140
TOTALS	43,638	1,196	386	25	143	7,146	52,534

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY**

For voter registration activity between 4/24/2015 and 5/31/2015

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	351,340	28,582	3,810	739	1,058	79,303	464,832
Board of Elections Over the Counter	16	0	0	0	0	7	23
Board of Elections by Mail	55	5	0	1	2	13	76
Board of Elections Online Registration	3	1	0	0	0	0	4
Department of Motor Vehicle	1,014	147	16	25	5	353	1,560
Department of Disability Services	7	0	0	0	0	1	8
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	0	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0	0
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	0	0	1	0	0	0	1
Department of Human Services	9	2	0	0	0	1	12
Special / Provisional	38	2	0	0	0	23	63
All Other Sources	104	4	2	0	0	59	169
+Total New Registrations	1,246	161	19	26	7	457	1,916

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	257	18	1	0	2	62	340
Administrative Corrections	8	0	2	0	18	251	279
+TOTAL ACTIVATIONS	265	18	3	0	20	313	619

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	1,615	173	14	2	8	711	2,523
Moved Out of District (Deleted)	21	3	0	0	0	9	33
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	30	1	0	0	0	2	33
Administrative Corrections	309	39	2	23	1	69	443
-TOTAL DEACTIVATIONS	1,975	216	16	25	9	791	3,032

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	400	68	20	27	7	283	
- Changed From Party	-293	-71	-14	-3	-26	-399	
ENDING TOTALS	350,983	28,542	3,822	764	1,057	79,166	464,334

**DEPARTMENT OF EMPLOYMENT SERVICES
OFFICE OF WAGE AND HOUR**

PUBLIC NOTICE

District of Columbia Minimum Wage Increase – 2015

Beginning July 1, 2015, the minimum wage in the District of Columbia will increase from \$9.50 per hour to \$10.50 per hour for all workers, regardless of size of employer. The Minimum Wage Amendment Act of 2013 was signed into law on January 15, 2014 after unanimous passage by the D.C. Council and includes provisions to further increase the minimum wage through 2016.

Under the law, the District's minimum wage is slated to increase by \$1.00 on July 1 each year from 2014 through 2016, capping at \$11.50 per hour. Beginning July 1, 2017, the District's minimum wage will increase annually in proportion to the annual average increase in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area for the preceding 12 months.

The base minimum wage for tipped restaurant employees will remain at \$2.77 per hour. However, if an employee's hourly tip earnings (averaged weekly) added to the base minimum wage do not equal the District's full minimum wage, the employer must pay the difference.

Every employer subject to the provisions of the Act must post the D.C. Minimum Wage poster in or about the premises at which any employee covered is employed.

Please direct all inquiries to:

Mohammad Sheikh
Deputy Director, Labor Standards Bureau
(202) 671-0588

DISTRICT DEPARTMENT OF THE ENVIRONMENT**NOTICE OF FILING OF AN APPLICATION
TO PERFORM VOLUNTARY CLEANUP****2800 Sherman Avenue, NW**

Pursuant to § 636.01(a) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 et seq., as amended April 8, 2011, DC Law 18-369 (herein referred to as the “Act”)), the Voluntary Cleanup Program in the District Department of the Environment (DDOE), Land Remediation and Development Branch, is informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The applicant for real property located at 2800 Sherman Avenue, NW, Washington, DC 20001 is 2800 Sherman LLC, c/o Capital City Real Estate, 1515 14th Street, NW, Suite 201, Washington D.C. 20005. The application identifies the presence of petroleum and Volatile Organic Compounds (VOCs) in soil and groundwater. The applicant intends to re-develop the property for residential use.

Pursuant to § 636.01(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-1B) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program
District Department of the Environment (DDOE)
1200 1st Street, N.E., 5th Floor
Washington, DC 20002

Interested parties may also request a copy of the application for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-2289.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty one (21) days from the date of this publication. DDOE is required to consider all relevant public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Please refer to Case No. VCP 2015-035 in any correspondence related to this application.

DISTRICT DEPARTMENT OF THE ENVIRONMENT**NOTICE OF FILING OF AN APPLICATION
TO PERFORM VOLUNTARY CLEANUP****455 I Street, NW**

Pursuant to § 636.01(a) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 et seq., as amended April 8, 2011, DC Law 18-369 (herein referred to as the “Act”)), the Voluntary Cleanup Program in the District Department of the Environment (DDOE), Land Remediation and Development Branch, is informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The applicant for real property located at 455 I Street, NW, Washington, DC 20001, is Equity Residential Eye Street, LLC, Two N. Riverside Plaza, Suite 400, Chicago, IL 60606. The application identifies the presence of petroleum and dry cleaning solvent compounds in soil and groundwater. The applicant intends to re-develop the property into a multi-story mixed-use complex.

Pursuant to § 636.01(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-6E) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program
District Department of the Environment (DDOE)
1200 1st Street, N.E., 5th Floor
Washington, DC 20002

Interested parties may also request a copy of the application for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-2289.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty one (21) days from the date of this publication. DDOE is required to consider all relevant public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Please refer to Case No. VCP 2015-034 in any correspondence related to this application.

FRIENDSHIP PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS

Friendship Public Charter School is seeking bids from prospective vendors to provide;

Friendship Public Charter School seeks a **qualified vendor to provide CCTV CAMERA INSTALLATION AND MAINTANANCE SERVICES**. The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>. Proposals are due no later than 4:00 P.M., EST, July 3rd 2015. Questions can be addressed to: ProcurementInquiry@friendshipschools.org

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

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

Designation Case No. 15-03: Sedgwick Gardens Apartment House (including
interior lobby and elevator lobbies)
3726 Connecticut Avenue NW (Square 2060, Lot 31)
Designated May 28, 2015

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.

HISTORIC PRESERVATION REVIEW BOARD**NOTICE OF WITHDRAWAL OF LANDMARK NOMINATIONS**

This is official notice that an application to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites has been withdrawn at the request of the applicant:

Designation Case No. 09-02: Emory United Methodist Church
1007, 1009, 1011, 1015 and 1017 K Street and 1001 11th Street NW
Square 342, Lots 3, 4, 5, 53 and 809

Applicant: D.C. Preservation League
Withdrawn June 3, 2015
Affected Advisory Neighborhood Commission 2C

The properties are no longer subject to the historic preservation law.

**DISTRICT OF COLUMBIA
STATE HISTORIC PRESERVATION OFFICER**

**NOTICE OF INTENT TO NOMINATE HISTORIC DISTRICTS
TO THE NATIONAL REGISTER OF HISTORIC PLACES**

The State Historic Preservation Officer hereby provides public notice of his intent to nominate the following historic district to the National Register of Historic Places. The Historic Preservation Review Board recently designated these properties as a historic district after a duly noticed public hearing. The Board designated the historic district below on May 28, 2015.

Under the provisions of the Historic Protection Act (D.C. Code §6-1102(5)(c)), this district become effective when the State Historic Preservation Officer nominates or issues a written determination to nominate the properties to the National Register of Historic Places. Thirty (30) days after the date of this notice, the properties will become subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

Designation Case No. 13-15: Young, Browne, Phelps and Spingarn Educational Campus
2500, 2550 and 2600 Benning Road and 704, 801 820 and 850 26th Street NE
Square 4486, Lots 801 and 802 and Parcel 160, Lot 46 and part of Lot 42

Listing in the D.C. Inventory of Historic Sites and the National Register of Historic Places provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital, 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.

IDEA PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Multiple Services**

The IDEA Public Charter School solicits proposals for the following:

- Bread Distributor – distribute bread to school for breakfast and lunch purposes.
- Milk Distributor – distribute to school for breakfast and lunch purposes.
- Building Painting – provide painting services for selected school areas
- Student Transportation – To provide student transportation for field trips and sporting events
- Legal services – attorney services for legal services focusing on all non-children/students issues as well as all legal matters relating to school property.
- Security Systems – provide security systems for school property.
- Auditor – provide auditor services

Please go to www.ideapcs.org/requests-for-proposals to view a full RFP offering.
Please direct any questions to bids@ideapcs.org.

Proposals shall be received no later than 5:00 P.M., Friday, July, 3 2015.

MUNDO VERDE PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****SchoolForce Support**

Mundo Verde PCS seeks bids for SchoolForce Support. The RFP with bidding requirements and supporting documentation can be obtained by contacting Amanda MacLellan amaclellan@mundoverdepcs.org. **All bids not addressing all areas as outlined in the RFP will not be considered.**

Various Services

Mundo Verde Public Charter School is seeking bids for **moving services, bus services and grounds maintenance including snow removal for the upcoming school year**. Contact Elle Carne at ecarne@mundoverdepcs.org for further information. All bids not addressing all areas as outlined in the RFP will not be considered.

The deadline for application submissions is no later than 4pm on Monday, June 29, 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, June 25, 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

Evidence-Based Healthcare Practices at UMC

- o Dr. Raymond Tu, Vice Chief of Staff
- o Maribel Torres, Chief Nursing Officer

V. CONSENT AGENDA

A. READING AND APPROVAL OF MINUTES

1. May 28, 2015 – Board of Directors General Meeting

B. EXECUTIVE REPORTS

1. Dr. Julian R. Craig, 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. Dr. 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
 - a) Facility Improvements – Anthony Rakis, Director

E. ANNOUNCEMENT

Next Meeting – Thursday, July 23, 2015 at 9:00am in Conference Rooms 2/3.

F. ADJOURNMENT

NOTICE OF INTENT TO CLOSE. The NFPHC Board hereby gives notice that it may close the meeting and move to executive session to discuss collective bargaining agreements, personnel, and discipline matters. D.C. Official Code §§2 - 575(b)(2)(4A)(5),(9),(10),(11),(14).

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA

REQUEST FOR APPLICATIONS

GRANT TO PROMOTE DISTRICT OF COLUMBIA
SELF-DETERMINATION, VOTING RIGHTS, OR STATEHOODCORRECTED NOTICE

This notice corrects a typographical error in the preamble for the Request for Applications, Grant to Promote District of Columbia Self-Determination, Voting Rights, or Statehood, published in the *D.C. Register* on June 12, 2015, at 62 DCR 8415. The correct application due date is **Tuesday, June 30, 2015**, at noon, not Friday, June 30, 2015.

All inquiries regarding the Request for Applications should be directed to:

Lauren C. Vaughan
Secretary of the District of Columbia
Office of the Secretary of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 419
Washington, DC 20004
secretary@dc.gov
202-727-6306

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, July 2, 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 June 4, 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 |

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 13-14A

**(Jair Lynch Development Partners – Second-Stage PUD @ Square 3128, Lot 800 –
McMillan Reservoir Parcel 2)**

June 11, 2015

THIS CASE IS OF INTEREST TO ANCs 5E &1B

On June 8, 2015, the Office of Zoning received an application from Jair Lynch Development Partners (the “Applicant”) for approval of a second-stage planned unit development (“PUD”) for the above-referenced property.

The property that is the subject of this application consists of Lot 800 (Parcel 2) in Square 3128 in northwest Washington, D.C. (Ward 5), also known as the McMillan Reservoir Slow Sand Filtration Site. The McMillan PUD site is bounded by Michigan Avenue, N.W. (north), Channing Street, N.W. (south), North Capitol Street, N.W. (east), and First Street, N.W. (west). Parcel 2, the subject of this notice, is located along the western edge of the PUD site and bounded by First Street, N.W. (west), with private streets, the North Service Court (north), and Half Street (east). The approved PUD-related map amendment rezoned the property from unzoned, for the purposes of this project, to C-3-C/CR.

The Applicant proposes to construct a new mixed-use multi-family building containing 236 units and approximately 18,612 square feet of ground-floor retail space. The maximum height of the building will be 82’6” and the total gross floor area will be approximately 243,050 square feet.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 15-13
(Watkins Alley, LLC – Consolidated PUD and Related Map Amendment @
Square 1043, Lots 142, 849-851, and 859)
June 8, 2015**

THIS CASE IS OF INTEREST TO ANC 6B

On June 3, 2015, the Office of Zoning received an application from Watkins Alley, LLC (the “Applicant”) for approval of a consolidated PUD and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Lots 142, 849-851, and 859 in Square 1043 in Southeast Washington, D.C. (Ward 6), which is located at 1309-1323 E Street, S.E. (rear) and 516 13th Street, S.E. (rear). The property is currently zoned C-M-1/R-4. The Applicant proposes a PUD-related map amendment to rezone the property, for the purposes of this project, to R-5-B.

The site is currently improved with an auto repair shop, parking lot, and a warehouse. The Applicant proposes to redevelop the site with a mixture of 45 apartments and townhouses. The project will have a maximum height of 54.8 feet and a maximum density of 2.86 floor area ratio. (“FAR”). The project will be designed to the LEED-Gold standard and will have 45 car parking spaces and 48 bicycle spaces in an underground garage.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 15-14

**(District of Columbia Water and Sewer Authority – Consolidated PUD and Related
Map Amendment @ Squares 744S and 744SS)**

June 10, 2015

THIS CASE IS OF INTEREST TO ANC 6D

On June 8, 2015, the Office of Zoning received an application from the District of Columbia Water and Sewer Authority (the “Applicant”) for approval of a consolidated PUD and related map amendment for the above-referenced property.

The property that is the subject of this application consists of part of Lot 805 in Square 744S and part of Lot 801 in Square 744SS in southeast Washington, D.C. (Ward 6), which is on a site bounded by N Place, S.E. and Canal Street, S.E. to the north, the Anacostia River to the south, and private property to the east and west. The property is currently zoned CG/W-2. The Applicant proposes a PUD-related map amendment to rezone the property, for the purposes of this project, to CG/CR.

The Applicant proposes to maintain the existing O Street Pumping Station and construct a new office building addition around the existing structure to be used as the headquarters for DC Water. The building will have an overall density of 1.39 floor area ratio (“FAR”) and a maximum height of 100 feet. The project will include 21 off-street parking spaces and will be pursuing LEED-Platinum certification.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR OFFICE OF LEGAL GENERAL COUNSEL
Freedom of Information Act Appeals: 2015-09**

BY EMAIL

Charles A. Moran, Esq.
Moran & Associates
1220 L Street, N.W., Suite 700
Washington, D.C. 20007

Re: Freedom of Information Act Appeal 2015-09

Dear Mr. Moran:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a)(2001) (“DC FOIA”), dated November 3, 2014 (the “Appeal”). You (“Appellant”) assert that the District of Columbia Public Schools (“DCPS”) improperly withheld records in response to your request for information under DC FOIA dated October 7, 2014 (the “FOIA Request”).

Background

Appellant’s FOIA Request sought “all settlement agreement offers regarding the Individuals with Disabilities Education Act (20 U.S.C. § 1400, *et seq.*) for the 2012-2013 school year and the 2013-2014 school year that have the District of Columbia Public Schools as the local education agency.”¹

In response, by email dated October 16, 2014, DCPS denied the FOIA Request, stating that the requested records were exempt from disclosure under the deliberative process privilege pursuant to D.C. Official Code § 2-534(a)(4).

On Appeal, Appellant challenges the denial of the FOIA Request. Appellant maintains that the deliberative process privilege does not apply because the FOIA Request does not seek communications “between two or more agencies (inter-agency communications) nor communications within an agency (intra-agency communications),” only communications with individuals outside government agencies, i.e., “a parent or guardian, adult student, special education advocate, or attorney.” Appellant states that he “do[es] not seek any inter-agency or intra-agency communications.” Appellant indicates that DCPS provided redacted settlement

¹ Appellant submitted an earlier FOIA request in the same form, which request was the subject of Freedom of Information Act Appeal 2014-109. However, that request was amended to seek only accepted offers of settlement. The FOIA Request states that this subsequent request “is for any settlement offer communicated beyond DCPS, be it to a parent or guardian, adult student, special education advocate, or attorney.”

agreements in response to the FOIA request which was the subject of Freedom of Information Act Appeal 2014-109.

In response, dated November 20, 2014, DCPS affirmed and amplified its position. First, DCPS claims all records are exempt from disclosure under not only the deliberative process privilege, but under the attorney-client privilege and the work product privilege.

A number of settlement agreements are initiated and negotiated within the Office of the General Counsel or at the direction of a DCPS attorney. Any documents or records of communications created during the settlement negotiations are of a pre-decisional nature, and exempt from release pursuant to the deliberative process privilege. The significant role DCPS attorneys play in the settlement negotiation process would exempt any settlement agreement offers from release under the attorney-client privilege and attorney work-product exemptions accorded under D.C. Official Code §2-534 (a) (4), (e). . . .

Although the offer is communicated beyond DCPS, the communications that take place within DCPS to arrive at a proposed offer lie squarely within the realm of deliberative process, as would any documents created therefrom. The only documents that are proper for release are the final, executed settlement agreements.

Second, DCPS asserts that a search for responsive records would be unduly burdensome.

Settlement offers may be initiated or agreed upon in an email sent by a DCPS employee, in a meeting regarding the student who is the subject of the litigation, or in a phone conversation between DCPS counsel and opposing counsel. Because of the varying nature in which settlement offers are often initiated, it is difficult to fully determine the entire universe of responsive documents without performing an exhaustive search that goes beyond the scope of what is required by the FOIA statute. Also, every written offer is not necessarily communicated to the parent's counsel for a myriad of reasons. The effort required to identify what offers were actually transmitted to a parent or their counsel would be extremely cumbersome and time consuming.

DCPS was invited to supplement the administrative record regarding the approximate number of Individuals with Disabilities Education Act ("IDEA") cases pending during each school year requested and the approximate number of DCPS attorneys assigned to such cases. DCPS indicated that there were approximately 737 IDEA cases pending during the 2012-2013 school year and approximately 638 IDEA cases pending during the 2013-2014 school year. DCPS also indicated that there were 10 attorneys in the Office of the General Counsel of DCPS involved in IDEA cases during each such school year.²

² According to DCPS, there were 16 attorneys in total in the Office of the General Counsel of DCPS during 2012, 2013, and 2014.

Discussion

It is the public policy of the District of Columbia (the “District”) government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect ... and ... copy any public record of a public body . . .” *Id.* at § 2-532(a). Moreover, in his first full day in office, the District’s Mayor Vincent Gray announced his Administration’s intent to ensure that DC FOIA be “construed with the view toward ‘expansion of public access and the minimization of costs and time delays to persons requesting information.’” Mayor’s Memorandum 2011-01, Transparency and Open Government Policy. Yet that right is subject to various exemptions, which may form the basis for a denial of a request. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987), and decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm’n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The issue raised by Appellant is the applicability of the deliberative process privilege as the basis for the withholding of the requested records.

D.C. Official Code § 2-534(a)(4) exempts from disclosure “inter-agency or intra-agency memorandums or letters . . . which would not be available by law to a party other than a public body in litigation with the public body.” This exemption has been construed to “exempt those documents, and only those documents, normally privileged in the civil discovery context.” *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). These privileges would include the deliberative process privilege.

The deliberative process privilege protects agency documents that are both predecisional and deliberative. *Coastal States Gas Corp., v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). A document is predecisional if it was generated before the adoption of an agency policy and a document is deliberative if it “reflects the give-and-take of the consultative process.” *Id.*

The exemption thus covers recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency. Documents which are protected by the privilege are those which would inaccurately reflect or prematurely disclose the views of the agency, suggesting as agency position that which is as yet only a personal position. To test whether disclosure of a document is likely to adversely affect the purposes of the privilege, courts ask themselves whether the document is so candid or personal in nature that public disclosure is likely in the future to stifle honest and frank communication within the agency . . .

Id.

“Manifestly, the ultimate purpose of this long-recognized privilege is to prevent injury to the quality of agency decisions.” *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 152 (1975).

As Appellant argues, the deliberative process privilege does not apply to settlement offers received by the District from, or transmitted by the District to, outside parties. In *M/A-Com Information Systems, Inc. v. United States Dep't of Health & Human Services*, 656 F. Supp. 691 (D.D.C. 1986), our local federal court found that the federal equivalent of D.C. Official Code § 2-534(a)(4) “does not cover papers exchanged between a government agency and an outside adverse party. The exemption by its terms covers only ‘inter’ or ‘intra’ agency documents.” *Id.* at 692. Likewise, in *Mokhiber v. United States Dep't of the Treasury*, 335 F. Supp. 2d 65 (D.D.C. 2004), the court confirmed its prior ruling that such exemption “only protects those communications that are between or within agencies; therefore, information pertaining to settlement discussions between an agency and a third party are not exempt from disclosure.” *Id.* at 72.³ The FOIA Request specifically excludes any records reflecting intragovernmental or intragovernmental communications. The argument of DCPS that any records created as a result of a deliberative process are exempt from disclosure, even if transmitted outside DCPS or other governmental agencies, is inconsistent with established law regarding the deliberative process privilege.

On Appeal, DCPS raises for the first time the applicability of the attorney-client privilege and the work product privilege. However, the requested records do not fall within the scope of these privileges. The attorney-client privilege applies to confidential communications between clients and their attorneys made for the purpose of securing legal advice or services. “The privilege does not allow the withholding of documents simply because they are the product of an attorney-client relationship, however.” *Mead Data Cent., Inc. v. United States Dep't of the Air Force*, 566 F.2d 242, 253 (D.C. Cir. 1977). The attorney-client privilege does not apply to communications which are made, or revealed to, third parties. The work-product privilege has been developed in federal courts based on the decision in *Hickman v. Taylor*, 329 U.S. 495 (1947) and, simply stated, protects from disclosure materials prepared in anticipation of litigation or for trial. *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 864 (D.C. Cir. 1980). There is, however, no protection accorded to records which have already been revealed to an adverse party.

DCPS also raises on Appeal for the first time the argument that a search for responsive records would be unduly burdensome.

³ While not a case involving the applicability of the deliberative process privilege, in *County of Madison v. United States Dep't of Justice*, 641 F.2d 1036, 1040 (1st Cir. 1981), the court rejected “the government's invitation to create a broadranging ‘settlement exemption’.” The court acknowledged that while revealing written settlement communications may impede resolution and termination of disputes, “[n]onetheless the FOIA's legislative history ‘emphasize(d)’ that the law ‘is not a withholding statute but a disclosure statute....’ S.Rep. No. 1219, 88th Cong., 2d Sess. 11 (1954).”

Subsection 1-402.4 of the District of Columbia Municipal Regulations provides: “A request shall reasonably describe the desired record(s).” A requester must frame requests with sufficient particularity to ensure that searches are not unreasonably burdensome and to enable the agency to determine precisely what records are being requested. *Assassination Archives & Research Center, Inc. v. CIA*, 720 F. Supp. 217, 219 (D.D.C. 1989). “The rationale for this rule is that FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters. Therefore, agencies are not required to maintain their records or perform searches which are not compatible with their own document retrieval systems.” *Id.*

As under federal law, an agency is required to disclose records available only upon a request which reasonably describes the records sought. *Truitt v. Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990); *Marks v. United States (Dep't of Justice)*, 578 F.2d 261, 263 (9th Cir. 1978). A description is sufficient if it enables a professional employee of the agency who was familiar with the subject area of the request to locate the record with a reasonable amount of effort. *Id.* an agency is not required to conduct a search which is unreasonably burdensome. *Goland v. CIA*, 607 F.2d 339, 353 (D.C. Cir. 1978); *American Federation of Government Employees, Local 2782 v. U.S. Dep't of Commerce*, 907 F.2d 203, 209 (D.C. Cir. 1990). In Freedom of Information Act Appeal 2011-09, a request to search all of the email accounts of the University of the District of Columbia, which would have a search of over 7,000 email accounts, plus archived accounts, was found to be an unreasonably burdensome request. By contrast, in Freedom of Information Act Appeal 2011-41, where the agency argued that that “[a] working unit in a given agency may contain dozens, and in some cases hundreds of employees over any given period of time,” we found that the search was not unreasonably burdensome where the FOIA request required a search of the records of approximately 12 employees for a 4 ½-month period.

In the case of the Appeal, DCPS states that settlements are “initiated and negotiated within the Office of the General Counsel or at the direction of a DCPS attorney.” DCPS indicates that there were approximately 737 IDEA cases pending during the 2012-2013 school year and approximately 638 IDEA cases pending during the 2013-2014 school year. Thus, with resolution of pending cases and additional cases filed, there may have been 750 to 800 cases in the Office of the General Counsel of DCPS during the applicable time period of the FOIA Request. This is not an insubstantial number of cases. On the other hand, the caseload and the accompanying records were managed by ten attorneys, which would indicate that the records to be searched are not excessively voluminous. Moreover, as this number remained stable, it would appear that there was little or no turnover and that such attorneys would be available to assist in a search. In resolving any doubts as to the feasibility of conducting a search, we note that DCPS provided records in response to a prior FOIA request for all accepted settlement offers and the records to be searched in response to the FOIA Request would be the same as in the prior request. While the search here may be time-consuming, DCPS has not persuaded this office that it would be unduly burdensome.⁴ Accordingly, we are directing DCPS to search for, and provide to Appellant, responsive records.

⁴ We also believe that DCPS has overstated the difficulty of identifying responsive records. For instance, if a settlement offer was communicated orally, there would be no record to be provided.

As part of its submission, Appellant has provided a settlement agreement and filings in administrative and judicial proceedings, which documents, pursuant to the prior FOIA request, were redacted for personal identifying information of the individuals involved in the matters. As Appellant has not indicated any objections to such redactions, which apparently were made on the basis of privacy, we will presume that Appellant consents to the redaction of personal identifying information of students and other third parties, including school employees, on the responsive records which DCPS must produce pursuant to this decision.

Conclusion

Therefore, the decision of DCPS is reversed and remanded. DCPS shall produce the requested records to Appellant subject to redaction for personal identifying information of students and other third parties, including school employees.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you are free under DC FOIA to commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia.

Sincerely,

Donald S. Kaufman
Deputy General Counsel

cc: Eboni Govan, Esq.

Likewise, a written offer not communicated is not a responsive record and we trust that DCPS attorneys maintain records which are adequate to distinguish between draft of a proposed offer and a transmitted offer.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
OFFICE OF THE GENERAL COUNSEL TO THE MAYOR
Freedom of Information Act Appeals: 2015-10**

December 1, 2014

BY EMAIL

Mr. Kevin Quilliam

Re: Freedom of Information Act Appeal 2015-10

Dear Mr. Quilliam:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a)(2001) (“DC FOIA”), dated November 17, 2014 (the “Appeal”). You (“Appellant”) assert that the District Department of the Environment (“DDOE”) improperly withheld records in response to your requests for information under DC FOIA dated September 29, 2014 (the “FOIA Request”) by failing to respond to the FOIA Request.

Appellant’s FOIA Request sought records regarding the contract for the operation of the District’s Sustainable Energy Utility. When DDOE failed to provide a final response to the FOIA Request, Appellant initiated the Appeal.

In response to the Appeal, dated December 1, 2014, DDOE stated that, by email on October 9, 2014, it provided responsive records to Appellant. Based on the foregoing, we will now consider the Appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to Appellant to assert any challenge, by separate appeal, to the response of DDOE.

Sincerely,

Donald S. Kaufman
Deputy General Counsel

cc: Ibrahim Bullo

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR OFFICE OF LEGAL GENERAL COUNSEL
Freedom of Information Act Appeals: 2015-11**

December 19, 2014

BY EMAIL

Robert Green, Esq.

Re: Freedom of Information Act Appeal 2015-11

Dear Mr. Green:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a)(2001) (“DC FOIA”), dated November 26, 2014 (the “Appeal”). You (“Appellant”) assert that the Office of the Attorney General (“OAG”) improperly withheld records in response to your request for information under DC FOIA on October 29, 2014 (the “FOIA Request”).

Background

Appellant’s FOIA Request sought records “related to the handling, by the Office of the Attorney General’s Child Support Services Division (CSSD), of the driver’s license suspension processes established by D.C. Code § 46-225.01.” Stating that “many or all of them are subject to mandatory disclosure—even in the absence of a written request for information—pursuant to D.C. Code § 2-536(a),” Appellant requested the following records:

- (1) Any and all administrative staff manuals and instructions to staff concerning CSSD’s handling of driver’s license suspension proceedings;
- (2) Any and all final CSSD opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of driver’s license suspension proceedings; and
- (3) Any and all CSSD statements of policy and interpretations of policy, acts, and rules which have been adopted by CSSD with respect to driver’s license suspension proceedings.

In response, by letter dated November 20, 2014, OAG denied the FOIA Request. OAG stated that the Child Support Services Division (“CSSD”) indicated that there were no responsive records for the second category of the FOIA Request as “CSSD does not issue formal opinions (including concurring and dissenting opinions) or formal orders related to the adjudications of driver’s license suspension proceedings.” OAG also stated that CSSD indicated that there were responsive records for the first and third categories of the FOIA Request, but withheld the records under the attorney-client privilege pursuant to D.C. Official Code § 2-534(a)(4), stating “these records were prepared by CSSD attorneys intended as legal advice to CSSD staff.”

On Appeal, Appellant challenges the denial of the FOIA Request with respect to the responsive records which were withheld. Appellant first notes that his ability to contest the denial is limited as the OAG response “did not describe the materials being withheld or the context in which they were prepared, aside from a blanket statement that ‘these records were prepared by CSSD attorneys intended as legal advice to CSSD staff.’” By footnote to such statement, Appellant also states that while both D.C. Official Code § 2-533 and DCMR § 1-407.2 require that the denial of a FOIA request contains the name of the official or employee who makes the decision, here the response letter “does not indicate whether it was [the OAG FOIA Officer] or some other unnamed CSSD personnel who determined that they are privileged, or whether that person reviewed the materials before making that determination.”

Notwithstanding such limitations, Appellant sets forth two main arguments regarding the inapplicability of the claimed exemption. First, Appellant states that “many or all of the materials likely to have been identified by CSSD as responsive to my request” are public information under D.C. Official Code § 2-536(2) and (4) and do not require a written request thereunder to be disclosed. Second, citing judicial precedent, Appellant states the attorney-client privilege does not apply where “communications effectively constitute the composition of a body of law that binds members of the public.” With more particularity, Appellant argues that “[t]his is manifestly the case where CSSD counsel, through their communications with CSSD personnel, compose the procedural rules by which CSSD hearing officers conduct the driver’s license suspension proceedings commended to that agency by D.C. Code § 46-225.01.” In addition, Appellant states that

any communications in which CSSD personnel solicited advice from agency counsel regarding the handling of particular cases would also fall outside the ambit of attorney-client privilege because the factual information contained in those communications would not have been provided by CSSD—the ‘client’—in the first instance, but by the third party about whom CSSD would be seeking advice.

In response, dated December 18, 2014, OAG reconsidered and revised its position. OAG states that, in its initial response to the FOIA Request, it withheld two records which were responsive to the FOIA Request. The first record is the responsive portion (two pages) of the agency Enforcement Case Flow Cookbook Procedures, which pages “explain[] license revocation computer procedures.” The second record is entitled DMV License and Vehicle Registration Revocation, whose stated purpose is to “advise CSSD personnel on the procedures for revoking an obligor’s driver’s license and/or registration for non-payment of child support.” Rather than withholding both records, OAG has indicated that it will release the second record with redactions for “references to CSSD’s proprietary computer system, DCCSES, and codes specific to this system.” OAG cites and quotes a federal case which allowed the “withholding of internal codes for electronic system” based on a finding of “no significant public interest in the disclosure of identifying codes and similar information.” As to the same type of computer procedures which were in the first record, also citing the same case, OAG states that “while DC Code § 2-536(a) requires the release of staff manuals, it only requires release to the extent that it

impacts the public. Codes and computer instructions that are only relevant to CSSD's case management system do not affect members of the public." OAG has provided a copy of the unredacted records for confidential review.

Discussion

It is the public policy of the District of Columbia (the "District") government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect ... and ... copy any public record of a public body . . ." *Id.* at § 2-532(a). Moreover, in his first full day in office, the District's Mayor Vincent Gray announced his Administration's intent to ensure that DC FOIA be "construed with the view toward 'expansion of public access and the minimization of costs and time delays to persons requesting information.'" Mayor's Memorandum 2011-01, Transparency and Open Government Policy. Yet that right is subject to various exemptions, which may form the basis for a denial of a request. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987), and decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

With the response to the Appeal of OAG, the tenor of this matter has changed. While the initial response to the FOIA Request gave rise to an inference that there were a significant number of records which were being withheld based upon the assertion of the attorney-client privilege, there are, in fact, only two responsive records and the only withholding or redaction involves processing instructions consisting largely of computer instructions.

The crux of the Appeal is the challenge to the withholding of "communications [which] effectively constitute the composition of a body of law that binds members of the public." Appellant contests essentially the concealment of a "secret body of law."¹ Here, upon the reconsideration and revision of its position, OAG is disclosing all of the substantive portions of its responsive records, withholding only ministerial processing instructions. Accordingly, we believe that the Appeal is moot.

While D.C. Official Code § 2-536(a)(2) provides for the disclosure of "[a]dministrative staff manuals and instructions to staff that affect a member of the public," OAG has justified the withholding or redaction based on its contention that such ministerial processing instructions do not affect the public, supported by a finding in *Maydak v. U.S. Department of Justice*, 254 F.

¹ In *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 862 (D.C. Cir. 1980), the court stated, although in the context of the deliberative process privilege, that agencies "will not be permitted to develop a body of 'secret law,' used by it in the discharge of its regulatory duties and in its dealings with the public, but hidden behind a veil of privilege . . ." *Id.* at 867.

Supp. 2d 23 (D.D.C.), that, under a federal exemption for internal practices of an agency which ostensibly applies by analogy, there is “no significant public interest in the disclosure of identifying codes and similar information.” While the interpretation of the phrase “that affect a member of the public” in D.C. Official Code § 2-536(a)(2) is a matter of first impression in our administrative appeals, we presume that Appellant would acquiesce in this interpretation, especially given the legal argument which Appellant makes. Nevertheless, we note that Appellant has not had an opportunity to address the revised position of OAG as to the withholding/redaction. Accordingly, if Appellant desires to contest the withholding/redaction of such ministerial processing instructions, Appellant may submit a request for reconsideration of this decision as to such issue. If, after receipt of a request for reconsideration, this office finds that such request merits reconsideration, we will provide Appellant with an opportunity to respond before issuing a revised decision.

Conclusion

Therefore, subject to a request for reconsideration, we will now consider the Appeal to be moot and it is dismissed.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you are free under DC FOIA to commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia.

Sincerely,

Donald S. Kaufman
Deputy General Counsel

cc: Emma Clark
Ariel Levinson-Waldman, Esq.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR OFFICE OF LEGAL GENERAL COUNSEL
Freedom of Information Act Appeals: 2015-12**

December 19, 2014

BY EMAIL

Mr. Adam Marshall
Katie Townsend, Esq.

Re: Freedom of Information Act Appeal 2015-12

Dear Mr. Marshall and Ms. Townsend:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a)(2001) (“DC FOIA”), dated November 20, 2014 (the “Appeal”). You (“Appellant”) assert that the Metropolitan Police Department (“MPD”) improperly withheld records in response to your request for information under DC FOIA on October 2, 2014 (“FOIA Request”).

Background

Appellant’s FOIA Request sought “all video from BWC [body worn cameras] worn by MPD officers that was created on October 1, 2014.”

In response, by email dated November 7, 2014, MPD identified 128 responsive video recordings, but denied the FOIA Request, based on the exemption from disclosure under D.C. Official Code § 2-534(a)(3)(A)(i) (law enforcement investigatory records whose release would interfere with enforcement proceedings) with respect to “video recordings [which] depict arrests and/or active criminal investigations” and the exemptions from disclosure for personal privacy under D.C. Official Code § 2-534(a)(2) and (3)(C) with respect to video recordings of “individuals subject to arrest, suspects in the commission of crimes, and victims and/or witnesses to crimes.” With respect to the latter video recordings, MPD stated that it did not have the capability to redact the videos with respect to personal identifying information.

On Appeal, Appellant challenges the response to the FOIA Request. Noting that MPD stated that the videos from “‘arrests and/or active criminal investigations’, along with ‘faces, names, and other identifying information regarding arrestees, suspects, victims, and witnesses are exempt from disclosure,’” Appellant states:

This leaves a host of other nonexempt information, including the conduct of MPD law-enforcement officers themselves, that the public he has a strong interest in obtaining. Among other things, the requested records will help the public

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Katie Townsend, Esq.
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understand how the law-enforcement officer tasked with protecting their safety and well-being are conducting themselves, and provide the public with needed information concerning the BWC pilot program itself.

Appellant identifies “‘contact[s]’ with civilians which did not involve an arrest” as video records which are not exempt from disclosure under the exemptions claimed by MPD.

Furthermore, Appellant asserts that MPD has failed to meet its obligation under D.C. Official Code § 2-534(b) to segregate nonexempt information. It disputes the claim of MPD that it cannot make redactions to the videos. It states that “redacting videos is not technologically difficult” and specifies an example of low-cost “software that would permit video footage to be redacted with minimal effort.” It also states that “[t]here are numerous computer programs available that would make such redactions easy to accomplish.”

In its response, dated December 18, 2014, MPD reaffirmed its position. While acknowledging that the videos are records under DC FOIA and “it is legally obligated to provide ‘reasonably segregable’ non-exempt portions of the records,” MPD reiterates that it “presently does not have the technical capacity, either internally or through contract, to redact the non-exempt footage responsive to the Reporters Committee’s request.”

Discussion

It is the public policy of the District of Columbia (the “District”) government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-537(a). In aid of that policy, the DC FOIA creates the right “to inspect ... and ... copy any public record of a public body . . .” *Id.* at § 2-532(a). Moreover, in his first full day in office, the District’s Mayor Vincent Gray announced his Administration’s intent to ensure that DC FOIA be “construed with the view toward ‘expansion of public access and the minimization of costs and time delays to persons requesting information.’” Mayor’s Memorandum 2011-01, Transparency and Open Government Policy. Yet that right is subject to various exemptions, which may form the basis for a denial of a request. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987), and decisions construing the federal statute may be examined to construe the local law.

While Appellant makes the perfunctory argument that the withheld videos are records which must be disclosed under DC FOIA, it does acknowledge that the disclosure of records is subject to exemptions and does not directly dispute that the claim by MPD that videos involving “arrests or active criminal investigations” or “arrestees, suspects, victims, and witnesses” are exempt from disclosure. Its argument is that videos showing citizens but not involving an arrest do not qualify for exemption. In addition, it argues that MPD can redact exempt information from the videos and disclose the unredacted portion.

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Although Appellant does not expressly specify, its contest of the claim of exemption by MPD for the contested videos would be based on privacy. An inquiry under a privacy analysis under FOIA turns on the existence of a sufficient privacy interest and a balancing of such individual privacy interest against the public interest in disclosure. *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 756 (1989).¹

The first part of the privacy analysis is whether a sufficient privacy interest exists regarding any individuals identified in the withheld records. The D.C. Circuit has stated:

[I]ndividuals have a strong interest in not being associated unwarrantedly with alleged criminal activity. Protection of this privacy interest is a primary purpose of Exemption 7(C)[Exemption (3)(C) under DC FOIA]. ‘The 7(C) exemption recognizes the stigma potentially associated with law enforcement investigations and affords broader privacy rights to suspects, witnesses, and investigators.’ *Bast*, 665 F.2d at 1254.

Stern v. FBI, 737 F.2d 84, 91-92 (D.C. Cir. 1984).

The Supreme Court held that “as a categorical matter that a third party's request for law enforcement records or information about a private citizen can reasonably be expected to invade that citizen's privacy . . .” *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 780 (1989). “[I]nformation in an investigatory file tending to indicate that a named individual has been investigated for suspected criminal activity is, at least as a threshold matter, an appropriate subject for exemption under 7(C) [as noted above, D.C. Official Code § 2-

¹ D.C. Official Code § 2-534(a)(2) (“Exemption (2)”) provides for an exemption from disclosure for “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” By contrast, D.C. Official Code § 2-534(a)(3)(C) (“Exemption (3)(C)”) provides an exemption for disclosure for “[i]nvestigatory records compiled for law-enforcement purposes, including the records of Council investigations and investigations conducted by the Office of Police Complaints, but only to the extent that the production of such records would . . . (C) Constitute an unwarranted invasion of personal privacy.” It should be noted that the privacy language in this exemption is broader than in Exemption (2). While Exemption (2) requires that the invasion of privacy be “clearly unwarranted,” the adverb “clearly” is omitted from Exemption (3)(C). Thus, the standard for evaluating a threatened invasion of privacy interests under Exemption (3)(C) is broader than under Exemption (2). See *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 756 (1989). For the purposes of DC FOIA, law enforcement agencies conduct investigations which focus on acts which could, if proved, result in civil or criminal sanctions. *Rural Housing Alliance v. United States Dep’t of Agriculture*, 498 F.2d 73, 81 (D.C. Cir. 1974). Although it is not directly addressed in the administrative record, we presume that the videos depict investigatory activities which could result in sanctions. Accordingly, we will consider the exemption under the standard for Exemption (3)(C).

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534(a)(3)(C) under DC FOIA].” *Fund for Constitutional Government v. National Archives & Records Service*, 656 F.2d 856, 863 (D.C. Cir. 1981). The D.C. Circuit has also stated that nondisclosure is justified for documents that reveal allegations of wrongdoing by suspects who never were prosecuted. *See Bast v. U. S. Dep't of Justice*, 665 F.2d 1251, 1254 (D.C. Cir. 1981). As set forth above, the D.C. Circuit in the *Stern* case stated that individuals have a strong interest in not being associated unwarrantedly with alleged criminal activity and that protection of this privacy interest is a primary purpose of the exemption in question.

In Freedom of Information Act Appeal 2013-63, we found that there was a privacy interest of third parties captured by surveillance videotapes. We stated:

Here the videotapes include images of patrons and employees who are clearly third parties. We cannot agree with the contention of Appellant that there is no privacy interest in videotape captured by private, hidden (or unobtrusive) security cameras and collected pursuant to a law enforcement investigation. At the very least, an individual does not waive his individual privacy interest as a consequence of his or her employment in a nightclub. Although it was not at issue in the case, in *Judicial Watch, Inc. v. FBI*, 522 F.3d 364 (D.C. Cir. 2008), the government made, and the requester did not object to, redactions based on individual privacy interests to videotape showing the attack on the Pentagon, which was recorded by a nearby hotel security camera. We find that there is clearly a personal privacy interest in the images on the videotape.

As a starting point, under the “categorical principle” in *Reporters Comm. for Freedom of Press*, quoted above, where the words and images of private citizen are captured in government records, here in a video, a privacy interest is implicated. Furthermore, the presence of an individual in a video recorded by the police may create an association with, or suspicion of, criminal activity, whether warranted or not and regardless of whether an arrest was made. Moreover, even where an arrest has not been made, an individual may have been a suspect or a potential witness in an investigation where an arrest was not made.

Consequently, like the images of individuals captured on the restaurant security cameras in Freedom of Information Act Appeal 2013-63 and the individuals recorded on a hotel security camera in *Judicial Watch, Inc. v. FBI*, we find that there is a sufficient personal privacy for individuals who appear in the withheld videos.

As stated above, the second part of a privacy analysis under Exemption (3)(C) must examine whether the public interest in disclosure is outweighed by the individual privacy interest. The Supreme Court has stated that this must be done with respect to the purpose of FOIA, which is

'to open agency action to the light of public scrutiny.'" *Department of Air Force v. Rose*, 425 U.S., at 372 . . . This basic policy of ‘full agency disclosure unless information is exempted under clearly delineated statutory language,’ *Department of Air Force v. Rose*, 425 U.S., at 360-361 (quoting S. Rep. No. 813, 89th Cong.,

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1st Sess., 3 (1965)), indeed focuses on the citizens' right to be informed about "what their government is up to." Official information that sheds light on an agency's performance of its statutory duties falls squarely within that statutory purpose. That purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency's own conduct.

United States DOJ v. Reporters Comm. for Freedom of Press, 489 U.S. 749, 772-773 (1989).

The Supreme Court has held that

where there is a privacy interest protected by Exemption 7(C)[the federal equivalent of Exemption (3)(C)] and the public interest being asserted is to show that responsible officials acted negligently or otherwise improperly in the performance of their duties, the requester must establish more than a bare suspicion in order to obtain disclosure. Rather, the requester must produce evidence that would warrant a belief by a reasonable person that the alleged Government impropriety might have occurred.

Nat'l Archives & Records Admin. v. Favish, 541 U.S. 157, 174 (2004). The Court explained that there is a presumption of legitimacy accorded to the official conduct of the government and

where the presumption is applicable, clear evidence is usually required to displace it. . . . Allegations of government misconduct are 'easy to allege and hard to disprove,' *Crawford-El v. Britton*, 523 U.S. 574, 585, 140 L. Ed. 2d 759, 118 S. Ct. 1584 (1998), so courts must insist on a meaningful evidentiary showing.

Id. at 174-175. The Court also indicated considerations involved in evaluating the public interest.

First, the citizen must show that the public interest sought to be advanced is a significant one, an interest more specific than having the information for its own sake. Second, the citizen must show the information is likely to advance that interest. Otherwise, the invasion of privacy is unwarranted.

Id. at 172. In accord, *Kretchmar v. FBI*, 882 F. Supp. 2d 52 (D.D.C. 2012) ("An overriding public interest warranting disclosure of exempt material is established only upon a showing that the withheld information is necessary to confirm or refute 'compelling evidence that the agency denying the FOIA request is engaged in illegal activity.' *Quinon v. FBI*, 86 F.3d 1222, 1231, 318 U.S. App. D.C. 228 (D.C. Cir. 1996) (citations omitted).") *Id.* at 57.)

In the Appeal, there has been no allegation of wrongdoing by MPD, the agency in question. Accordingly, under the principles set forth above, there is no public interest to overcome the privacy interest of the individual identified in the records. As we have indicated in past

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Katie Townsend, Esq.
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decisions, a generalized interest in oversight alone will not suffice to support an overriding interest in disclosure. *See, e.g.,* Freedom of Information Act Appeal 2013-63. *See also* *McCutchen v. United States Dep't of Health & Human Servs.*, 30 F.3d 183, 188 (D.C. Cir. 1994) (“A mere desire to review how an agency is doing its job, coupled with allegations that it is not, does not create a public interest sufficient to override the privacy interests protected by Exemption 7(C).”); *Providence Journal Co. v. Pine*, 1998 WL 356904, 13 (R.I. Super. 1998).² The primary public interest stated by Appellant, that “the requested records will help the public understand how the law enforcement officers tasked with protecting their safety and well-being,” does not satisfy the standard which is necessary to overcome the individual privacy interest here.³

Notwithstanding a determination that videos are not releasable in full, as stated above, Appellant asserts that MPD has failed to meet its obligation under D.C. Official Code § 2-534(b) to segregate nonexempt information, disputing the claim of MPD that it cannot make redactions to the videos. As also stated above, Appellant states that “redacting videos is not technologically difficult” and that “[t]here are numerous computer programs available that would make such redactions easy to accomplish.”

In prior decisions, MPD was found not to have the capability to modify an audiotape and disclosure was not required.⁴ Moreover, as to the argument that there is low-cost computer software which would MPD could use, as we stated in Freedom of Information Act Appeal 2013-06, “DC FOIA provides no warrant to second-guess the management practices of an agency *in the technologies or equipment which it acquires and maintains* or, as we have stated in the past, in the compilation and maintenance of its records [emphasis added].”⁵

² “[W]hen governmental misconduct is alleged as the justification for disclosure, the public interest is insubstantial unless the requester puts forth compelling evidence that the agency denying the FOIA request is engaged in illegal activity and shows that the information is necessary in order to confirm or refute that evidence.” *Computer Professionals v. United States Secret Service*, 72 F.3d 897, 905 (D.D.C.1996). A mere desire to review how an agency is doing its job, coupled with allegations that it is not, does not create a public interest sufficient to override the privacy interests protected by exemption 7(C). *Id.*”

³ Likewise, the secondary public interest stated by Appellant, to provide “information concerning the BWC pilot program itself,” does not satisfy such standard.

⁴ *See, e.g.,* Freedom of Information Act Appeal 2014-57, Freedom of Information Act Appeal 2013-55, Freedom of Information Act Appeal 2013-21, Freedom of Information Act Appeal 2013-06, Freedom of Information Act Appeal 2012-44, Freedom of Information Act Appeal 2011-60, and Freedom of Information Act Appeal 2011-11 (Reconsideration). Similarly, in Freedom of Information Act Appeal 2010-08, the Office of Unified Communications was found not to have the capability to modify an audiotape and disclosure was not required.

⁵ In the Washington Post newspaper article which Appellant cites in the Appeal, it is stated that five camera models will be tested in the pilot program. While Appellant cites an example of a low-cost computer program and states that other low-cost software is available, we do not know whether those low-cost programs are compatible with all or, for that matter, any of the camera

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Therefore, based on the foregoing, we find that the withholding of the videos by MPD was proper.

Conclusion

Therefore, we uphold the decision of MPD. The Appeal is hereby dismissed.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you are free under the DC FOIA to commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia.

Sincerely,

Donald S. Kaufman
Deputy General Counsel

cc: Ronald B. Harris, Esq.
Teresa Quon Hyden, Esq.

models being tested. In its response, MPD indicated that it has purchased a subscription to an editing program for which certain of its employees have begun training and it is exploring contracting out the editing function. Nevertheless, the fact remains that on the date of response to the FOIA Request and, for that matter, as of the date of this decision, MPD does not have the technical capacity to redact the videos.

In its response to the Appeal, MPD indicates that editing video footage is an arduous process, requiring frame-by-frame editing. MPD also indicates that a video contains 30 frames per second (18,000 frames in a 10-minute video) and that each image in a video must be redacted separately. Although this raises an issue as to whether the editing may be unduly burdensome, based on the lack of technical capability at this time, it is not necessary to consider the issue in this decision.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR OFFICE OF LEGAL GENERAL COUNSEL
Freedom of Information Act Appeals: 2015-13**

December 10, 2014

BY EMAIL

James McLaughlin, Esq.

Re: Freedom of Information Act Appeal 2015-13

Dear Mr. McLaughlin:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a)(2001) (“DC FOIA”), dated November 26, 2014 (the “Appeal”). You, on behalf of Cheryl Thompson (“Appellant”), assert that the Metropolitan Police Department (“MPD”) improperly withheld records in response to your request for information under DC FOIA dated August 11, 2014 (the “FOIA Request”).

Appellant’s FOIA Request sought “the 911 tape and transcript” for an incident identified by date and approximate time and location. In response, by email dated August 12, 2014, MPD denied the FOIA Request, stating that, without the consent of the caller, the release thereof would constitute an unwarranted invasion of personal privacy which is exempt from disclosure under D.C. Official Code § 2-534(a)(2). By letter dated August 25, 2014, after being informed by Appellant that the caller was deceased, MPD reaffirmed its denial of the FOIA Request based on the privacy interest of the family of the deceased.

On Appeal, Appellant challenges the denial of the FOIA Request. In support of its challenge, Appellant states that subsequent to the last denial of the FOIA Request, the mother and closest living relative of the deceased told Appellant that she supported the release of the 911 call. In response, dated December 9, 2014, MPD states that, upon verification of that the mother of the deceased is waiving any privacy interest, it will direct the Office of Unified Communications to release the 911 call to Appellant.

Based on the foregoing, we will now consider the Appeal to be moot and it is hereby dismissed.

Sincerely,

Donald S. Kaufman
Deputy General Counsel

cc: Ronald B. Harris, Esq.
Teresa Quon Hyden, Esq.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR OFFICE OF LEGAL GENERAL COUNSEL
Freedom of Information Act Appeals: 2015-14**

December 19, 2014

BY EMAIL

Nathan John Bresee, Esq.
Jackson & Campbell, P.C.

Re: Freedom of Information Act Appeal 2015-14

Dear Mr. Bresee:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a)(2001) (“DC FOIA”), dated December 9, 2014 (the “Appeal”). You assert that the Department of Consumer and Regulatory Affairs (“DCRA”) improperly withheld records in response to your request for information under DC FOIA on August 14, 2014 (the “FOIA Request”) by failing to respond to the FOIA Request.

Background

Appellant’s FOIA Request sought records related to a specified real property and construction and renovation activities thereon and specified individuals and entities. When DCRA failed to provide a timely final response to the FOIA Request, Appellant initiated the Appeal.

In its response to the Appeal, dated December 18, 2014, DCRA indicated that there was a delay in the receipt of the results of a search that it had requested from the Office of the Chief Technology Officer, which maintains emails on its behalf, and that it was reviewing the results of the search in anticipation of providing responsive records to Appellant. In addition, subsequent to the date of the Appeal, DCRA has contacted Appellant regarding the status of the FOIA Request.

Discussion

It is the public policy of the District of Columbia (the “District”) government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, the DC FOIA creates the right “to inspect ... and ... copy any public record of a public body . . .” *Id.* at § 2-532(a). Moreover, in his first full day in office, the District’s Mayor Vincent Gray announced his Administration’s intent to ensure that the DC FOIA be “construed with the view toward ‘expansion of public access and the minimization of costs and time delays to persons requesting information.’” Mayor’s Memorandum 2011-01,

Transparency and Open Government Policy. Yet that right is subject to various exemptions, which may form the basis for a denial of a request. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987), and decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

D.C. Official Code § 2-532(c) provides that an agency shall have 15 business days to respond to a request. D.C. Official Code § 2-532(d) provides for an extension of 10 business days to respond to a request, but, in this case, the extension was not exercised. Accordingly, the responsive records will not be produced within the statutory period.

However, there is little relief that we can currently offer. The most that we can do is to order DCRA to complete the review that it has already initiated and provide the responsive records as it has already proffered to do. Thus, we could view the Appeal as moot on this basis. Nevertheless, although the outcome will be the same, we can provide some assurances to Appellant by ordering DCRA to complete the review and to provide the responsive records to Appellant.

Conclusion

Therefore, we remand this matter to DCRA for disposition in accordance with this decision, without prejudice to challenge the response of DCRA when made.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you are free under DC FOIA to commence a civil action against the District of Columbia government in the District of Columbia Superior Court.

Sincerely,

Donald S. Kaufman
Deputy General Counsel

cc: Tania Williams

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR OFFICE OF LEGAL GENERAL COUNSEL
Freedom of Information Act Appeals: 2015-15

December 19, 2014

December 31, 2014

BY EMAIL

Maureen Costigan, Esq.

Re: Freedom of Information Act Appeal 2015-15

Dear Ms. Costigan:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a)(2001) (“DC FOIA”), dated December 4, 2014 (the “Appeal”). Your law firm, on behalf of a client (“Appellant”), asserts that the Metropolitan Police Department (“MPD”) improperly withheld records in response to your request for information under DC FOIA dated August 5, 2014 (“FOIA Request”).

Background

Appellant’s FOIA Request sought “[a]ny and all traffic camera video and surveillance recordings of traffic” on designated portions of Massachusetts Avenue, N.W., and Wisconsin Avenue, N.W., on a designated date and time range. The son of your client died in a motor vehicle accident on such date.

In response, by letter dated September 11, 2014, MPD stated that with respect to the request for “[a]ny and all information pertaining to the accident [],” it was granting the FOIA Request in part and denying it in part. It provided photographs and stated that it would provide additional records on a rolling basis. However, it withheld “any available video footage and 911 audio” based on the exemption for privacy under D.C. Official Code § 2-534(a)(2) and stated that it did not have the technical capability to make redactions. By letter dated September 17, 2014, MPD provided a final response, transmitting additional records with redactions based on the exemption for privacy under D.C. Official Code § 2-534(a)(2) and (3)(C).

On Appeal, Appellant challenges the response to the FOIA Request. Appellant contests the redactions on the documents as to 12 stated groupings. Appellant also challenges the “wholesale withholding of video and 911 calls” as “overbroad and unnecessary.”

The value of being able to view the videos of the accident far outweighs the privacy interest of individuals in the videos particularly because it is extremely unlikely that any individuals could be identified and located based on the videos. The audio of the 911 calls again are the reports of volunteers called into helping

would not object or Frank further assistance. Even the content of the calls without the identification of the caller would offer insight into the accident and the investigation.

In its response, dated December 30, 2014, MPD reaffirmed its position. With respect to the videos and 911 calls, MPD states that “[p]ersons identified in videos and 911 recordings clearly have a privacy interest in not being identified in law enforcement records” and that it “does not have the capability to redact exempt and non-responsive images and audio recordings in order to protect the privacy interests of persons identified.” With respect to redactions, MPD indicates, with reference to each record which Appellant identified in the Appeal, that such redactions were made to protect the individual privacy interests of witnesses and a participant in the incident. MPD also indicates that it has withheld records based on the deliberative process privilege as well as “a crime report that contains arrest and other information relating to arrestees and suspects.” In two instances, MPD does indicate that it will release redacted information relating to the decedent.

Discussion

It is the public policy of the District of Columbia (the “District”) government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-537(a). In aid of that policy, the DC FOIA creates the right “to inspect ... and ... copy any public record of a public body . . .” *Id.* at § 2-532(a). Moreover, in his first full day in office, the District’s Mayor Vincent Gray announced his Administration’s intent to ensure that DC FOIA be “construed with the view toward ‘expansion of public access and the minimization of costs and time delays to persons requesting information.’” Mayor’s Memorandum 2011-01, Transparency and Open Government Policy. Yet that right is subject to various exemptions, which may form the basis for a denial of a request. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987), and decisions construing the federal statute may be examined to construe the local law.

Appellant raises an issue with respect to two groups of records: (1) documentary records; and (2) video and the audio recordings of 911 calls.

Notwithstanding that MPD responded to what it stated was a request for “[a]ny and all information pertaining to the accident,” the FOIA Request only specified “traffic camera video and surveillance recordings” as the basis of its request.¹ Therefore, the documentary records are nonresponsive to the FOIA Request and were not required to be disclosed. Accordingly, we do not need to consider the applicability of the claim of exemptions asserted by MPD as to redactions on such records.² Likewise, the FOIA Request did not specify the audio of 911 calls

¹ This office confirmed with Appellant that this was the only request submitted.

² MPD has stated that it will release certain record or portions of records which were previously redacted or withheld. However, as indicated, such records are not at issue in the Appeal and

and such audio is also nonresponsive to the FOIA Request and need not be disclosed. Therefore, the only challenge which is properly raised concerns video footage, which was withheld of the basis of privacy under D.C. Official Code § 2-534(a)(2).

An inquiry under a privacy analysis under FOIA turns on the existence of a sufficient privacy interest and a balancing of such individual privacy interest against the public interest in disclosure. *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 756 (1989).³

The Supreme Court held that “as a categorical matter that a third party's request for law enforcement records or information about a private citizen can reasonably be expected to invade that citizen's privacy . . .” *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 780 (1989).

In Freedom of Information Act Appeal 2013-63, we found that there was a privacy interest of third parties captured by surveillance videotapes. We stated:

Here the videotapes include images of patrons and employees who are clearly third parties. We cannot agree with the contention of Appellant that there is no privacy interest in videotape captured by private, hidden (or unobtrusive) security cameras and collected pursuant to a law enforcement investigation. At the very least, an individual does not waive his individual privacy interest as a consequence of his or her employment in a nightclub. Although it was not at issue in the case, in *Judicial Watch, Inc. v. FBI*, 522 F.3d 364 (D.C. Cir. 2008), the government made, and the requester did not object to, redactions based on individual privacy interests to videotape showing the attack on the Pentagon, which was recorded by a nearby hotel security camera. We find that there is clearly a personal privacy interest in the images on the videotape.

such release is in its discretion.

³ D.C. Official Code § 2-534(a)(2) (“Exemption (2)”) provides for an exemption from disclosure for “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” By contrast, D.C. Official Code § 2-534(a)(3)(C) (“Exemption (3)(C)”) provides an exemption for disclosure for “[i]nvestigatory records compiled for law-enforcement purposes, including the records of Council investigations and investigations conducted by the Office of Police Complaints, but only to the extent that the production of such records would . . . (C) Constitute an unwarranted invasion of personal privacy.” It should be noted that the privacy language in this exemption is broader than in Exemption (2). While Exemption (2) requires that the invasion of privacy be “clearly unwarranted,” the adverb “clearly” is omitted from Exemption (3)(C). Thus, the standard for evaluating a threatened invasion of privacy interests under Exemption (3)(C) is broader than under Exemption (2). See *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 756 (1989). As the exemption has been asserted under Exemption (2) and there is no indication that law-enforcement activities are involved, we will consider the exemption under the standard for Exemption (3)(C).

In Freedom of Information Act Appeal 2015-12, we found that there was a personal privacy interest in the images of individuals captured on body-worn cameras of MPD police officers.

We have not viewed the images on the videos. However, it is reasonable to presume that such images capture the license plates of motor vehicles, whose owners could face unwanted contact regarding the events on the videos. It is also reasonable to presume that pedestrians on the videos are individuals who frequent the locations shown and could also be located and face unwanted contact. Consequently, like the images of individuals captured on the restaurant security cameras in Freedom of Information Act Appeal 2013-63, the individuals recorded on a hotel security camera in *Judicial Watch, Inc. v. FBI*, and the images of individuals captured on body-worn cameras of MPD police officers in Freedom of Information Act Appeal 2015-12, we find that there is a sufficient personal privacy for individuals who appear, or whose vehicles appear, in the withheld videos.

As stated above, the second part of a privacy analysis must examine whether the public interest in disclosure is outweighed by the individual privacy interest. The Supreme Court has stated that this must be done with respect to the purpose of FOIA, which is

'to open agency action to the light of public scrutiny.'" *Department of Air Force v. Rose*, 425 U.S., at 372 . . . This basic policy of 'full agency disclosure unless information is exempted under clearly delineated statutory language,' *Department of Air Force v. Rose*, 425 U.S., at 360-361 (quoting S. Rep. No. 813, 89th Cong., 1st Sess., 3 (1965)), indeed focuses on the citizens' right to be informed about "what their government is up to." Official information that sheds light on an agency's performance of its statutory duties falls squarely within that statutory purpose. That purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency's own conduct.

United States DOJ v. Reporters Comm. for Freedom of Press, 489 U.S. 749, 772-773 (1989).

Appellant states that the records "would provide insight into the accident and the investigation." However, disclosure is not evaluated based on the identity of the requester or the use for which the information is intended. *Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 162 (2004); *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 771 (1989). As the administrative record does not otherwise indicate that the conduct of MPD is in question, the disclosure of the records will not contribute anything to public understanding of the operations or activities of the government or the performance of MPD. See *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 775 (1989). Thus, as this is not a case involving the efficiency or propriety of agency action, there is no public interest involved.

In the usual case, we would first have identified the privacy interests at stake and then weighed them against the public interest in disclosure. See *Ray*, 112 S. Ct. at 548-50; *Dunkelberger*, 906 F.2d at 781. In this case, however, where we find that the request implicates no public interest at all, "we need not linger over the balance; something ... outweighs nothing every time." *National Ass'n of Retired*

Fed'l Employees v. Horner, 279 U.S. App. D.C. 27, 879 F.2d 873, 879 (D.C. Cir. 1989); see also *Davis*, 968 F.2d at 1282; *Fitzgibbon v. CIA*, 286 U.S. App. D.C. 13, 911 F.2d 755, 768 (D.C. Cir. 1990).

Beck v. Department of Justice, 997 F.2d 1489, 1494 (D.C. Cir. 1993).

In Freedom of Information Act Appeal 2015-12, we found that MPD did not have the technological capacity to redact videos. Quoting Freedom of Information Act Appeal 2013-06, we stated: “DC FOIA provides no warrant to second-guess the management practices of an agency in the technologies or equipment which it acquires and maintains or, as we have stated in the past, in the compilation and maintenance of its records.”

Conclusion

Therefore, we uphold the decision of MPD. The Appeal is hereby dismissed.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you are free under the DC FOIA to commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia.

Sincerely,

Donald S. Kaufman
Deputy General Counsel

cc: Ronald B. Harris, Esq.
Teresa Quon Hyden, Esq.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2015-16**

March 23, 2015

Mr. Joshua Ayers

Dear Mr. Ayers:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Metropolitan Police Department ("MPD") improperly withheld records you requested under the DC FOIA.

Background

On October 16, 2014, you submitted a request under the DC FOIA to the MPD seeking "a copy of all Accident Reports (aka 'crash reports') involving accidents that occurred between automobiles and bicyclists . . . within the city limits of Washington, D.C. from October 1, 2012, to October 1, 2014." The MPD denied your request on October 27, 2014, pursuant to D.C. Official Code § 2-534(a)(6), stating that the requested materials were exempt under the Driver's Privacy Protection Amendment Act of 2012 ("DPPA").

On appeal, you challenge the MPD's decision, contending that the DPPA prohibits only the disclosure of personal information contained in accident reports, and MPD should have segregated and released portions of the reports you requested that are not protected under the DPPA.

The MPD sent this office a response to your appeal on March 20, 2015, advising that it had reevaluated its response to your request and had contacted you to discuss whether you remain interested in obtaining the 5,600 pages of responsive documents that exist.

Conclusion

Based on the MPD's representation that it is working with you to provide the documents you are seeking, we consider this matter to be moot and dismiss it; however, the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to the MPD's response.

This shall constitute the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Mr. Joshua Ayers
Freedom of Information Act Appeal 2015-16
Page 2

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Ronald B. Harris, Deputy General Counsel, MPD (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2015-17**

March 9, 2015

Ms. Gwendolyn Beasley

Dear Ms. Beasley:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) ("DC FOIA"). You assert that the Department of Health ("DOH") improperly withheld records you requested under the DC FOIA on December 25, 2014 ("FOIA Request").

Background

The FOIA request you submitted to the DOH sought death certificates and medical examiner's reports concerning your parents, both of whom resided in the District of Columbia. In response to your request, by email message dated December 31, 2014, the DOH stated that the [District of Columbia] FOIA does not apply to the release of vital records, including death certificates. The DOH provided you with information about how to obtain copies of death certificates and explained that if a medical examiner's report is attached to a death certificate, the DOH might be able to provide such information; otherwise the report could be obtained from the Office of the Chief Medical Examiner ("OCME").

On appeal, you challenge the DOH's response to your FOIA Request, contending that if the DOH is able to provide you with a medical examiner's report, "a portion of my FOIA request . . . did mention and ask for the medical examiner's report. Again, please provide me with a copy of the medical examiner's report."

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." *Id.* at § 2-532(a).

Public records are defined under the DC FOIA as including "all books, papers, maps, photographs, cards, tapes, recordings, vote data (including ballot-definition material, raw data, and ballot images), or other documentary materials, regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Public records include information stored in an electronic format." D.C. Official Code § 2-502(18). The right created

Ms. Gwendolyn Beasley
Freedom of Information Act Appeal 2015-17
Page 2

under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. D.C. Official Code § 2-534. One of the exemptions to the DC FOIA provides that the law does not apply to the Vital Records Act of 1981. D.C. Official Code § 2-534(d). The Vital Records Act of 1981 defines “vital records” as “certificates or reports of birth, death, marriage, divorce, annulment, and data related thereto which is permitted to be gathered under this chapter.” D.C. Official Code § 7-201(15). Accordingly, the death certificates that you requested from the DOH are not public records subject to disclosure under the DC FOIA.

Although death certificates and other vital records are not available under the DC FOIA, they can be obtained in accordance with D.C. Official Code § 7-220(a), which provides that the Vital Registrar may release vital records to an applicant who has a “direct and tangible interest in the vital record.” Under this law, a member of a registrant’s immediate family is considered to have a direct and tangible interest in the vital record. *Id.* at (a)(1). Therefore, should you wish to obtain death certificates for your parents, you may follow the process outlined on the following website: <http://doh.dc.gov/service/death-certificates>.

You indicated in your appeal that you are seeking medical examiner’s reports that may accompany your parents’ death certificates. The DOH explained in its response to your appeal that it is uncommon for the medical examiner to file a report accompanying a death certificate. The common practice is that if the medical examiner is involved in examining a deceased person, the medical examiner notes his or her conclusions for the cause of death on the death certificate itself and maintains a report at the OCME.¹ If, however, the medical examiner does file a report along with a death certificate, the report would be made available in connection with a properly submitted request for the death certificate.

Conclusion

Based on the foregoing conclusion that the records you requested are not subject to the DC FOIA, we uphold the DOH’s decision to deny your request and hereby dismiss your appeal.

This constitutes the final decision of this office. If you are dissatisfied with the decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor’s Office of Legal Counsel

cc: Phillip L. Husband, Esq., Department of Health (via email)

¹ An explanation of how to request documents from the OCME may be found at: <http://ocme.dc.gov/page/request-documents>.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2015-18**

March 23, 2015

Mr. Bresee

Dear Mr. Bresee:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Department of Consumer and Regulatory Affairs ("DCRA") improperly withheld records you requested under the DC FOIA.

Background

On August 14, 2014, you submitted a request under the DC FOIA to the DCRA seeking, among other things, any and all letters, emails, or other communications by or between Stuart Crampton and DCRA, Mark G. Chalpin and DCRA, and Violeta Roman and DCRA. In response to your request, DCRA withheld the emails pursuant to D.C. Official Code § 2-534(a)(3)(A)(i), claiming that the documents were part of an active investigation within one of DCRA's enforcement divisions.

On appeal, you challenge the DCRA's decision, contending that DCRA "failed to identify how such communications constitute 'investigatory records compiled for law-enforcement purposes' and has further failed to detail how the disclosure of such requested emails, letters and other communications would interfere with enforcement proceedings."

The DCRA sent this office a response to your appeal on March 20, 2015, stating, "DCRA has today referred the DCRA investigation over to the Office of the Attorney General for the District of Columbia for further investigation. As a result, the investigation is now closed from DCRA's perspective and we will review the documentation for any documents . . . which we will then provide."

Conclusion

Based on the DCRA's representation that it will disclose documents that are responsive to your request, we hereby remand this matter to DCRA to complete its production within five (5) business days of the date of this correspondence. We consider this matter to be dismissed as moot based on DCRA's forthcoming production; however, the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to the DCRA's response.

Mr. Nathan Bresee
Freedom of Information Act Appeal 2015-18
Page 2

This shall constitute the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Maximilian L.S. Tondro, Assistant General Counsel, DCRA (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2015-19**

March 6, 2015

Brandon Myers, Esq.

Dear Mr. Myers:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) ("DC FOIA"). You ("Appellant") assert that the Office of Contracting and Procurement ("OCP") improperly withheld records in response to a request for information under DC FOIA dated October 21, 2014, (the "FOIA Request") by failing to respond to the FOIA Request.

Appellant's FOIA Request sought certain District of Columbia contract files. When the OCP failed to respond to the FOIA Request, Appellant initiated the Appeal.

In response to the Appeal, the OCP sent this office a copy of a letter that it sent to Appellant today. The letter indicates that OCP has identified documents that are responsive to Appellant's request and informs Appellant how to obtain the documents from OCP. Based on the foregoing, we consider the Appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to Appellant to assert any challenge, by separate appeal, to the OCP's response.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Ryan Koslosky, OCP (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2015-20**

March 11, 2015

Ms. Lenore Adkins

Dear Ms. Adkins:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Metropolitan Police Department ("MPD") improperly withheld records you requested under the DC FOIA.

Background

On November 20, 2014, you submitted a request under the DC FOIA to the MPD seeking "copies of the \$25 tickets police officers have issued to marijuana users since the District decriminalized the drug in July 2014." The MPD responded to your request on December 5, 2014, stating that the MPD was unable to fulfill the request and that "the tickets containing some information you are requesting" are in the possession of the Office of Administrative Hearings ("OAH"). The MPD provided you with information as to how to submit a document request to OAH.

On appeal, you challenge the MPD's response to your request, contending that just because OAH has "some" of the information you are seeking does not excuse the MPD from producing what remains in its possession.

The MPD responded to your appeal in a letter to this office on March 11, 2015. The MPD reaffirmed its position and explained that no unit within MPD has copies of the tickets you are seeking because all tickets are forwarded to OAH.

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect ... and ... copy any public record of a public body ..." *Id.* at § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. Under the DC FOIA, an agency is required to disclose materials only if they were "retained by a public body." D.C.

Ms. Lenore Adkins
Freedom of Information Act Appeal 2015-20
Page 2

Official Code § 2-502(18). Here, MPD does not possess any records that are responsive to your request, as tickets issued to persons for using marijuana are maintained by the OAH.

Conclusion

Based on the foregoing, we uphold the MPD's decision and hereby dismiss your appeal. This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Ronald B. Harris, Deputy General Counsel, MPD (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2015-21**

March 10, 2015

Mr. Michael Hamilton

Dear Mr. Hamilton:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) ("DC FOIA") dated February 26, 2015. You assert that the Office of the Deputy Mayor for Planning and Economic Development ("DMPED") improperly withheld records you requested under the DC FOIA.

Background

On January 13, 2015, you submitted a request to DMPED for "The dollar amounts all participants bid to win the rights to develop 965 Florida Avenue NW." On February 10, 2015, DMPED denied your request, stating that the information "is exempt from disclosure under D.C. Official Code 2-534(a)(1) as it is 'commercial or financial information obtained from outside the government,' that, if disclosed would 'result in substantial harm to the competitive position of the person from whom the information was obtained.'"

On appeal, you challenge DMPED's denial of your request, contending that "The amounts bid by people or corporations for public lands is a public record, and of interest to the public for the purpose of examining public business deals to see if they are fair or if they are corrupt."

In a response to your appeal dated March 9, 2015, DMPED reaffirmed its position that the information you seek is valuable and could be used to the advantage of competitors in future procurements. DMPED further explained that the request was denied in full because it asked only for dollar amounts participants bid, therefore "there was no other responsive information from which any exempt information could be redacted and the final record disclosed."

Discussion

It is the public policy of the District of Columbia that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right "to inspect ... and ... copy any public record of a public body ..." *Id.* at § 2-532(a). That right, however, is subject to various exemptions that may form the basis for a denial of a request. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). As a result, decisions construing the

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federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

D.C. Official Code § 2-534(a)(1) exempts from disclosure “Trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained.” This standard has been “interpreted to require both a showing of actual competition and a likelihood of substantial competitive injury.” *CNA Financial Corp. v. Donovan*, 830 F.2d 1132, 1152 (D.C. Cir. 1987). *See also, Washington Post Co. v. Minority Business Opportunity Com.*, 560 A.2d 517, 522 (D.C. 1989), citing *CNA Financial Corp. v. Donovan*. In construing the second part of this test, “actual harm does not need to be demonstrated; evidence supporting the existence of potential competitive injury or economic harm is enough for the exemption to apply.” *Essex Electro Eng'rs, Inc. v. United States Secy. of the Army*, 686 F. Supp. 2d 91, 94 (D.D.C. 2010). *See also McDonnell Douglas Corp. v. United States Dep't of the Air Force*, 375 F.3d 1182, 1187 (D.C. Cir. 2004) (The exemption “does not require the party . . . to prove disclosure certainly would cause it substantial competitive harm, but only that disclosure would "likely" do so. [citations omitted]”).

The District of Columbia real estate market is highly competitive and contracts to acquire or develop District government property are no exception. Disclosing financial information submitted in a bid would be likely to cause substantial competitive harm by allowing a company's competitors to calculate its future bids and its pricing structure to estimate and undercut bids. *Boeing Co. v. United States Dep't of the Air Force*, 616 F. Supp. 2d 40, 45 (D.D.C. 2009).

In this instance, DMPED did not produce any portion of the bids to develop 965 Florida Avenue, NW because the only information you sought – the dollar amounts participants bid to win development rights of the property – is exempt from disclosure under D.C. Official Code § 2-531(a)(1).

Conclusion

Based on the foregoing, we uphold the decision of DMPED to deny your request on the grounds that the information you seek is exempt from disclosure under the DC FOIA. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the District of Columbia Superior Court in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Mr. Tsega Bekele, DMPED (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeals: 2015-22**

March 3, 2015

Mr. Prabakar Sundarrajan

Dear Mr. Sundarrajan:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) ("DC FOIA"), dated March 2, 2015 (the "Appeal"). You assert that the Fire and Emergency Medical Services Department ("FEMSD") did not respond to your February 25, 2015 request for a fire incident report under DC FOIA (the "FOIA Request").

I have been informed both by you and the FEMSD that FEMSD responded to your request on today's date. Further, I received a message from you through FOIExpress requesting that your appeal be withdrawn. Based on the foregoing, we consider the Appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to FEMSD's response.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Angela Washington, FEMSD (via email)

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