

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council passes Law 21-10, Reproductive Health Non-Discrimination Clarification Temporary Amendment Act of 2015
- D.C. Council enacts Act 21-97, Heat Wave Safety Temporary Amendment Act of 2015
- District Department of the Environment schedules a public hearing on the Low Income Home Energy Assistance Program State Plan for Fiscal Year 2016
- District Department of the Environment announces funding availability for the Grants for a Greening the Fleet Study
- Department of Health announces funding availability for the 2015 Pre-Exposure Prophylaxis Outreach and Support
- Department of Small and Local Business Development announces funding availability for the DC Main Streets Program
- DC Taxicab Commission schedules a public hearing on the Broad Study of the DC Taxicab Marketplace

# DISTRICT OF COLUMBIA REGISTER

## Publication Authority and Policy

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MURIEL E. BOWSER  
MAYOR

VICTOR L. REID, ESQ.  
ADMINISTRATOR

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**CONTENTS**

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**ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA**

**D.C. LAWS**

L21-1 H Street, N.E., Retail Priority Area Clarification  
Temporary Amendment Act of 2015..... 009441

L21-2 Wage Theft Prevention Clarification Temporary  
Amendment Act of 2015 ..... 009442

L21-3 Public Charter School Priority Enrollment Temporary  
Amendment Act of 2015 ..... 009443

L21-4 Chancellor of the District of Columbia Public Schools  
Salary Adjustment Temporary Amendment Act of 2015 ..... 009444

L21-5 Health Benefit Exchange Authority Financial  
Sustainability Temporary Amendment Act of 2015..... 009445

L21-6 Educator Evaluation Data Protection Temporary  
Amendment Act of 2015 ..... 009446

L21-7 At-Risk Funding Temporary Amendment Act of 2015..... 009447

L21-8 Vending Regulations Temporary Amendment Act of 2015..... 009448

L21-9 Testing Integrity Temporary Amendment Act of 2015..... 009449

L21-10 Reproductive Health Non-Discrimination Clarification  
Temporary Amendment Act of 2015..... 009450

L21-11 Marijuana Possession Decriminalization Clarification  
Temporary Amendment Act of 2015..... 009451

**D.C. ACTS**

A21-96 Contract No. DCAM-14-CS-0095B Change Order Nos.  
001 through 003 Approval and Payment Authorization  
Emergency Act of 2015 [B21-237] ..... 009452 - 009453

A21-97 Heat Wave Safety Temporary Amendment  
Act of 2015 [B21-209] ..... 009454 - 009455

A21-98 TOPA Bona Fide Offer of Sale Clarification Temporary  
Amendment Act of 2015 [B21-223]..... 009456 - 009460

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

**BILLS INTRODUCED AND PROPOSED RESOLUTIONS**

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

Bills B21-279 and B21-287 through B21-293 and  
Proposed Resolutions PR21-232 through PR21-237,  
PR21-247, PR21-248, and PR21-252 through PR21-278..... 009461 - 009468

**OTHER COUNCIL ACTIONS**

**Contract Disapproval Resolution -**

PR 21-278 Proposed Contract with Compass USA Disapproval  
Resolution of 2015 (CA 21-113).....009469

**Reprogramming Requests -**

21-93 Request to reprogram \$230,102 of Local Funds Budget  
Authority within the Department of Human Services ..... 009470 - 009471

21-94 Request to reprogram \$2,726,009 of Fiscal Year 2015  
Local Funds Budget Authority within the Department  
of Housing and Community Development (DHCD) ..... 009470 - 009471

21-95 Request to reprogram \$1,950,000 of Fiscal Year 2015  
Special Purpose Revenue funds budget authority from  
the Department of Housing and Community Development  
(DHCD) to Business Improvement District Transfer (BID) ..... 009470 - 009471

21-96 Request to reprogram \$600,000 of Fiscal Year 2015  
Local funds budget authority within the Department  
of Forensic Sciences (DFS) ..... 009470 - 009471

21-97 Request to reprogram \$3,969,428 of Fiscal Year 2015  
Local funds budget authority from the Department of  
Youth Rehabilitation Services (DYRS) to the Department  
of Human Services (DHS) and the Office of the State  
Superintendent of Education (OSSE) ..... 009470 - 009471

21-98 Request to reprogram \$2,006,084 of Fiscal Year 2015  
Dedicated Tax funds budget authority within the Office  
of the State Superintendent of Education (OSSE) ..... 009470 - 009471

21-99 Request to reprogram \$523,067 of Fiscal Year 2015  
Special Purpose Revenue Funds Budget Authority  
within the Department of Housing and Community  
Development (DHCD) ..... 009470 - 009471

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

Alcoholic Beverage Regulation Administration -

Bodega Market - ANC 5D - Class Change.....009472

Bodega Market - ANC 5D - Class Change - RESCIND .....009473

California Liquors - ANC 1C - Renewal .....009474

DC Pizza - ANC 2B - Change of Hours .....009475

Imm On “H” - ANC 6A - New .....009476

JJ Liquors - ANC 5C - Change of Hours - CORRECTION .....009477

Mess Hall - ANC 5E - Entertainment Endorsement.....009478

Environment, District Department of the -

Notice of Public Hearing and Notice to Comment in  
Writing – Low Income Home Energy Assistance Program  
(LIHEAP) - State Plan for Fiscal Year 2016..... 009479 - 009480

Mayor's Agent on Historic Preservation -

HPA Erin L. Stevens, 1223 4<sup>th</sup> Street NW ..... 009481 - 009482  
15-296

HPA D.C. Department of General Services,  
15-439 1755 Newton Street NW ..... 009481 - 009482

Taxicab Commission, DC -

Broad Study of the DC Taxicab Marketplace – July 16, 2015..... 009483

FINAL RULEMAKING

Taxicab Commission, DC - Amend 31 DCMR

(Taxicabs and Public Vehicles for Hire),  
Ch. 5 (Taxicab Companies, Associations and Fleets),  
Ch. 10 (Public Vehicles for Hire), and Ch. 99 (Definitions),  
to repeal provisions pertaining to the establishment of  
Modern Taxicab Associations (MTAs).....009484 - 009485

PROPOSED RULEMAKING

Health, Department of - Amend 17 DCMR (Business,

Occupations, and Professionals), Ch. 35 (Licensing Fees),  
Sec. 3500 (Fees), to establish licensing fees for nursing  
assistive personnel.....009486 - 009487

Health, Department of - Amend 17 DCMR (Business,

Occupations, and Professionals), Ch. 91 (Graduate  
Professional Counselor), Sec. 9105 (Supervised  
Experience Requirements) and Sec. 9111  
(Standards of Conduct), to prohibit engagement in  
independent practice during licensure.....009488 - 009489

**ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES**

**EMERGENCY AND PROPOSED RULEMAKING**

Health Care Finance, Department of - Amend 29 DCMR  
(Public Welfare), Ch. 42 (Home and Community-Based  
Services Waiver for Persons who are Elderly and  
Individuals with Physical Disabilities), Sec. 4216  
(Specific Provider Requirements: Case Management), to  
update guidelines for conflict-free case management services .....009490 - 009494

Human Services, Department of - Amend 29 DCMR  
(Public Welfare), to adopt Ch. 78 (Family Re-Housing and  
Stabilization Program), to establish rules for administering  
the District of Columbia's Family Re-Housing and  
Stabilization Program; Third emergency and proposed  
rulemaking to extend emergency provisions from previous  
rulemaking .....009495 - 009515

**NOTICES, OPINIONS, AND ORDERS**

**MAYOR’S ORDERS**

2015-176 Appointment – Interim Executive Director,  
Office of Cable Television (Angie Gates) ..... 009516

2015-177 Appointment – Acting Commissioner,  
Department of Insurance, Securities, and  
Banking (Stephen Taylor)..... 009517

**NOTICES, OPINIONS, AND ORDERS CONT’D**

**BOARDS, COMMISSIONS, AND AGENCIES**

Alcoholic Beverage Regulation Administration -  
ABC Board's Calendar - July 15, 2015 .....009518 - 009519  
ABC Board's Cancellation Agenda - July 15, 2015 .....009520 - 009522  
ABC Board's Investigative Agenda - July 15, 2015.....009523 - 009524  
ABC Board's Legal Agenda - July 15, 2015 ..... 009525  
ABC Board's Licensing Agenda - July 15, 2015 ..... 009526

Consumer and Regulatory Affairs, Department of -  
Boards and Commissions - Scheduled Meetings - July 2015..... 009527

Environment, District Department of the - Intent to Issue Permits  
#6191-R2 Smithsonian Institution, National Zoological  
Park, 3001 Connecticut Avenue NW ..... 009528

#6216-R2 Smithsonian Institution, National Zoological  
Park, 3001 Connecticut Avenue NW ..... 009529

#6978 Smithsonian Institution, National Zoological  
Park, 3001 Connecticut Avenue NW .....009530 - 009531

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

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

Environment, District Department of the - Intent to Issue Permits - cont'd

#6979	Smithsonian Institution, National Zoological Park, 3001 Connecticut Avenue NW .....	009532 - 009533
#7026	Gallaudet University, EMG Memorial Building, 800 Florida Avenue NE .....	009534 - 009535
#7027	Gallaudet University, EMG Memorial Building, 800 Florida Avenue NE .....	009536 - 009537

Environment, District Department of the -  
Notice of Funding Availability - Grants for a Greening  
the Fleet Study .....

		009538 - 009539
--	--	-----------------

Notice of Public Meeting Cancellation - District of  
Columbia Sustainable Energy Utility - Advisory Board  
Public Outreach Meeting .....

		009540
--	--	--------

Health Benefit Exchange Authority, DC -  
Executive Board Meeting - July 13, 2015.....

		009541
--	--	--------

Health, Department of / HAHSTA -  
Funding Availability - 2015 Pre-Exposure Prophylaxis  
Outreach and Support (HAHSTA\_RFA#\_PrEP072415) .....

		009542
--	--	--------

Human Resources, Department of -  
Excepted Service Employees - As of July 2, 2015.....

		009543 - 009572
--	--	-----------------

Kingsman Academy Public Charter School - Request for Proposal Bids -  
Food Service Management Services .....

		009573
--	--	--------

KIPP DC Public Charter School - Request for Proposals -  
New Market Tax Credit Consulting Services.....

		009574
--	--	--------

Legal Counsel, Mayor's Office of - Freedom of Information Act Appeals -

2015-39	Dan McNeil .....	009575 - 009586
2015-40	Dan McNeil .....	009587 - 009598
2015-41	Nicholas Hallenbeck. ....	009599
	and	
2015-42		
2015-43	Seth Rosenthal.....	009600 - 009602
2015-44	Will Sommer .....	009603 - 009605
2015-45	William Burrington .....	009606

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

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

National Collegiate Preparatory Public Charter High School -  
Request for Proposals - Multiple Services .....009607

Not-For-Profit Hospital Corporation -  
Notice of Closed Emergency Meeting - June 30, 2015.....009608

Public Service Commission -  
Notice of Proposed Tariff - Formal Case No. 988, In the  
Matter of the Development of Universal Service Standards  
and a Universal Service Trust Fund for the District of  
Columbia (Verizon DC’s application to update its District of  
Columbia Universal Service Trust Fund surcharge) .....009609 - 009610

Notice of Rulemaking 3-2014-01, Consumer Rights and  
Responsibilities and Rulemaking 46-2015-01, Licensure of  
Electricity Suppliers (Notice of Supplier Education Workshop  
and a Technical Conference) .....009611 - 009612

Retirement Board, DC -  
Investment Committee - Closed Meeting - July 16, 2015.....009613  
Open Public Meeting - July 16, 2015.....009614

Small and Local Business Development, Department of -  
Funding Availability - DC Main Streets (Tenleytown and  
Van Ness Target Areas) .....009615

Somerset Prep DC Charter School - Request for Proposals -  
Food Services Management Services.....009616

The Children’s Guild DC Public Charter School -  
Intent to Enter a Sole Source Contract -  
Educational Materials.....009617

University of the District of Columbia -  
Board of Trustees Regular Meeting - July 14, 2015 .....009618 - 009619

Water and Sewer Authority, DC -  
Audit Committee Meeting - July 23, 2015.....009620

Environmental Quality and Sewerage Services Committee  
Meeting - July 16, 2015.....009621

Finance and Budget Committee Meeting - July 23, 2015 .....009622

Governance Committee Meeting - July 8, 2015.....009623



ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

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

Water and Sewer Authority, DC - cont'd

Human Resources and Labor Relations Committee  
Meeting - July 8, 2015 ..... 009624

Retail Water and Sewer Rates Committee Meeting -  
July 28, 2015 ..... 009625

Strategic Planning Committee Meeting - July 16, 2015 ..... 009626

Water Quality and Water Services Committee Meeting -  
July 16, 2015 ..... 009627

Zoning Adjustment, Board of -

Closed Meeting Schedule - July, 2015 ..... 009628

Zoning Adjustment, Board of - Orders -

17606-E Dakota Points LLC, (Motion of Fort Totten South for a Fourth  
Two-Year Extension of BZA Order Nos. 17606 & 17606-A) -  
Order ..... 009629 - 009638

18897 Julian Hunt and Lucrecia Laudi - ANC 2B - Order ..... 009639 - 009641

18974 Jarek Mika - ANC 1A - Order ..... 009642 - 009644

18992 Congressional 1015 E Street, LLC - ANC 6B - Order ..... 009645 - 009648

18995 Rokas Reipa - ANC 5D - Order ..... 009649 - 009651

19008 Joe and Joyce Hezir - ANC 2E - Order ..... 009652 - 009654

19014 Gary A. Robinson II - ANC 6C - Order ..... 009655 - 009657

## COUNCIL OF THE DISTRICT OF COLUMBIA

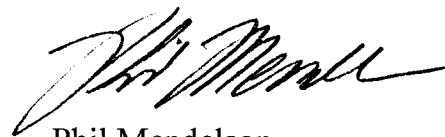
## NOTICE

## D.C. LAW 21-1

**"H Street, N.E., Retail Priority Area Clarification Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-51 on first and second readings February 3, 2015, and March 3, 2015, respectively. Following the signature of the Mayor on March 30, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-37 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4550). Act 21-37 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-37 is now D.C. Law 21-1, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

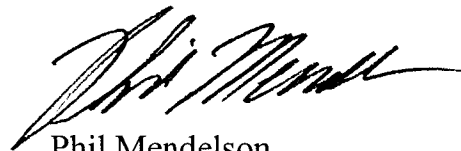
## NOTICE

## D.C. LAW 21-2

**"Wage Theft Prevention Clarification Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-53 on first and second readings February 3, 2015, and March 3, 2015, respectively. Following the signature of the Mayor on March 27, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-38 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4552). Act 21-38 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-38 is now D.C. Law 21-2, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

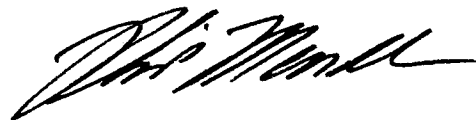
## NOTICE

## D.C. LAW 21-3

**"Public Charter School Priority Enrollment Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-78 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on March 27, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-39 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4556). Act 21-39 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-39 is now D.C. Law 21-3, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

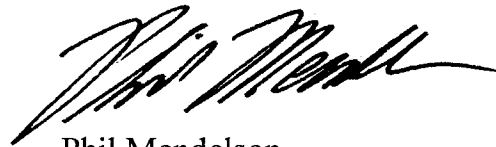
## NOTICE

## D.C. LAW 21-4

**"Chancellor of the District of Columbia Public Schools Salary Adjustment  
Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-84 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on March 30, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-40 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4558). Act 21-40 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-40 is now D.C. Law 21-4, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 21-5

**"Health Benefit Exchange Authority Financial Sustainability Temporary  
Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-101 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on March 30, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-41 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4560). Act 21-41 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-41 is now D.C. Law 21-5, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

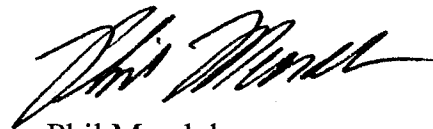
## NOTICE

## D.C. LAW 21-6

**"Educator Evaluation Data Protection Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-111 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on March 30, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-42 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4562). Act 21-42 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-42 is now D.C. Law 21-6, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

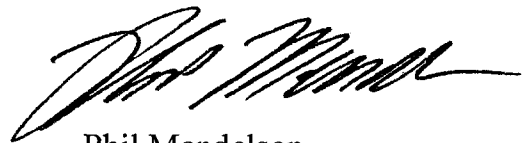
## NOTICE

## D.C. LAW 21-7

**"At-Risk Funding Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-88 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on April 1, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-43 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4564). Act 21-43 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-43 is now D.C. Law 21-7, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3



## COUNCIL OF THE DISTRICT OF COLUMBIA

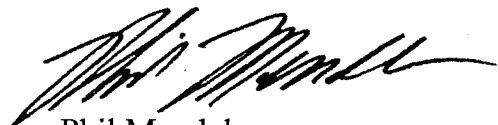
## NOTICE

## D.C. LAW 21-8

**"Vending Regulations Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-93 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on April 1, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-44 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4566). Act 21-44 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-44 is now D.C. Law 21-8, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

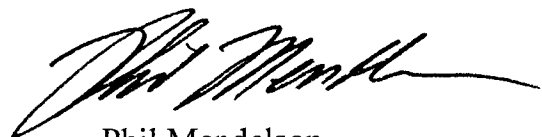
## NOTICE

## D.C. LAW 21-9

**"Testing Integrity Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-109 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on April 3, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-47 and was published in the April 10, 2015 edition of the D.C. Register (Vol. 62, page 4572). Act 21-47 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-47 is now D.C. Law 21-9, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

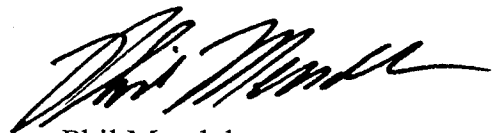
## NOTICE

## D.C. LAW 21-10

**"Reproductive Health Non-Discrimination Clarification Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-103 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on April 11, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-48 and was published in the April 17, 2015 edition of the D.C. Register (Vol. 62, page 4715). Act 21-48 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-48 is now D.C. Law 21-10, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

## COUNCIL OF THE DISTRICT OF COLUMBIA

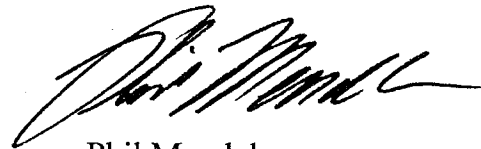
## NOTICE

## D.C. LAW 21-11

**"Marijuana Possession Decriminalization Clarification Temporary Amendment Act of 2015"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-106 on first and second readings March 3, 2015, and March 17, 2015, respectively. Following the signature of the Mayor on April 11, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-49 and was published in the April 17, 2015 edition of the D.C. Register (Vol. 62, page 4717). Act 21-49 was transmitted to Congress on April 22, 2015 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-49 is now D.C. Law 21-11, effective June 4, 2015.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

April	22, 23, 24, 27, 28, 29, 30
May	1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 29
June	1, 2, 3

ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-96**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 2, 2015**

To approve, on an emergency basis, Change Order Nos. 001 through 003 to Contract No. DCAM-14-CS-0095B with MCN Build, LLC, for build-design services for Langdon Education Campus, and to authorize payment in the aggregate amount of \$8,698,428.86 for the goods and services received and to be received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DCAM-14-CS-0095B Change Order Nos. 001 through 003 Approval and Payment Authorization Emergency Act of 2015".

Sec. 2. 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), and notwithstanding the requirements of 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 Change Order Nos. 001 through 003 to Contract No. DCAM-14-CS-0095B with MCN Build, LLC, for design-build services for Langdon Education Campus, and authorizes payment in the aggregate amount of \$8,698,428.86 for the goods and services received and to be received under these change orders.

Sec. 3. Fiscal impact statement.


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

Sec. 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

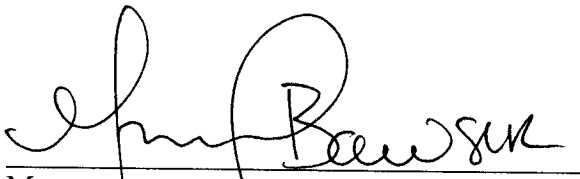
ENROLLED ORIGINAL

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



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
July 2, 2015

## ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-97**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 2, 2015**

To amend, on a temporary basis, the Retail Electric Competition and Consumer Protection Act of 1999 to prohibit the electric company from disconnecting residential electric service when the heat index is forecasted to be 95 degrees Fahrenheit or above.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Heat Wave Safety Temporary Amendment Act of 2015".

Sec. 2. The Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501 *et seq.*), is amended by adding a new section 106a to read as follows:

"Sec. 106a. Disconnection of service in extreme temperature prohibited.

"(a) For the purposes of this section, the term "forecast of extreme temperature" means a National Weather Service forecast that the heat index for the District of Columbia will be 95 degrees Fahrenheit or above at any time during a day.

"(b) The electric company shall not disconnect residential electric service during the day preceding, and the day of, a forecast of extreme temperature. If the forecast of extreme temperature precedes a holiday or weekend day, the electric company shall not disconnect residential electric service on any day during the holiday or weekend."

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)).

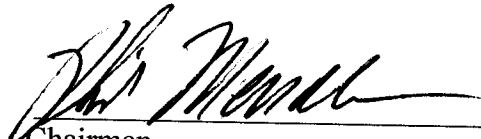
Sec. 4. Effective date.

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

ENROLLED ORIGINAL


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

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



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
July 2, 2015



ENROLLED ORIGINAL

AN ACT

**D.C. ACT 21-98**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 2, 2015**

To amend, on an temporary 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, shall be 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.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "TOPA Bona Fide Offer of Sale Clarification Temporary Amendment Act of 2015".

Sec. 2. The Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01), is amended as follows:

(a) Section 103 (D.C. Official Code § 42-3401.03) is amended as follows:

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

"(1A) Beginning January 1, 2014, "appraised value" means the value of a housing accommodation as of the date of the appraisal, based on an objective, independent property valuation, performed according to professional appraisal industry standards.

"(1B) Beginning January 1, 2014, "bona fide offer of sale" means an offer of sale for a housing accommodation or the interest in the housing accommodation, that is either:

"(A) For a price and other material terms that are at least as favorable as those accepted by a purchaser in an arm's length third-party contract; or

"(B) In the absence of an arm's length third-party contract, an offer of sale with a price and other material terms comparable to that at which a willing seller and a willing buyer would sell and purchase the housing accommodation, or the appraised value."

(2) A new paragraph (12A) is added to read as follows:

"(12A) Beginning January 1, 2014, "matter-of-right" means a land use, development density, or structural dimension to which a property owner is entitled by current zoning regulations or law."

(b) Section 402 (D.C. Official Code § 42-3404.02) is amended as follows:

## ENROLLED ORIGINAL

(1) Subsection (a) is amended by striking the phrase “Before an owner” and inserting the phrase “Before October 7, 2014, before an owner” in its place.

(2) New subsections (a-1), (a-2), (a-3), and (a-4) are added to read as follows:

“(a-1) Beginning October 7, 2014, before an owner of a housing accommodation may sell the housing accommodation or issue a notice to vacate for purposes of demolition or discontinuance of housing use, the owner shall give the tenant an opportunity to purchase the housing accommodation at a price and terms that represent a bona fide offer of sale.

“(a-2) Beginning January 1, 2014, whenever an offer of sale is made to tenants for a housing accommodation with 5 or more units that is required by subsection (a) or (a-1) of this section before the owner may issue a notice to vacate for purposes of demolition or discontinuance of housing use, and the offer is made in the absence of an arm’s-length third-party contract, the following shall apply:

“(1) The sales price contained in the offer of sale shall be less than or equal to a price and other material terms comparable to that at which a willing seller and a willing buyer would sell and purchase the housing accommodation, or the appraised value of the housing accommodation as determined by this subsection.

“(2) An appraised value shall only be based on rights an owner has as a matter-of-right as of the date of the offer, including any existing right an owner may have to convert the property to another use.

“(3) Within the restrictions of paragraph (2) of this subsection, an appraised value may take into consideration the highest and best use of the property.

“(4) The owner of the housing accommodation shall have the burden of proof to establish that an offer of sale under this subsection is a bona fide offer of sale.

“(5)(A) A tenant organization registered according to section 411(1) may challenge the offer presented by an owner of a housing accommodation as not being a bona fide offer of sale, and request a determination of the appraised value of the housing accommodation.

“(B) The tenant organization shall request an appraisal by delivering the request to the Mayor and the owner by hand or by certified mail, within 45 days of receipt of a valid bona fide offer of sale.

“(C)(i) The tenant organization and owner of the housing accommodation shall jointly select an appraiser. If within 14 days after a tenant organization has requested an appraisal, the tenant organization and owner of the housing accommodation have not agreed upon an appraiser, either party may request that the Mayor select an appraiser.

“(ii) A request that the Mayor select an appraiser shall be in writing and delivered by hand or by certified mail to the Mayor and to the owner or tenant organization, respectively.

“(iii) The Mayor shall select the appraiser on a sole source basis within 7 days of receiving the request for an appraiser.

“(D) The tenant organization and owner of the housing accommodation shall pay one-third and two-thirds of the cost of the appraisal, respectively.

“(E)(i) The appraiser shall hold an active license to be a Certified General Real Property Real Estate Appraiser that has been issued by District of Columbia Board of Real

## ENROLLED ORIGINAL

Estate Appraisers.

“(ii) The owner shall give the appraiser full, unfettered access to the property.

“(iii) The owner shall respond within 7 days to any request for information from the appraiser.

“(iv) The tenant organization may give the appraiser information relevant to the valuation of the property.

“(F) The appraisal shall be completed expeditiously according to standard industry timeframes.

“(6) Beginning with the date of a tenant organization request for an appraisal, and for each day thereafter until the tenant organization receives the appraisal, the negotiation period described in section 411(2) shall be extended by one day.

“(7)(A) The determination of the appraised value of the housing accommodation in accordance with this subsection shall become the sales price of the bona fide offer of sale for the housing accommodation, unless:

“(i) The owner and the tenant organization agree upon a different sales price of the housing accommodation; or

“(ii) Within 14 days of the receipt of the appraisal by the owner, the owner elects to withdraw the offer of sale.

“(B) The owner shall withdraw the offer of sale by delivering a letter of withdrawal to the Mayor and a member of the board of directors of the tenant organization, by hand or by certified mail. Upon such election, the owner shall reimburse the tenant organization for its entire share of the cost of the appraisal within 14 days. An owner who withdraws an offer of sale in accordance with this paragraph, shall be precluded from making a subsequent offer of sale to the tenant organization without an arm's-length third party contract, for 6 months from the date of the election to withdraw the offer of sale.

“(8) Within 30 days of the receipt of the appraisal conducted by an appraiser selected by the Mayor according to this subsection, either the tenant organization or the owner of the housing accommodation may appeal the appraisal as being in violation of the requirements of this subsection, to the Superior Court of the District of Columbia for the court to take any appropriate action the court may deem necessary.

“(a-3) Notwithstanding subsections (a-1) and (a-2) of this section, for a tenant organization that before the effective date of the TOPA Bona Fide Offer of Sale Clarification Emergency Amendment Act of 2015, passed on emergency basis on June 2, 2015 (Enrolled version of Bill 21-222), has registered the tenant organization with the Mayor according to section 411(1), and has requested an appraisal of the housing accommodation by delivering the request to the Mayor and the owner by hand or by certified mail, the following shall apply:

“(1) Beginning January 1, 2014, before an owner of a housing accommodation may sell the accommodation, or issue a notice of intent to recover possession or notice to vacate for purposes of demolition or discontinuance of housing use, the owner shall give the tenant an opportunity to purchase the accommodation at a price and terms that represent a bona fide offer of sale.

## ENROLLED ORIGINAL

“(2) If within 360 days of the date of the issuance of a bona fide offer of sale pursuant to this subsection, an owner has neither sold, or is in the process of selling, the property pursuant to that bona fide offer of sale nor taken possession of the property, the owner shall comply anew with the requirements of this subsection before the owner may again act to sell the housing, or issue a notice of intent to recover possession or notice to vacate for purposes of demolition or discontinuance of housing use.

“(3) For the purposes of this subsection, in the case of multi-unit housing, the term:

“(A)(i) “A bona fide offer of sale” means a sales price that is less than or equal to the appraised value of the real property, multi-unit housing, and any other appurtenant improvements (“property”) plus, except as provided in sub-subparagraph (ii) of this subparagraph, the amount of liens existing before the sale or transfer; provided, that the liens shall be satisfied by the seller in the sale or transfer transaction.

“(ii) If the seller and the purchaser agree that the purchaser shall assume the liens, if any, a bona fide offer of sale means a sale price that is less than or equal to the appraised value of the property less the amount of any lien assumed by the purchaser.

“(B)(i) “Appraised value” means an objective property valuation based on the current state of the property and existing zoning, building, and occupancy permits that is no more than 6 months older than the date of issuance of the offer of sale that has been determined by 2 independent appraisals performed by 2 appraisers qualified to perform multi-unit appraisals.

“(ii) Of the 2 appraisers required by sub-subparagraph (i) of this subparagraph, one shall be selected by the owner and one shall be selected by the tenant. If the appraisers fail to agree upon a fair market value, the owner and the tenant shall jointly select and pay a third appraiser, whose appraisal shall be binding, or agree to take an average of the 2 appraisals.

“(C) “Multi-unit housing” means housing with 5 or more units.

“(a-4) Subsection (a-3) shall expire on October 9, 2015.”

(c) Section 411(4) (D.C. Official Code § 42-3404.11(4)) is amended by striking the phrase “the owner has not sold or contracted for the sale of the accommodation” and inserting the phrase “the owner has not sold or contracted for the sale of the accommodation, or in the case of an offer of sale given for the purposes of demolition or discontinuance of housing use, has not issued a notice to vacate for demolition or discontinuance of housing use, pursuant to section 501(g) or section 501(i) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3505.01(g) or (i))” in its place.

Sec. 3. The Tenant Opportunity to Purchase Temporary Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-166; 61 DCR 11101), is repealed.

Sec. 4. Fiscal impact statement.

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

ENROLLED ORIGINAL

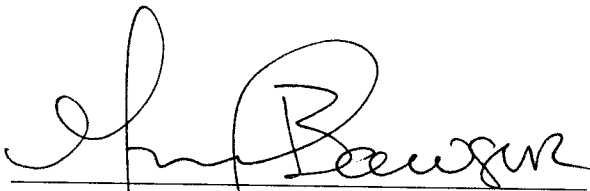
Sec. 5. Effective date.

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

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



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
July 2, 2015

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

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

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

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

- |         |   |
|---------|---|
| B21-279 | Professional Engineers Licensure and Regulation Clarification Act of 2015<br><br>Intro. 6-26-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs |
| <hr/>   |   |
| B21-287 | Youth Apprenticeship Advisory Committee Amendment Act of 2015<br><br>Intro. 6-30-15 by Councilmember Orange and referred to the Committee on Business, Consumer, and Regulatory Affairs                                       |
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| B21-288 | High School Graduation Coach Pilot Program Act of 2015<br><br>Intro. 6-30-15 by Councilmember Orange and referred to the Committee on Education   |
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- B21-289 Health Literacy Council Establishment Act of 2015  
Intro. 6-30-15 by Councilmember Orange and referred to the Committee on Education
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- B21-290 Office of Unified Communications Training, CPR, and Modernization Amendment Act of 2015  
Intro. 6-30-15 by Councilmembers McDuffie and Nadeau and referred to the Committee on Judiciary
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- B21-291 DCRA Infractions Fine Increase Regulation Amendment of 2015  
Intro. 6-30-15 by Councilmembers Nadeau, Silverman, Allen, and Todd and referred to the Committee on Business, Consumer, and Regulatory Affairs
- 
- B21-292 Robert L. Moore Sr., Commemorative Plaza Designation Act of 2015  
Intro. 6-30-15 by Councilmember Nadeau and referred to the Committee of the Whole
- 
- B21-293 Urban Farming and Food Security Amendment Act of 2015  
Intro. 6-30-15 by Chairman Mendelson and referred to the Committee of the Whole with comments from the Committee on Education and the Committee on Finance and Revenue
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### **PROPOSED RESOLUTIONS**

- PR21-232 Commission on Asian and Pacific Islander Community Development Chagan Sanathu Confirmation Resolution of 2015  
Intro. 6-23-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development
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- PR21-233 Commission on Asian and Pacific Islander Community Development Gregory Cendana Confirmation Resolution of 2015  
Intro. 6-23-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development
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PR21-234 Commission on Asian and Pacific Islander Community Development Easten  
Law Confirmation Resolution of 2015

Intro. 6-23-15 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee on Housing and Community Development

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PR21-235 Commission on Asian and Pacific Islander Community Development Thu  
Nguyen Confirmation Resolution of 2015

Intro. 6-23-15 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee on Housing and Community Development

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PR21-236 Commission on Asian and Pacific Islander Community Development Koustubh  
"K.J." Bagchi Confirmation Resolution of 2015

Intro. 6-23-15 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee on Housing and Community Development

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PR21-237 Board of Trustees of the University of the District of Columbia George Tyrone  
Simpson Confirmation Resolution of 2015

Intro. 6-23-15 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee of the Whole

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PR21-247 Family Re-housing and Stabilization Program Approval Resolution of 2015

Intro. 6-26-15 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee on Health and Human Services

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PR21-248 Medicaid Penalty Period for Asset Transfers Approval Resolution of 2015

Intro. 6-26-15 by Chairman Mendelson at the request of the Mayor and referred  
to the Committee on Health and Human Services

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PR21-252 Commission on the Arts and Humanities Elvi Moore Confirmation Resolution  
of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Finance and Revenue

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- PR21-253 Commission on the Arts and Humanities Stacie Lee Banks Confirmation Resolution of 2015  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
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- PR21-254 Commission on the Arts and Humanities Mr. C. Brian Williams Confirmation Resolution of 2015  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
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- PR21-255 Commission on the Arts and Humanities Kim Alfonso Confirmation Resolution of 2015  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
- 
- PR21-256 Commission on the Arts and Humanities Maria Hall Rooney Confirmation Resolution of 2015  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
- 
- PR21-257 Corrections Information Council Phylisa Carter Confirmation Resolution of 2015  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary
- 
- PR21-258 Commission on Fathers, Men, and Boys The Honorable Arthur Louis Burnett, Sr. Confirmation Resolution of 2015  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary
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PR21-259 Commission on Fathers, Men, and Boys Edward "Ed" Davies Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

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PR21-260 Commission on Fathers, Men, and Boys George L. Garrow, Jr. Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

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PR21-261 Commission on Fathers, Men, and Boys Brett O. Greene Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

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PR21-262 Commission on Fathers, Men, and Boys Franklyn M. Malone Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

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PR21-263 Commission on Fathers, Men, and Boys Elsie L. Scott Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

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PR21-264 Commission on Fathers, Men, and Boys Ivory A. Toldson Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

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- PR21-265 Commission on Fathers, Men, and Boys Tristan Wilkerson  
Confirmation Resolution of 2015  
  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary
- 
- PR21-266 Commission on African Affairs Nana Ama Afari-Dwamena Confirmation  
Resolution of 2015  
  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development
- 
- PR21-267 Commission on African Affairs Chibu Anyanwu Confirmation Resolution of  
2015  
  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development
- 
- PR21-268 Commission on African Affairs Kotheid Nicoue Confirmation Resolution of  
2015  
  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development
- 
- PR21-269 Commission on African Affairs Willair St. Vil Confirmation Resolution of  
2015  
  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development
- 
- PR21-270 Commission on African Affairs Ikenna Udejiofor Confirmation Resolution of  
2015  
  
Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development
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PR21-271 Board of Barber and Cosmetology Vonetta Dumas Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

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PR21-272 District of Columbia Commission on Human Rights Lisa Bornstein Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

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PR21-273 District of Columbia Commission on Human Rights Karen Mulhauser Confirmation Resolution of 2015

Intro. 6-29-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

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PR21-274 District of Columbia Taxicab Commission Linwood Jolly Confirmation Resolution of 2015

Intro. 6-30-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

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PR21-275 District of Columbia Taxicab Commission Dotti Love Wade Confirmation Resolution of 2015

Intro. 6-30-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

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PR21-276 Director of the Office of Veteran's Affairs Tammi Lambert Confirmation Resolution of 2015

Intro. 6-30-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

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PR21-277 Medicaid Distribution and Dispensing Antiretroviral and Other HIV-related Medications Program Waiver Approval Resolution of 2015

Intro. 6-30-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services

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PR21-278 Proposed Contract with Compass Group USA Disapproval Resolution of 2015

Intro. 7-1-15 by Councilmembers Cheh, Nadeau, Allen, and Silverman and Retained by the Council

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**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**The Wilson Building**

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**NOTICE OF CONTRACT DISAPPROVAL RESOLUTION**

The Council of the District of Columbia gives notice that the resolution listed below to disapprove CA 21-113, proposed contract between District of Columbia Public Schools and Compass Group USA by and through its Chartwells and SSC Division to exercise option year three (3) in the amount of \$32,163,577.38 to manage the overall District of Columbia Public Schools Food Services Program (FSP) for the schools was filed in the Office of the Secretary on June 18, 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.

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PR 21-278: Proposed Contract with Compass USA Disapproval Resolution of 2015

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Notice of Reprogramming Requests**

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 5 Washington, D.C. 20004. Copies of reprogrammings are available in Legislative Services, Room 10.  
Telephone: 724-8050

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**Reprog. 21-93:** Request to reprogram \$230,102 of Local Funds Budget Authority within the Department of Human Services was filed in the Office of the Secretary on June 29, 2015. This reprogramming ensures that the costs of certain programmatic activities within the agency complies with the most recent spending plan.

RECEIVED: 14 day review begins June 30, 2015

**Reprog. 21-94:** Request to reprogram \$2,726,009 of Fiscal Year 2015 Local Funds Budget Authority within the Department of Housing and Community Development (DHCD) was filed in the Office the Secretary on June 29, 2015. This reprogramming ensures that DHCD will be able to support the realignment of staff and agency needs after the first quarter of the current fiscal year.

RECEIVED: 14 day review begins June 30, 2015

**Reprog. 21-95:** Request to reprogram \$1,950,000 of Fiscal Year 2015 Special Purpose Revenue funds budget authority from the Department of Housing and Community Development (DHCD) to Business Improvement District Transfer (BID) was filed in the Office of the Secretary on June 29, 2015. This reprogramming ensures that the District is able to reimburse the new Southwest Waterfront BID.

RECEIVED: 14 day review begins June 30, 2015

**Reprog. 21-96:** Request to reprogram \$600,000 of Fiscal Year 2015 Local funds budget authority within the Department of Forensic Sciences (DFS) was filed in the Office of the Secretary on June 29, 2015. This reprogramming ensures that DFS will be able to obtain equipment, supplies, and contracts necessary to perform critical public safety duties.

RECEIVED: 14 day review begins June 30, 2015

**Reprog. 21-97** Request to reprogram \$3,969,428 of Fiscal Year 2015 Local funds budget authority from the Department of Youth Rehabilitation Services (DYRS) to the Department of Human Services (DHS) and the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on June 29, 2015. This reprogramming ensures that DHS will be able to purchase food storage equipment for the District's homeless shelters and OSSE will be able to address budget pressures related to billing assessments, the Individuals with Disabilities Education Act Part C program, and infant and toddler facility expansion.

RECEIVED: 14 day review begins June 30, 2015

**Reprog. 21-98:** Request to reprogram \$2,006,084 of Fiscal Year 2015 Dedicated Tax funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on June 30, 2015. This reprogramming ensures that OSSE will be able to continue Healthy Schools Act program.

RECEIVED: 14 day review begins July 1, 2015

**Reprog. 21-99:** Request to reprogram \$523,067 of Fiscal Year 2015 Special Purpose Revenue Funds Budget Authority within the Department of Housing and Community Development (DHCD) was filed in the Office of the Secretary on June 30, 2015. This reprogrammings needed to ensure that DHCD will end the year with a balanced budget.

RECEIVED: 14 day review begins June 30, 2015



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*RESCIND**

Posting Date: \*\*May 15, 2015  
Petition Date: \*\*June 29, 2015  
Hearing Date: \*\*July 13, 2015

License No.: ABRA-094621  
Licensee: Bodega Market, LLC  
Trade Name: Bodega Market  
License Class: Retailer's B  
Address: 1136 Florida Avenue, N.E.  
Contact Information: Yared Demissie: 202-494-6237

WARD 5

ANC 5D

SMD 5D06

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

**NATURE OF SUBSTANTIAL CHANGE:**

Class Change from a Retailer B to a Retailer A.

**CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

Sunday through Saturday 7am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 10, 2015
Petition Date: August 24, 2015
Hearing Date: September 8, 2015
License No.: ABRA-094621
Licensee: Bodega Market, LLC
Trade Name: Bodega Market
License Class: Retailer's B
Address: 1136 Florida Avenue, N.E.
Contact Information: Yared Demissie: 202-494-6237

WARD 5 ANC 5D SMD 5D06

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

NATURE OF SUBSTANTIAL CHANGE:

Class Change from a Retailer B to a Retailer A.

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

Sunday through Saturday 7am-12am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

ON

**7/10/2015**

Notice is hereby given that:

License Number: ABRA-005018      License Class/Type: A Retail - Liquor Store

Applicant: Warren J Smith

Trade Name: California Liquors

ANC: 1C01

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

**2100 18TH ST NW**

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

**8/24/2015**

***A HEARING WILL BE HELD ON:***

**9/8/2015**

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

<b>Days</b>	<b>Hours of Operation</b>	<b>Hours of Sales/Service</b>
Sunday:	-	-
Monday:	10 am - 9 pm	10 am - 9 pm
Tuesday:	10 am - 9 pm	10 am - 9 pm
Wednesday:	10 am - 9 pm	10 am - 9 pm
Thursday:	10 am - 9 pm	10 am - 9 pm
Friday:	10 am - 9 pm	10 am - 9 pm
Saturday:	10 am - 9 pm	10 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 10, 2015
Petition Date: August 24, 2015
Hearing Date: September 8, 2015

License No.: ABRA-094699
Licensee: MZ-DC, Inc.
Trade Name: DC Pizza
License Class: Retailer's Class "D" Restaurant
Address: 1103 19th Street, N.W.
Contact: Lisa Lakin: 202-331-1800

WARD 2 ANC 2B SMD 2B06

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Change of Hours.

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

Sunday through Saturday 10:30 am - 11:30 pm

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

Sunday through Thursday 9 am - 2 am, Friday & Saturday 9 am - 3 am

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

Posting Date: July 10, 2015  
Petition Date: August 24, 2015  
Hearing Date: September 8, 2015  
Protest Date: November 18, 2015

License No.: ABRA-099569  
Licensee: Imm On "H" LLC  
Trade Name: Imm On "H"  
License Class: Retailer's Class "C" Restaurant  
Address: 1360 H Street, N.E.  
Contact: Chrissie Chang: 703-992-3994

WARD 6

ANC 6A

SMD 6A06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on November 18, 2015.

**NATURE OF OPERATION**

Authentic Thai cuisine for all ages. Live jazz on Fridays & Saturdays. No nude performances. No dancing. Total Occupancy Load of 37, with Live Entertainment Endorsement.

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE****SALES/SERVICE/CONSUMPTION**

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

**HOURS OF LIVE ENTERTAINMENT**

Sunday through Thursday: N/A, Friday and Saturday: 7pm-11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*CORRECTION**

Posting Date: June 26, 2015  
Petition Date: August 10, 2015  
Hearing Date: August 24, 2015

License No.: ABRA-075647  
Licensee: Joo Family, Inc.  
Trade Name: JJ Liquors  
License Class: Retailer’s Class “A” Liquor Store  
Address: 1211 Brentwood Road, N.E.  
Contact: Beng Joo: 202-526-9444

WARD 5                      ANC 5C                      SMD 5C05

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

**NATURE OF SUBSTANTIAL CHANGE**

Applicant requests a Change of Hours.

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

Monday through Saturday 9 am – 9 pm

**PROPOSED HOURS OF OPERATION & ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION**

Sunday \*\*12 pm – 8 pm, Monday through Saturday 9 am – 9 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 10, 2015
Petition Date: August 24, 2015
Hearing Date: September 8, 2015

License No.: ABRA-095398
Licensee: Crave, LLC
Trade Name: Mess Hall
License Class: Retailer's Class "C" Tavern
Address: 703 Edgewood Street, N.E.
Contact: Alan Goldberg: 202-550-8780

WARD 5 ANC 5E SMD 5E02

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 and Cover Charge to allow occasional use of a live band, DJ or karaoke to compliment cultural food events.

CURRENT HOURS OF OPERATION

Sunday through Saturday 24 hours

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

PROPOSED HOURS OF LIVE ENTERTAINMENT

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

## DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PUBLIC HEARING  
AND  
NOTICE TO COMMENT IN WRITINGLow Income Home Energy Assistance Program (LIHEAP)  
State Plan for Fiscal Year 2016**Hearing: Wednesday, August 19, 2015, 4:30 pm**

District Department of the Environment  
1200 First Street, NE, 5<sup>th</sup> Floor  
NoMa-Gallaudet University Metro Stop, Washington, D.C.

**Written Comments due by: August 19, 2015**

The District Department of the Environment (“DDOE”) invites the public to present its feedback, input, and comments on the FY 2016 Draft State Plan for the Low Income Home Energy Assistance Program (LIHEAP). DDOE intends to review all components of the State Plan at the public hearing. Comments may be expressed in person at the public hearing or in writing.

**Authority** for the program is provided by:

- District Department of the Environment Establishment Act of 2005, §§ 101 *et seq.*, effective February 15, 2006, as amended (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2012 Repl. & 2013 Supp.));
- District of Columbia Office of Energy Act of 1980, §§ 2 *et seq.*, effective March 4, 1981, as amended (D.C. Law 3-132; D.C. Official Code §§ 8-171.01 *et seq.* (2012 Repl. & 2013 Supp.));
- Clean and Affordable Energy Act of 2008, §§ 101 *et seq.*, effective Oct. 22, 2008, as amended (D.C. Law 17-250; D.C. Official Code §§ 8-1773.01, 8-1774.01 *et seq.* (2012 Repl. & 2013 Supp.)); and
- Mayor’s Order 2006-61, dated June 14, 2006, and its delegations of authority.

**Comments may be provided in person or in writing.** A person need not attend the public hearing in order to submit comments on a State Plan.

**The public hearing** will take place at the above-stated time and place. The public hearing will continue until the presiding officer determines that everyone has had a meaningful opportunity to be heard. The presiding officer may limit the time in which to comment. A person who is unavailable to arrive at the opening time may reserve a time to speak, by contacting DDOE, as



described below, in this notice. A person attending the public hearing should check in with the guard in the building lobby, and then go to DDOE's reception desk on the 5<sup>th</sup> floor.

**Written comments** may be submitted directly to DDOE by mail, hand delivery, or email. Instructions for submitting written comments appear below, in this notice. DDOE will accept written comments until Thursday, August 19, 2015.

**Obtaining text of the LIHEAP State Plan 2016:** The document will be available at DDOE's website and from DDOE's offices, as described below in this notice. The document will become available on the DDOE web page, described below, in this notice, as follows:

A person may obtain a copy of the document by any of the following methods:

- Download, by visiting DDOE's website, [ddoe.dc.gov](http://ddoe.dc.gov). Look for the title/section, "EnergySmartDC", and select "Energy Assistance and Weatherization". Page down to the section titled "Publications" to select the document's listing. Follow the link to the page, where the document can be downloaded in a PDF format;
- Email a request to [LIHEAP.StatePlan@dc.gov](mailto:LIHEAP.StatePlan@dc.gov), with "Request copy of LIHEAP State Plan 2016" in the subject line;
- In person, by making an appointment to examine a copy in DDOE's offices at the 5th floor reception desk at the street address below. Please call DDOE's reception at 202-535-2600 and mention the LIHEAP State Plan by name. DDOE is located one block west of the NoMa-Gallaudet University Metro Stop on the red line, at the corner of M Street and First Street NE; or
- Mail, by writing to DDOE at 1200 First Street, N.E., 5th Floor, Washington, DC 20002, with "Attn: Request copy of LIHEAP State Plan 2016" on the outside of the envelope.

**The State Plan contact:** For additional information regarding the public hearing or written comments please send an email to [LIHEAP.StatePlan@dc.gov](mailto:LIHEAP.StatePlan@dc.gov).

DDOE appreciates the time, insight, and expertise that go into submitting comments. DDOE will carefully consider all of the comments that it receives.

**Instructions for submitting written comments:** Written comments should: (1) identify the commenter, and commenter's organization, if any; (2) be clearly marked "LIHEAP State Plan 2016", and be mailed or hand-delivered to DDOE at the above address.

**MAYOR'S AGENT  
FOR THE HISTORIC LANDMARK AND HISTORIC DISTRICT PROTECTION ACT**

**NOTICE OF PUBLIC HEARING**

Public notice is hereby given that the Mayor's Agent will hold public hearings on applications affecting properties subject to the Historic Landmark and Historic District Protection Act of 1978. Interested parties may appear and testify on behalf of, or in opposition to, the application. The hearing will be held at the Office of Planning, 1100 4th Street SW, Suite E650.

Hearing Date: **Friday, August 14, 2015 at 9:30 a.m.**  
Case Number: HPA 15-296  
Address: 1223 4<sup>th</sup> Street NW  
Square/Lot: Square 523, Lot 20  
Applicant: Erin L. Stevens  
Type of Work: Alteration – additional window opening on the facade

Affected Historic Property: Mount Vernon Square Historic District  
Affected ANC: 6E

The Applicant's claim is that the alteration is consistent with the purposes of the historic preservation law.

Hearing Date: **Friday, August 14, 2015 at 10:30 a.m.**  
Case Number: HPA 15-439  
Address: 1755 Newton Street NW  
Square/Lot: Square 2619, Lot 654  
Applicant: D.C. Department of General Services  
Type of Work: Demolition – demolition of school gym

Affected Historic Property: Mount Pleasant Historic District  
Affected ANC: 1D

The Applicant's claim is that the alteration is consistent with the purposes of the Act and that proposed demolition is necessary in the public interest for the construction of a project of special merit.

The hearing will be conducted in accordance with the Rules of Procedure pursuant to the Historic Landmark and Historic District Protection Act (Title 10C DCMR Chapters 4 and 30), which are on file with the D.C. Historic Preservation Office and posted on the Office website under "Regulations."

Interested persons or parties are invited to participate in and offer testimony at this hearing. Any person wishing to testify in support of or opposition to the application may appear at the hearing and give evidence without filing in advance. However, any affected person who wishes to be recognized as a party to the case is required to file a request with the Mayor's Agent at least fifteen days prior to the hearing. This request shall include the following information: 1) his or her name

and address; 2) whether he or she will appear as a proponent or opponent of the application; 3) if he or she will appear through legal counsel, and if so, the name and address of legal counsel; and 4) a written statement setting forth the manner in which he or she may be affected or aggrieved by action upon the application and the grounds upon which he or she supports or opposes the application. Any requests for party status should be sent to the Mayor's Agent at 1100 4th Street SW, Suite E650, Washington, D.C. 20024. For further information, contact the Historic Preservation Office, at (202) 442-8800.

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

**NOTICE OF PUBLIC HEARING**

**July 16, 2015 at 11:00 AM**

The DC Taxicab Commission (DCTC) has scheduled a Public Hearing from 11 am to 3 pm on Thursday, July 16, 2015, at 2235 Shannon Place, SE, Washington DC 20020, in the Hearing Room, Suite 2023. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

The Hearing will focus on the Panel on Industry's (POI) charge of conducting a broad study of the DC taxicab marketplace and to adopt a framework for rulemaking.

The POI will develop taxicab policies that will influence changes to the market, and issues within the market. Issues include a structure under which licenses/H-tags may be expanded or limited as the appropriate needs of the market, including Wheelchair Accessible Vehicles (WAVs), fuel efficient and clean fuel burning vehicles and other services. The main focus will be on whether the Commission should lift the moratorium of H-tags, and if so, under what circumstances and requirements.

Those interested in testifying should register by emailing to [poi@dc.gov](mailto:poi@dc.gov) or by calling (202) 645-4433, no later than Tuesday, July 14, 2015 by 4 pm. Participants should submit ten (10) copies of their remarks in writing prior to the hearing. Please note that the office will be closed in observance of Independence Day on Friday, July 3, 2015. Statements are limited to three (3) minutes for registered speakers and two (2) minutes for non-registered speakers. Registered speakers will be called first, in the order of registration. A fifteen (15) minute period will then be provided for all non-registered speakers. Written copies of remarks may also be submitted to the Commission Secretary at the hearing. Comments are limited to the specific subject matter of this Public Hearing.

The Public Hearing will take place at the following time and location:

**THURSDAY, JULY 16, 2015**

**11 am to 3 pm**

**2235 Shannon Place, SE**

**Second Floor Hearing Room**

**Suite 2023**

**Washington, DC 20020**

## DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission” or “DCTC”), pursuant to the authority set forth in Sections 8(c) (2), (3), (5), (7), (19), 14, 20, and 20f of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307 (c)(2), (3), (5), (7), (19) (2014 Repl.), § 50-313 (2014 Repl.), § 50-319 (2014 Repl.), and § 50-325 (2014 Repl.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Repl. & 2014 Supp.), hereby gives notice of its intent to amend Chapter 5 (Taxicab Companies, Associations, and Fleets), Chapter 10 (Public Vehicles for Hire), and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (“DCMR”).

This final rulemaking would amend Chapters 5 (Taxicab Companies, Associations and Fleets), 10 (Public Vehicles for Hire) and 99 (Definitions) of Title 31 DCMR to repeal all provisions of Title 31 pertaining to, and providing for, the establishment of Modern Taxicab Associations (“the MTA rules”). The MTA rules were approved for publication as final rulemaking by the Commission on December 10, 2014 and published in the *D.C. Register* on January 2, 2015 at 62 DCR 119. The MTA rules would have resulted in the issuance of hundreds of new DCTC vehicle licenses for taxicabs, which is inconsistent with the Commission’s referral of all issues related to DCTC vehicle licenses for taxicabs to the Panel on Industry, as announced at the January 14, 2015 General Commission Meeting.

The proposed rulemaking was adopted by the Commission in a Notice of Emergency and Proposed Rulemaking on February 2, 2015, which was published in the *D.C. Register* on April 10, 2015 at 62 DCR 004653. The Commission did not receive any comments during the comment period, which expired on May 11, 2015. No changes to the proposed rulemaking were required and none have been made.

The Commission voted to adopt this rulemaking as final on May 13, 2015, and it will become effective upon publication in the *D.C. Register*.

**Chapter 5, TAXICAB COMPANIES, ASSOCIATIONS AND FLEETS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:**

**Section 504, MODERN TAXICAB ASSOCIATIONS, is repealed.**

**Chapter 10, PUBLIC VEHICLES FOR HIRE, is amended as follows:**

**Section 1010, ISSUANCE OF DCTC VEHICLE LICENSES, is amended as follows:**

**Subsection 1010.7 is amended to read as follows:**

1010.7           An applicant for a DCTC transferable taxicab vehicle license shall:

- (a) Be a person which:
  - (1) Possesses a current DCTC vehicle license for a taxicab in active service; or
  - (2) Is a taxicab company participating the Coordinated Alternative Paratransit (CAPS-DC) Pilot Program for a new vehicle which it is required to purchase as a condition of participation in the program, as provided in § 1806.19; and
- (b) Demonstrates to the satisfaction of the Office that it is ready and able to comply with the applicable provisions of § 1010.8.

**Subsection 1010.9 is amended to read as follows:**

- 1010.9 Each transfer of a DCTC transferable taxicab vehicle license shall be approved by the Office prior to the use of the license as follows:
- (a) An applicant shall use a form established by the Office, executed under oath, and accompanied by a description of the terms of the proposed transfer, a proposed purchase and sale agreement or other legal document by which the ownership of the license may be transferred, such information and documentation as may be required by the Office, and a fee of one hundred dollars (\$100);
  - (b) The applicant shall demonstrate to the satisfaction of the Office that the transfer would not impair the continued transferability or use of the license in the manner required by the applicable provisions of this title; and
  - (c) The Office shall issue a written decision to approve or deny the application within ten (10) days, and shall explain the reasons for its decision in the event of a denial. A decision to deny the application may be appealed in accordance with Chapter 7.

**Chapter 99, DEFINITIONS, is amended as follows:**

**Section 9901, DEFINITIONS, is amended as follows:**

**Subsection 9901.1 is amended to delete the following definition:**

**“Modern taxicab association” or “MTA”** – An association of taxicab owners whose members are required to convert their vehicles to wheelchair accessible vehicles as required by § 504.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (Department), pursuant to the authority set forth in 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.* (2012 Repl.)) and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 35 (Licensing Fees) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to establish licensing fees for the health professionals known as “nursing assistive personnel” – dialysis technicians, medication aides, nurse assistants, and patient care technicians.

**Chapter 35, LICENSING FEES, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 3500, FEES, is amended to include the following, to be inserted in appropriate alphabetical sequence in Subsection 3500.1:**

DIALYSIS TECHNICIAN:

Initial Certification Fee	\$50.00
Endorsement Fee	\$50.00
Reinstatement Fee	\$70.00
Renewal Fee	\$50.00
Inactive Status Fee	\$10.00
Late Renewal Fee	\$20.00
Certificate Duplication Fee	\$34.00
Added Authority Fee	\$10.00

HOME HEALTH AIDE:

Initial Certification Fee	\$50.00
Endorsement Fee	\$50.00
Reinstatement Fee	\$70.00
Renewal Fee	\$50.00
Inactive Status Fee	\$10.00
Late Renewal Fee	\$20.00
Certificate Duplication Fee	\$34.00
Added Authority Fee	\$10.00

MEDICATION AIDE:

Initial Certification Fee	\$50.00
Endorsement Fee	\$50.00
Reinstatement Fee	\$70.00
Renewal Fee	\$50.00

Inactive Status Fee	\$10.00
Late Renewal Fee	\$20.00
Certificate Duplication Fee	\$34.00
Added Authority Fee	\$10.00

## PATIENT CARE TECHNICIAN:

Initial Certification Fee	\$50.00
Endorsement Fee	\$50.00
Reinstatement Fee	\$70.00
Renewal Fee	\$50.00
Inactive Status Fee	\$10.00
Late Renewal Fee	\$20.00
Certificate Duplication Fee	\$34.00
Added Authority Fee	\$10.00

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C., 20002. Copies of the proposed rules may be obtained from the Department of Health at the same address during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays. In addition, comments may be sent to [Van.Brathwaite@dc.gov](mailto:Van.Brathwaite@dc.gov).



## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 91 (Graduate Professional Counselor) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the amendment is to define the term “independent practice” and to notify graduate professional counselors that maintaining an independent practice is prohibited during their period of licensure. In addition, this rulemaking notifies licensees, students, and graduates that practice professional counseling that they are required to abide by the most recent edition of the Code of Ethics as published by the American Counseling Association.

**Chapter 91, GRADUATE PROFESSIONAL COUNSELOR, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 9105, SUPERVISED EXPERIENCE REQUIREMENTS, is amended as follows:**

**Add a new Subsection 9105.9 to read as follows:**

9105.9 Only a licensed professional counselor may engage in independent practice. A graduate professional counselor shall not engage in independent practice. For purposes of the section “independent practice” means:

- (a) Rendering counseling services on his or her own responsibility, free of the administrative and professional control of an employer or clinical supervisor;
- (b) Directly collecting fees from a client, or his or her representative, as the payor, for services rendered where the counselor is the payee; or
- (c) Maintaining an office or office space at his or her own expense with advertising to the public that conveys information or the idea that the counselor is not affiliated with a licensed health professional who provides supervision.

**Section 9111, STANDARDS OF CONDUCT, is amended as follows:**

**Add a new Subsection 9111.48 to read as follows:**

9111.48 A licensee, student or graduate practicing professional counseling pursuant to this chapter shall adhere to the standards set forth in the most recent edition of the Code of Ethics as published by the American Counseling Association.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C., 20002. In addition, comments may be sent to [Van.Brathwaite@dc.gov](mailto:Van.Brathwaite@dc.gov), (202) 442-4899. Copies of the proposed rules may be obtained from the Department of Health at the same address during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays.

## DEPARTMENT OF HEALTH CARE FINANCE

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2014 Repl.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 4216 of Chapter 42 (Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Register (DCMR).

The Centers for Medicare and Medicaid Services (CMS) issued regulations governing conflict-free standards for the delivery of case management services and the person-centered service planning process in its Home and Community-Based regulations, at 42 C.F.R. §§ 441.301(c)(1) – (3). These standards became effective on March 17, 2014. To bring the District into compliance, these emergency and proposed rules amend the previously published final rules governing the delivery of case management services under the Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver) by changing the provider qualification criteria for existing case managers. Each case manager must now self-attest that he or she meets the CMS standards for conflict-free case management services using a form developed by DHCF. Existing case managers shall have sixty (60) days from the effective date of these rules to complete their self-attestation forms; new case managers will be required to complete their self-attestation forms as a pre-condition for billing EPD Waiver case management services. EPD Waiver case management service providers shall be required to maintain the self-attestation forms in their personnel files and such files shall be subject to inspection and audit by DHCF or its designated agent.

In addition, these emergency and proposed rules amend the provider qualification criteria to prohibit any new entity from enrolling as a Medicaid reimbursable provider of case management services if that entity is a Medicaid provider of Personal Care Aide (PCA) services or any other direct services under the EPD Waiver, or has a financial relationship, as defined under 42 C.F.R. § 411.354, in a Medicaid provider of PCA or any other direct services under the EPD Waiver. A new entity is an entity that was not enrolled as an EPD waiver case management service provider on the effective date of these rules. Existing EPD waiver case management service providers shall have one (1) year from the effective date of these rules to come into compliance with these rules.

Finally, EPD waiver case management service providers shall have one (1) year from the effective date of these rules to begin incorporating the requirements of 42 C.F.R. §§ 441.301(c)(1) - (3) requiring that Individual Service Plans developed by case managers incorporate the principles and requirements of person-centered planning.

These changes correlate with the conflict-free case management requirements, 42 C.F.R. § 441.301(c)(1)(vi), and person-centered planning requirements, 42 C.F.R. §§ 441.301(c)(1) – (3) prescribed under CMS’s final rulemaking regarding Home and Community-Based Services published in the *Federal Register* on January 16, 2014, 79 Fed. Reg. 2948.

In order to come into compliance with the new requirements for the delivery of case management services, to preserve the beneficiaries’ health, safety, and welfare, and to avoid any lapse in access to conflict-free case management services, it is necessary that these rules be published on an emergency basis. These standards ensure that the interests of case managers who arrange for the delivery of services are consistent with the needs and preferences of the beneficiary, and protect the beneficiaries’ health care delivery needs. Amending the provider enrollment requirements for EPD Waiver case managers is necessary at this time to ensure that the District comes into compliance with CMS’s conflict-free case management standards.

The emergency rulemaking was adopted on July 1, 2015 and shall become effective for services rendered on or after that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until October 29, 2015, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in no less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

**Chapter 42, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR PERSONS WHO ARE ELDERLY AND INDIVIDUALS WITH PHYSICAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:**

**Section 4216, SPECIFIC PROVIDER REQUIREMENTS: CASE MANAGEMENT AND RELATED WAIVER SERVICES, is amended as follows:**

**4216 SPECIFIC PROVIDER REQUIREMENTS: CASE MANAGEMENT**

4216.1 Each individual providing case management services shall meet the following requirements:

- (a) Be at least eighteen (18) years of age;
- (b) Be a United States citizen or alien who is lawfully authorized to work in the United States;
- (c) Provide proof of the supporting documents for the Immigration and Naturalization Service’s Form I-9 requirements;
- (d) Be able to read and write in English;
- (e) Be acceptable to the person using the Waiver service;

- (f) Confirm, on an annual basis, that he or she is free of active tuberculosis by undergoing an annual purified protein derivative (PPD) skin test;
- (g) Confirm, on an annual basis, that he or she is free of communicable diseases by undergoing an annual physical examination by a physician, and obtaining written and signed documentation from the examining physician that confirms he or she is free of communicable diseases; and
- (h) Provide to each case management service provider for whom he or she works:
  - (1) Evidence of acceptance or declination of the Hepatitis vaccine; and
  - (2) A completed DHCF Conflict-Free Case Management Self-Attestation Form described under Subsection 4216.2.

4216.2 Except as provided in Subsection 4216.3, on or after the effective date of these rules, an individual providing case management services, who is employed or under contract to a Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver) case management service provider shall self-attest to meeting the CMS conflict-free standards in accordance with 42 C.F.R § 441.301(c)(1)(vi) using the DHCF Conflict-Free Case Management Self-Attestation Form. Under these standards, individual case managers shall not:

- (a) Be related by blood or marriage to the person receiving services, or to any paid caregiver of the person;
- (b) Be financially responsible for the person, or be empowered to make financial or health decisions on the person's behalf;
- (c) Have a financial relationship, defined under 42 C.F.R § 411.354, with any entity that is paid to provide care for the person; and
- (d) Be employed by any entity that is a provider of a person's PCA services or any other direct services under the EPD Waiver.

4216.3 An individual providing EPD waiver case management services on the effective date of these rules shall have sixty (60) days from the effective date of these rules to meet the requirements of Subsection 4216.1(h)(ii).

4216.4 Within sixty (60) days from the effective date of these rules, EPD Waiver case management service providers shall ensure they have a copy of the DHCF Conflict-Free Case Management Self-Attestation Form on file for each case manager prior to submission of any claims for case management services

provided by that case manager. DHCF Conflict-Free Case Management Self-Attestation Forms are subject to inspection and audit and must be produced upon request.

- 4216.5 Individuals conducting case management services shall meet one of the following educational requirements:
- (a) Have a current appropriate licensure, and have a Master's degree in social work, psychology, counseling, rehabilitation, nursing, gerontology, or sociology and have at least one (1) year of experience working with the elderly or individuals with physical disabilities;
  - (b) Have a current appropriate licensure and have a Bachelor's degree in social work, psychology, counseling, rehabilitation, nursing, gerontology, or sociology and have two (2) years of experience working with the elderly or individuals with physical disabilities; or
  - (c) Have a current license as a Registered Nurse (RN), and have an Associate degree in nursing, and at least three (3) years of experience working with the elderly and individuals with physical disabilities.
- 4216.6 Case management service providers shall not provide medical, financial, legal, or other service or advice for which they are not qualified or licensed to perform (except for referral to qualified individuals, agencies, or programs).
- 4216.7 Except as provided in Subsection 4216.8, on or after the effective date of these rules, in accordance with 42 C.F.R. § 441.301(c)(1)(vi), the following providers shall not be eligible to provide case management services:
- (a) An entity that is a Medicaid provider of personal care aide (PCA) services or any other direct services under the EPD Waiver; or
  - (b) An entity that has a financial relationship, as defined under 42 C.F.R § 411.354, with a Medicaid provider of PCA services or any other direct services under the EPD Waiver.
- 4216.8 An entity that is enrolled to provide case management services on the effective date of these rules that is also a Medicaid provider of PCA services or any other direct services under the EPD Waiver; or has a financial relationship, as defined under 42 C.F.R § 411.354, with a Medicaid provider of PCA services or any other direct services under the EPD Waiver, shall have one (1) year from the effective date of these rules to come into compliance with Subsection 4216.7.
- 4216.9 An entity described in Subsection 4216.8 shall notify DHCF of its election to continue or discontinue providing case management services within sixty (60) days of the effective date of these rules. An entity that chooses to discontinue

case management services shall submit a transition plan to DHCF within ninety (90) days of the effective date of these rules and shall cooperate with DHCF to effectuate the orderly and timely transition of its enrollees to other case management providers that meet the conflict-free case management standards.

- 4216.10 Each case management service provider shall conduct a comprehensive intake within forty-eight (48) hours of receiving the waiver referral and prior to the development of the individual service plan (ISP). All initial ISPs and all renewal ISPs that are initiated on or after the date that is one (1) year from the effective date of these rules shall conform to the person-centered planning requirements under 42 C.F.R §§ 441.301(c)(1) – (3).
- 4216.11 Each case management service provider shall complete the ISP within forty-eight (48) business hours of conducting the comprehensive intake.
- 4216.12 Each case management service provider shall include the person whose plan is being developed, other contributors chosen and invited by the person, and representatives of the person’s interdisciplinary team, as possible, in the initial assessment and in the development and implementation of the ISP. The person or authorized representative shall have access to the ISP and shall be involved in the periodic review of the ISP.
- 4216.13 A case management service provider shall submit to the DHCF or its agent a completed ISP for review and approval within seven (7) business days of its receipt.
- 4216.14 It is the responsibility of the case management service provider to ensure that all other professional disciplines, as identified for resolution of identified needs, are incorporated into the ISP.
- 4216.15 Each case management service provider shall maintain, follow, and continually update a training and supervision program to ensure the individual delivering case management services is fully trained and familiar with the waiver policies and procedures, including CMS’s conflict-free case management standards as set forth under this section.
- 4216.16 Each provider of case management services shall ensure that individuals providing case management services are appropriately supervised and that the case management service provided is consistent with the person’s ISP.

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

## DEPARTMENT OF HUMAN SERVICES

**NOTICE OF THIRD EMERGENCY AND PROPOSED RULEMAKING**

The Director of the District of Columbia (District) Department of Human Services (Department), pursuant to the authority set forth in Sections 7(e) and 31 of the Homeless Services Reform Act of 2005 (HSRA), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code §§ 4-753.01(e) and 4-756.02 (2012 Repl.)), and pursuant to Mayor's Order 2006-20, dated February 13, 2006, and Mayor's Order 2007-80, dated April 2, 2007, hereby gives notice of the adoption of the following new Chapter 78 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations, entitled "Family Re-Housing and Stabilization Program", as an emergency rulemaking, to become effective immediately.

The purpose of the new chapter is to establish rules to administer the District of Columbia's Family Re-Housing and Stabilization Program (FRSP). FRSP will provide District residents who are experiencing homelessness or at imminent risk of experiencing homelessness with a range of services, tailored to the unique needs and strengths of the entire household, to assist them in achieving greater stability and economic security, including, but not limited to: individualized case management services, housing identification, connection to mainstream and community-based resources, time-limited rental subsidies, and utility assistance. Families participating in FRSP who also receive Temporary Assistance for Needy Families (TANF) assistance will be able to unify their services under their Individual Responsibility Plan and count the hours toward their work participation requirements by participating in a variety of employment-related services offered within FRSP, such as obtaining a General Education Development (GED) certificate, taking courses at the University of the District of Columbia, participating in work hours, and receiving a certification from the Department of Employment Services (DOES).

These rules were first published as emergency and proposed in the *D.C. Register* on July 27, 2012, at 59 DCR 8831 [EXPIRED]. Emergency rules were subsequently published on January 18, 2013, at 60 DCR 415 [EXPIRED]. A Notice of Second Emergency Rulemaking was published on May 31, 2013, at 60 DCR 7631 [EXPIRED]. The Department then published the Notice of Second Emergency and Proposed Rulemaking on June 27, 2014, at 61 DCR 6562 [EXPIRED]. A Notice of Third Emergency Rulemaking was published on November 14, 2014, at 61 DCR 11889 [EXPIRED]. Finally, on March 27, 2015, the Department published the Notice of Fourth Emergency Rulemaking at 62 DCR 3693. This emergency and proposed rulemaking supersedes the Second Proposed Rulemaking.

Emergency rulemaking action, pursuant to Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2012 Repl.)), is necessary so as to allow the Department to continue to operate FRSP as the Department continues to review the comments received in response to the proposed rules, and to finalize the proposed rules. Therefore, taking emergency action under these circumstances will promote the immediate preservation of the health, safety, and welfare of District residents who are experiencing homelessness by permitting the Department to continue to support their



rapid return to permanent housing and working to ensure that the experience of homelessness with the District is rare, brief, and non-recurring.

These emergency rules were adopted on May 26, 2015, and went into effect at that time. The emergency rules shall expire on September 23, 2015, which is one hundred twenty (120) days after the adoption date of these emergency rules, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

Further, and in accordance with Section 31 of the HSRA, these proposed rules will be submitted to the Council of the District of Columbia (Council) for a forty-five (45)-day review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess. The proposed rules shall not become effective prior to the completion of the thirty (30)-day comment period and the forty-five (45)-day Council review period.

**Add the following new Chapter 78, FAMILY RE-HOUSING AND STABILIZATION PROGRAM, to Title 29 DCMR, PUBLIC WELFARE, to read as follows:**

## **CHAPTER 78            FAMILY RE-HOUSING AND STABILIZATION PROGRAM**

### **7800            SCOPE**

7800.1            The purpose of the Family Re-Housing and Stabilization Program (“FRSP” or “Program”) is to support District residents, who are experiencing homelessness or at imminent risk of experiencing homelessness, to achieve stability in permanent housing through individualized and time-limited assistance. FRSP offers a range of supports that are responsive to participant needs, including: individualized case management services, housing identification, connection to mainstream and community-based resources, and financial assistance.

7800.2            The provisions of this chapter describe the application process, eligibility criteria, assistance determination, description of assistance provided, and appeal procedures for the Program.

7800.3            Nothing in these rules shall be interpreted to mean that FRSP assistance is an entitlement. This Program shall be subject to annual appropriations and the availability of funds.

7800.4            The Department of Human Services (Department) may execute contracts, grants, and other agreements as necessary to carry out the Program.

### **7801            APPLICATION PROCESS**

7801.1            Each FRSP application shall be in writing on a form provided by the Department and signed by the applicant, and submitted to the Eligibility Provider. An

authorized representative may apply on behalf of the applicant, if the applicant provides a written and signed statement stating why he or she cannot apply in person and the name and address of the person authorized to act on his or her behalf.

- 7801.2 If an applicant with a disability or the authorized representative of an applicant with a disability requests assistance to complete the FRSP application, the Provider shall assist such applicant or authorized representative with the application process to ensure that the applicant has an equal opportunity to submit an application.
- 7801.3 The Department shall provide FRSP application forms to the Eligibility Provider to use, and to disseminate to applicants, and the Eligibility Provider shall accept applications from each applicant who requests or is referred for FRSP assistance.
- 7801.4 At the time of application, the Eligibility Provider shall provide each applicant with a written FRSP notice explaining the program. Each applicant shall personally, or through an authorized representative, sign an FRSP notice acknowledgement form, acknowledging receipt of the FRSP notice. The FRSP notice shall contain a description of the Program, the Eligibility Provider and Service Provider's responsibilities, the applicant's rights and responsibilities, grievance procedure and the Program requirements, including that receipt of FRSP assistance is conditioned upon actively seeking housing and completing the steps necessary to lease and move into an FRSP-approved housing unit in a timely manner (approximately thirty (30) days from the date of the Notice of Eligibility), absent a good cause reason for delay. For purposes of this section, "good cause" shall include delays caused by actions or inactions of persons outside of the applicant's control.
- 7801.5 As part of the application process, each applicant, personally or through an authorized representative, shall sign an FRSP release form authorizing the Eligibility Provider to obtain or verify information necessary for processing the application.
- 7801.6 As part of the application process, each applicant shall provide the following information to the Eligibility Provider to determine if the applicant is eligible for the Program:
- (a) What circumstances brought about the applicant's experience of homelessness, or imminent risk of homelessness; and
  - (b) Documentation of the following:
    - (1) Household composition;

- (2) Employment status and employment history;
- (3) Income and financial assets history;
- (4) Household expenses;
- (5) Rental and other relevant housing history;
- (6) Facts and circumstances surrounding financial and other barriers to housing stability; and
- (7) Facts and circumstances surrounding work experience, education, or training that can contribute to the household's ability to achieve housing stability independent of the Program by the end of the FRSP period.

7801.7 The request for documentation under § 7801.6(b) may be waived if the applicant signs a declaration containing the necessary information listed in § 7801.6(b).

7801.8 If additional information is needed from the applicant to determine eligibility for the Program, the Eligibility Provider shall make the request, in writing, for additional information, which shall specify the information needed to complete the application. The written request shall also include information to assist the applicant with obtaining the required information and/or offer appropriate assistance in obtaining the required information. The application shall be considered complete when all required information is provided to the Eligibility Provider.

7801.9 The Eligibility Provider may use, among other things, documents, telephone conversations, personal and collateral interviews, reports, correspondence, and conferences to verify applicant information.

7801.10 If an applicant has not obtained and provided to the Eligibility Provider the required information for eligibility determination under § 7801 within thirty (30) days of the date of application, then the Eligibility Provider is responsible for making documented efforts to contact the applicant both by telephone and in writing upon the completion of the thirty (30) days of the date of application, to discuss if services are still needed and discuss any barriers that are delaying the requested documentation. If, at such time, contact with the applicant is made and services are still requested, the Eligibility Provider will take appropriate steps to assist the applicant in obtaining the required information. If, at such time, contact cannot be made, or the applicant no longer requests the services, an application may be considered abandoned.

**7802 APPLICANT UNIT**

7802.1 The applicant unit shall be composed of each individual who lives in the same household as the applicant and whose needs, assets, and income are combined to determine eligibility.

7802.2 The applicant unit shall include:

- (a) Persons related by full- or half- blood with legal responsibility for minor children in the household;
- (b) Persons related by legal adoption;
- (c) Persons related by marriage or domestic partnership, including stepchildren and unmarried parents of a common child who live together; and
- (d) Persons with a legal responsibility for an unrelated minor child or an unrelated adult with a disability.

7802.3 The applicant unit may include any person not included by § 7802.2, regardless of blood relationship, age, or marriage, whose history and statements reasonably demonstrate that the individuals intend to remain together as a family unit.

7802.4 A person temporarily away from home due to employment, school, hospitalization, or vacation, shall be considered to be living in the household. A minor child who is away at school is considered to be living in the household if he or she returns to the home on occasional weekends, holidays, school breaks, or during summer vacations.

**7803 ELIGIBILITY CRITERIA**

7803.1 An applicant shall be eligible to receive FRSP assistance if the applicant unit is a family, as defined in § 7899, that:

- (a) Is currently experiencing homelessness as defined by Section 2 of the HSRA (D.C. Official Code § 4-751.01(18)), or is at imminent risk of experiencing homelessness;
- (b) Is a resident of the District of Columbia as defined by Section 2 of the HSRA (D.C. Official Code § 4-751.01(32)); and

- (c) Demonstrates that there is a reasonable expectation of sustaining housing stability at the end of the FRSP assistance period.

7803.2 Relevant factors for determining whether a household is appropriate for FRSP assistance include, but are not limited to:

- (a) Current income;
- (b) Expected future income;
- (c) Rental history;
- (d) Employment history;
- (e) Employment potential based on job skills, certifications, or participation in a training or employment program;
- (f) Previous receipt of emergency rental assistance, including Emergency Rental Assistance Program or Homelessness Prevention and Rapid Re-Housing Program assistance within the last eighteen (18) months, whether applying for the same or a different financial assistance;
- (g) Assessment on a uniform tool as selected by the Department, such as the Service Prioritization Decision Assistance Tool (SPDAT), that identifies Rapid Re-Housing as the appropriate housing assistance option based on the applicant's needs;
- (h) Identification by the District of Columbia Housing Authority (DCHA) or other subsidized housing provider, as a household that is reasonably likely to receive DCHA or other subsidized housing within approximately twelve (12) months;
- (i) Willingness to take steps that could reasonably lead to increased income in the household; and
- (j) Identification of and willingness to take steps that could reasonably lead to permanent housing stability in cohabitation with family, friends, or other appropriate and safe situations.

7803.3 The Eligibility Provider shall determine the eligibility in as short a time as feasible, but not later than ten (10) calendar days after receipt of a completed application by the Eligibility Provider. Delays caused by the following shall not count towards the ten (10)-day deadline:

- (a) The applicant's inability to supply information to document facts stated in the completed application needed to determine eligibility and type or amount of assistance;
- (b) The inability to contact the applicant through telephone, mail, or email;
- (c) Evidence of misrepresentation in the application;
- (d) Delay by a third party from whom the Eligibility Provider has requested information; or
- (e) Any other delay in receipt of information or documentation from the applicant that is necessary to complete the application.

7803.4 The Eligibility Provider shall create and maintain in the applicant's or participant's file detailed documentation of the Program's eligibility determination, including the assistance for which the applicant qualifies and subsequent case-management reviews.

7803.5 If an applicant is determined eligible for FRSP assistance pursuant to § 7803.1, the Eligibility Provider shall give to the applicant, personally or through an authorized representative, a written Notice of Eligibility Determination which shall state:

- (a) That the applicant was determined eligible;
- (b) The reason or reasons why the applicant was determined eligible;
- (c) That receipt of FRSP assistance is conditioned upon selecting an FRSP-approved housing unit and completing steps to lease-up and move into the unit in a timely manner;
- (d) The initial length of time for which the subsidy will be provided; and, if extensions are conditioned upon certain factors, what those factors are;
- (e) An initial estimation of what services and supports as outlined in § 7805.2 will be provided to the applicant as part of FRSP participation;
- (f) That all FRSP participants must make a good faith effort to participate in case management services; and
- (g) That the FRSP participant has a right to appeal the eligibility determination through fair hearing and administrative review proceedings

in accordance with § 7808, including the appropriate deadlines for requesting an appeal.

7803.6 If an applicant is determined ineligible for an initial application for FRSP assistance, the Eligibility Provider shall give to the applicant, personally or through an authorized representative, a written Notice of Denial of Eligibility which shall state:

- (a) That the applicant is being denied eligibility;
- (b) The reason or reasons for the denial, including the factual and legal basis for the denial;
- (c) The applicable statute, regulation, or policy pursuant to which the denial was made;
- (d) That the FRSP applicant has a right to appeal the denial through fair hearing and administrative review proceedings pursuant to § 7808, including the procedures and appropriate deadlines for requesting an appeal; and
- (e) That the applicant is being referred other programs and services that they may qualify for within the Continuum of Care.

#### **7804 PRIORITY DETERMINATION**

7804.1 Families residing in a Department-funded family hypothermia shelter, temporary shelter, transitional housing program, or determined to be at imminent risk of needing admission to shelter or supportive housing pursuant to 29 DCMR § 2508.1(a)(1), shall receive the first priority for the Program.

7804.2 Families residing in a non-Department funded family shelter or housing program within the Continuum of Care, or determined to be a Priority Two for shelter or supportive housing pursuant to 29 DCMR § 2508.1(a)(2), shall receive the second priority for the Program.

7804.3 Within each of the first and second priority groups, additional priority determinations may be made based on the following:

- (a) The applicant's prospective ability to achieve housing stability at the end of the FRSP assistance period, as demonstrated by income, documented work experience, completion of the Individual Responsibility Plan, the identification of other stable housing opportunities, or other relevant factors;

- (b) The length of time the applicant has resided in their current program since the most recent placement;
- (c) The need to provide a reasonable accommodation based on a disability may be a reason to increase prioritization; and
- (d) Other relevant factors.

**7805****RE-HOUSING AND STABILIZATION ASSISTANCE**

## 7805.1

FRSP assistance supports District residents, who are experiencing homelessness or at imminent risk of experiencing homelessness, to achieve stability in permanent housing through individualized and time-limited assistance. FRSP offers a range of supports that are responsive to participant needs, including: individualized case management services, housing identification, connection to mainstream and community-based resources, and financial assistance in the form of a monthly rental subsidy. FRSP assistance shall be “needs-based,” meaning that the assistance provided shall be the necessary amount, as determined by the Eligibility Provider and the family, needed for the FRSP applicant to obtain housing and mitigate the likelihood of them returning to homelessness.

## 7805.2

FRSP assistance shall include the appropriate supports, including any or all of the following:

- (a) The assignment to a qualified Service Provider with the capacity to provide individualized case management services using a progressive engagement model based on the presenting needs of the family;
- (b) Development of an individualized plan to facilitate attainment of participant’s goals, including housing stability. For participants receiving Temporary Assistance for Needy Families (TANF) and who already have an Individual Responsibility Plan (“IRP”), the IRP should serve this purpose and can be modified and evaluated as necessary in collaboration with other organizations and entities that are also engaged with the participant;
- (c) Connection to other community resources and services that are responsive to the needs of the household (*e.g.*, behavioral health, primary health care, educational supports, food and nutrition resources);
- (d) Financial assistance in the form of a monthly rental subsidy if needed and identified in the individualized plan pursuant to paragraph (b) of this subsection;



- (e) Housing Identification assistance through which the Service Provider assists clients with:
  - (1) Identification of a unit independently and/or accessing a pool of available housing units to identify a unit that best fits the client's needs;
  - (2) Assistance in negotiating with landlords to reduce the rent or include utilities; and
  - (3) Scheduling a timely inspection of the unit;
- (f) Job placement and workforce development;
- (g) Documentation of activities that can be credited toward a participant's IRP, such as housing search, housing counseling services, obtaining a GED certification, University of the District of Columbia class credit, work hours, or certification with DOES or other barrier remediation activities specifically identified in the plan.

7805.3 Service Providers will have regular engagement with participants as dictated by the goals in the individualized plan or IRP, but no less than monthly, coordinate with other Service Providers, and will maintain current documentation on progress toward goals. This includes an assessment of progress made towards the completion of the individualized plan or IRP.

7805.4 The Eligibility Provider will conduct a formal review of services provided and the participant's participation in the Program after three (3), six (6), nine (9), and twelve (12) months of assistance. This review will include the following:

- (a) Review of participant's income change and approved budget plan;
- (b) Review of progress on the individualized plan or IRP and the applicant's approved budget plan;
- (c) Review of eligibility criteria to ensure that the participant's household remains eligible for the assistance;
- (d) Needs-based assessments, using a progressive engagement model, to determine if a more aggressive intervention is required; and
- (e) Review of participant's likely ability to sustain housing stability independently of the Program at the end of the FRSP assistance period.

- 7805.5 The Program shall not be obligated to provide a monetary amount for a requested service if a less costly alternative is available.
- 7805.6 Rental costs for the unit may not exceed the rent reasonableness standard determined by the DCHA. Eligibility Providers and participants shall attempt to identify housing units below market rent wherever possible.
- 7805.7 FRSP financial assistance may consist of a security deposit, move-in assistance, time-limited rental subsidy, and utility assistance, in accordance with the applicant's approved budget plan.
- 7805.8 The maximum FRSP payment for a security deposit shall be the actual amount of the deposit, which shall not exceed the cost of one (1) month's unsubsidized rent.
- 7805.9 Individualized plans or IRPs for each family shall aim for a targeted progression towards exit from the supports provided in twelve (12) months or less. A family is expected to plan for a reduction in financial assistance after the one (1) year lease term but may continue to receive case management assistance as needed to maintain housing stability and a rental subsidy if approved by DHS or its designee based on the criteria in § 7505.10. In the event that the Eligibility Provider determines at the three (3), six (6), nine (9), or twelve (12) month review that the participant will likely be unable to sustain housing stability independently of the Program at the end of the FRSP assistance period, the Eligibility Provider shall:
- (a) If funding is available, advise the participant that they may request an extension of assistance beyond twelve (12) months as provided in § 7505.10;
  - (b) If the participant requests additional information and assistance in applying to other similar District-funded housing or rental assistance programs, assess the participant for eligibility in, and assist with applications to, the following programs, as appropriate:
    - (1) The District of Columbia Housing Authority's (DCHA) Housing Choice Voucher Program's (HCVP) limited local preference for permanent supportive housing for chronically homeless individuals and families;
    - (2) Other available DCHA public housing or housing voucher programs, including the Local Rent Supplement Program (LRSP); and
    - (3) Other District-funded housing or rental assistance programs.

- (c) Identify other affordable and subsidized rental housing programs, including but not limited to HUD-subsidized units; and, if the participant requests assistance with applying to these programs, assist the participant with the application process as necessary, and to the extent permitted by other housing programs; and
- (d) Consider potential appropriate shared living arrangements that could work within the participant's budget.

7805.10 The Department or the Department's designee may consider requests for FRSP assistance extending past twelve (12) months, if funding is available. Extensions of subsidy beyond twelve (12) months must be requested in writing, and may be granted to participants who have made good faith efforts towards the achievement of goals set forth in their individualized plan or IRP, as observed by the Service Provider at the three (3), six (6), nine (9), and twelve (12) month reviews, but who cannot yet sustain housing stability independently of the program, and have not yet been approved for permanently affordable housing. When making a determination of whether to grant a participant an extension beyond twelve (12) months, the Department or Department's designee shall consider the totality of the circumstances. FRSP is not an entitlement and the program is not designed to be an indefinite bridge to long-term affordable housing; therefore, length of participation in the program beyond eighteen (18) months may be a valid factor for denial of an extension. Any such extensions of time shall be granted in increments not greater than six (6) months, with regular formal reviews as provided by § 7805.4 at least every three (3) months. In the event that a requested extension of assistance is denied, a participant shall be given thirty (30) days written notice prior to the final subsidy payment. Such notice shall explicitly set forth the reason for the denial of additional assistance, and shall inform the participant that:

- (a) The FRSP participant has a right to appeal the determination through a fair hearing and administrative review, including deadlines for requesting an appeal; and
- (b) The FRSP participant has a right to continuation of FRSP services pending the outcome of any fair hearing requested within fifteen (15) days of receipt of written notice of a termination.

7805.11 During the period of rental assistance, each household shall contribute a minimum of forty percent (40%) and a maximum of sixty percent (60%) of their adjusted annual income toward housing costs as determined in accordance with the DCHA Housing Choice Voucher Program regulations found at 14 DCMR § 6200. For this period, FRSP rental assistance shall be the difference between the cost of

housing and the household contribution. Actual contribution will be determined in the participant's approved budget component of the Individualized plan or IRP.

7805.12 As part of demonstrating good faith participation in services, the participant household will demonstrate that they:

- (a) Have paid their share of the housing costs during the subsidy period on a timely basis; and
- (b) Have demonstrated activity in achieving the goals identified in their Individualized plan or IRP.

7805.13 Households receiving FRSP assistance shall report to the Provider in writing within thirty (30) days any decrease in income of fifty dollars (\$50) or more or increase in income of one hundred dollars (\$100) or more.

7805.14 Upon receiving written notification from the household of a change in the household's monthly income, the Eligibility Provider shall determine if there is a need to recalculate the amount of the household's housing cost contribution, based on the following criteria:

- (a) If the participant reports a decrease in monthly income of fifty dollars (\$50) or more, the Eligibility Provider shall recalculate the household's contribution;
- (b) If the participant reports a decrease in monthly income of less than fifty dollars (\$50) the household may request that a recalculation be conducted;
- (c) If the recalculation pursuant to paragraphs (a) and (b) results in an increase in the amount of FRSP rental assistance, the change shall take effect the first day of the month or the next day that rent is due if different from the first of the month, whichever is first, following completion of the calculation. The recalculation shall be completed within five (5) business days of receipt of written notice from the household of the decrease in household income or request a recalculation, and documentation necessary for the Eligibility Provider's recalculation;
- (d) If the household is reporting an increase in monthly income of one hundred dollars (\$100) or more, the Eligibility Provider shall conduct a recalculation;
- (e) If the recalculation made pursuant to paragraph (d) results in a decrease in the amount of FRSP rental assistance, the change shall take effect the first of the month, or on the day that rent is next due if different than the first of

the month, whichever is first, following the month in which written notice of the change under § 7805.15 is provided to the household; and

- (f) If the next day rent is due is less than fifteen (15) calendar days from the date the notice is either hand delivered or postmarked, the change in the FRSP rental assistance shall be effective the second month (or the second date upon which rent is due) following the month in which written notice of the change per § 7805.15 is provided to the household.

7805.15 When an Eligibility Provider calculates the initial FRSP assistance or makes a change in FRSP assistance based upon a re-determination of eligibility or as a result of a reported change in income under § 7805.14, the Provider shall give to the participant household a written Notice of FRSP Rental Assistance or a Notice of Change in FRSP Rental Assistance, as appropriate. Each Notice shall state:

- (a) The basis for the rental assistance determination;
- (b) The statute, regulation, or policy under which the change was made;
- (c) The participant's current FRSP rental assistance and the household's current share of the housing costs;
- (d) If the rental assistance is changing, a computation of the new amount of FRSP rental assistance and the new amount of the household's share of the housing costs;
- (e) If the rental assistance is changing, the effective date of the new amount of rental assistance in accordance with § 7805.14(c), § 7805.14(e), or § 7805.14(f), whichever is applicable; and
- (f) The FRSP participant has a right to a reconsideration of the initial calculation and the recalculation by the Department or the Department's designee, at any time. Such requests for reconsideration of either the initial calculation or the recalculation by the Department or the Department's designee shall be made in writing to the Eligibility Provider

7805.16 A request for reconsideration in accordance with § 7805.15(f) shall be responded to by the Eligibility Provider within five (5) business days of receipt of the household's written request for a reconsideration. The five (5) business day timeframe may be tolled if the provider has requested documentation necessary to the review, and receipt of such documentation is pending.

7805.17 Notice required by § 7805.15 shall be either hand-delivered to an adult member of the participant household or mailed to the household by first class mail within

twenty-four (24) hours of the Provider's calculation or recalculation of the household's rental assistance.

7805.18 Only in the rare circumstance where required by a vendor or by a District or federal agency, may the assistance payment be made in the form of cash. In all other cases, all FRSP assistance payments shall be in the form of non-cash direct vendor payments.

## **7806 UNIT SELECTION**

7806.1 Participation in the FRSP is conditioned upon selecting a unit that passes the FRSP required housing inspection and meets the Rent Reasonableness Standard, determined by DCHA, except that the Department or the Department's designee may authorize selection of a housing unit that exceeds the maximum allowable rent for purposes of ensuring the program is readily accessible to and usable by large families and individuals with disabilities, in accordance with the HSRA, D.C. Official Code §§ 4-754.11(a)(2) and 4-754.21(11).

7806.2 A FRSP participant shall be required to work with their case manager to identify a unit independently and/or access the pool of available housing units to identify a unit that best fits their needs

7806.3 If the participant is unable to secure a housing unit in a timely manner, despite good faith efforts, he or she shall be offered at least one (1) unit from the available housing inventory to the extent that units are available in the housing inventory.

7806.4 Failure to accept a unit after having been offered or having identified two (2) units that were available and met the participant's stated needs, may be a basis for termination from the Program pursuant to § 7807.1(f) and Section 22 of the HSRA (D.C. Law 16-35; D.C. Official Code § 4-754.36(a)(2)(F)).

7806.5 FRSP assistance shall be provided only for housing units located within the District of Columbia. Any unit constructed before 1978 in which a child under the age of six (6) will be residing must comply with Section 302 of the Lead-Based Paint Poisoning Prevention Act, effective November 9, 1973 (Pub. L. 91-695; 42 U.S.C. § 4822), as amended, and implementing regulations at 24 C.F.R. part 35, subparts A, B, M, and R.

7806.6 Upon selection, successful inspection, and signing of a lease, the Service Provider shall ensure that the case manager's and Department's contact information is promptly provided to the landlord.

## **7807 PROGRAM EXITS**

- 7807.1 Participants are considered to have exited the program when they are no longer receiving financial assistance or supportive services through a FRSP provider. Participants may exit because they no longer require FRSP supports, by program termination, or because they reached the length of time for which their participation was approved (inclusive of applicable program extension).
- 7807.2 An Eligibility Provider may terminate FRSP assistance pursuant to Section 22 of the HSRA (D.C. Official Code § 4-754.36), including terminating case management services and financial assistance, if a member of the household:
- (a) Possesses a weapon illegally on the premises of the property subsidized by the FRSP;
  - (b) Possesses or sells illegal drugs on the premises of the property subsidized by the FRSP;
  - (c) Assaults or batters any person on the premises of the property subsidized by the FRSP;
  - (d) Endangers the safety of oneself or the safety of others on the premises of the property subsidized by the FRSP;
  - (e) Intentionally or maliciously vandalizes or destroys or steals the property of any person on the premises of the property subsidized by the FRSP;
  - (f) Does not accept an offer of appropriate permanent housing or supportive housing that better serves the household's needs after being offered two (2) appropriate permanent or supportive housing opportunities in accordance with Section 22(a)(2)(F) of the HSRA (D.C. Law 16-35; D.C. Official Code § 4-754.36(a)(2)(F)); or,
  - (g) Knowingly engages in repeated violations of an Eligibility Provider's or Service Provider's program rules.
- 7807.3 For purposes of § 7807.1(f), two (2) offers of appropriate permanent or supportive housing shall include being offered or having identified two (2) units that are available and meet the requirements of the Program and the applicant's stated needs and preferences, or any other supportive or permanent housing program for which the participant has been determined eligible, including but not limited to the Local Rent Supplement Program, Housing Choice Voucher Program (HCVP), or public housing.

- 7807.4 In the case of terminations pursuant to § 7807.1(f), the Eligibility Provider must have made reasonable and documented efforts to help the participant overcome obstacles to obtaining or maintaining permanent housing.
- 7807.5 The Eligibility Provider shall give written and oral notice to a FRSP participating household of their termination from services pursuant to this section at least thirty (30) days before the effective date of the termination.
- 7807.6 If a participant is terminated from FRSP services, the Eligibility Provider shall give to the participant, personally or through an authorized representative, a written Notice of Termination, which shall state:
- (a) The applicant is being terminated;
  - (b) The effective date of the termination;
  - (c) The reason or reasons for the termination, including the date or dates on which the basis or bases for the termination occurred;
  - (d) The statute, regulation, or program rule(s) under which the termination is being made;
  - (e) The FRSP participant has a right to appeal the termination through a fair hearing and administrative review, including deadlines for requesting an appeal; and
  - (f) The FRSP participant has a right to continuation of FRSP services pending the outcome of any fair hearing requested within fifteen (15) days of receipt of written notice of a termination.
- 7807.7 Termination pursuant to this section refers to a termination of FRSP assistance including case management services and financial assistance only and does not provide the FRSP Providers or the Department with any authority to interfere with a participant's tenancy rights under the lease agreement as governed by Title 14 of the District of Columbia Municipal Regulations.
- 7807.8 For purposes of this section, the requirement set forth in Section 22 of the HSRA (D.C. Law 16-35; D.C. Official Code § 4-754.36), which requires a Provider to first consider suspending the client in accordance with Section 21 of the HSRA (D.C. Law 16-35; D.C. Official Code § 4-754.35) or to have made a reasonable effort, in light of the severity of the act or acts leading to the termination, to transfer the client in accordance with Section 20 of the HSRA (D.C. Law 16-35; D.C. Official Code § 4-754.34), shall be interpreted to mean that the Provider shall have made a reasonable effort to provide the FRSP household with a transfer



to another case manager, as a means of assisting the household to meet their budget plan and comply with the FRSP Provider's approved program rules, prior to taking steps to terminate FRSP assistance, if appropriate under the circumstances, and if there is reason to believe that the Provider could have foreseen that such a transfer could have been of assistance to the household in complying with the FRSP requirements.

7807.9 A FRSP participant may successfully transition from assistance at any time.

7807.10 Successful exit from FRSP includes the following:

- (a) Demonstrated ability to sustain housing independent of FRSP assistance; and
- (b) Relocation to another housing option that eliminates the need for FRSP financial assistance.

## **7808 FAIR HEARING AND ADMINISTRATIVE REVIEW**

7808.1 An applicant or participating FRSP household shall have ninety (90) calendar days following the receipt of a written notice described in §§ 7803.6 or 7807.5 to request a fair hearing, in accordance with the hearing provisions of Section 26 of the HSRA, (D.C. Law 16-35; D.C. Official Code § 4-754.41 (2012 Repl.)), for the action that is the subject of the written notice.

7808.2 Upon receipt of a fair hearing request, the Department shall offer the appellant or his or her authorized representative an opportunity for an administrative review in accordance with Section 27 of the HSRA (D.C. Law 16-35; D.C. Official Code § 4-754.42 (2012 Repl.)), except that if an eviction is imminent, the Department shall take all reasonable steps to provide an expedited administrative review to maximize resolution of the appeal in time to resolve the housing emergency and prevent the eviction.

7808.3 In accordance with Section 9 of the HSRA (D.C. Law 16-35; D.C. Official Code § 4-754.11(18) (2012 Repl.)), any recipient who requests a fair hearing within fifteen (15) days of receipt of written notice of a termination pursuant to § 7807 shall have the right to the continuation of FRSP services pending a final decision from the fair hearing proceedings.

## **7809 SUMMARY OF PROVIDER RESPONSIBILITIES**

7809.1 An Eligibility Provider is responsible for the following:

- (a) Assisting FRSP applicants with the overall application process, including assisting applicants in obtaining required information;
- (b) Completing eligibility determinations in as short a time as possible, but no longer than ten (10) calendar days after receipt of a completed application;
- (c) Maintaining in the applicant's or participant's file the following detailed documentation:
  - (1) Assistance for which the applicant qualifies;
  - (2) Case-management reviews; and
  - (3) The applicant's or participant's individualized plan or IRP;
- (d) Conducting a formal review of services provided and client participation after 3, 6, 9, and 12 months of assistance; and
- (e) For applicants who are determined ineligible for FRSP assistance, the Provider will provide them with a referral or referrals to other programs and services within the Continuum of Care.

## 7809.2

A Service Provider is responsible for the following:

- (a) Providing individualized case management services using a progressive engagement model based on the presenting needs of everyone in the participant household;
- (b) Developing an individualized plan or IRP in collaboration with other organizations and entities that are also engaged with the participant;
- (c) Connecting FRSP participants to other community resources, and ongoing evaluation of the individualized plan or IRP and modification as needed;
- (d) Providing financial assistance in the form of a monthly rental subsidy if needed and identified in the individualized plan or IRP;
- (e) Assisting FRSP participants to identify a unit independently and/or access the pool of available housing units to identify a unit the best fits their needs;
- (f) Providing employment supports; and

- (g) Ensuring applicants receiving TANF receive credit for any client supports identified in the service plan, such as housing search and counseling.

**7899 DEFINITIONS**

7899.1 The terms and definitions in 29 DCMR § 2599 are incorporated by reference in this chapter.

7899.2 For the purposes of this chapter, the following additional terms shall have the meanings ascribed:

**Approved Budget Plan** – An estimate of costs, revenues, and resources over a specified period, reflecting a reading of future financial conditions and goals. A budget serves also as a: (1) plan of action for achieving quantified objectives, (2) standard for measuring performance, and (3) device for coping with foreseeable adverse situations.

**Authorized representative** – an individual who is at least eighteen (18) years of age, who is acting responsibly on behalf of the applicant, and has sufficient knowledge of the applicant’s circumstances to provide or obtain necessary information about the applicant, or a person who has legal authorization to act on behalf of the applicant.

**Eligibility Provider** – an organization that receives Family Re-Housing and Stabilization Program funds and is authorized to determine eligibility and administer Family Re-Housing and Stabilization Program services.

**Family** -- (A) A group of individuals with at least one minor or dependent child, regardless of blood relationship, age, or marriage, whose history and statements reasonably tend to demonstrate that they intend to remain together as a family unit; or (B) A pregnant woman in her third trimester.

**Housing stability** – the ability to pay housing costs with or without assistance from another source, including rent and utilities, or to secure other viable and secure housing options necessary to retain housing without Family Re-Housing and Stabilization Program assistance.

**Individual Responsibility Plan** – the self-sufficiency plan that the Family Re-Housing and Stabilization Program participant has entered into with the shelter, housing, Temporary Assistance for Needy Families (TANF), or other service provider that sets out the steps and goals necessary for the participant to achieve greater housing and economic self-sufficiency.

**Minor** – a child, including those by adoption, eighteen (18) years of age or younger.

**Progressive Engagement** – refers to a strategy of starting off offering a small amount of assistance initially, and, after reassessment, adding more assistance if needed to help each household reach stability. This strategy uses the lightest touch possible for a household to be successful, knowing more assistance can be added later if needed.

**Rapid Re-Housing** – is a supportive housing program that provides a homeless individual or family with financial assistance as a bridge to permanent housing, by providing some or all of a security deposit, first month's rent, short-term rental subsidy, and supportive services in order to help the recipient become self-sufficient. The District of Columbia's Family Re-Housing and Stabilization Program (FRSP) is a Rapid Re-Housing program.

**Rental payment** – a regular payment made by a tenant to an owner or landlord for the right to occupy or use property.

**Security deposit** – a sum of money paid in advance that is required by the owner or landlord for leasing property as security against the tenant's inability to fulfill the lease or security to cover damage to the rental premises.

**Service Provider** – an organization that receives Family Re-Housing and Stabilization Program funds and is authorized to deliver Family Re-Housing and Stabilization Program services.

**Vendor** – a provider of a service or product, including but not limited to landlords.

All persons who desire to comment on these proposed rules should submit their comments in writing to the Department of Human Services, 64 New York Avenue, N.E., 6th Floor, Washington, D.C. 20002, Attn: Darrell Cason, or by email to [Darrell.cason3@dc.gov](mailto:Darrell.cason3@dc.gov). All comments must be received by the Department of Human Services not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of these rules and related information may be obtained by writing to the above address, or by calling the Department of Human Services at (202) 671-4200.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-176  
June 30, 2015

**SUBJECT:** Appointment — Interim Executive Director, Office of Cable Television

**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 Mayor's Order 2007-204, Re-Designation of the Office of Cablevision and Telecommunications as the District of Columbia Office of Cable Television, dated September 17, 2007, it is hereby **ORDERED** that:

1. **ANGIE GATES** is appointed Interim Executive Director, Office of Cable Television, and shall continue to serve in that capacity at the pleasure of the Mayor. Ms. Gates shall carry out these duties simultaneously with her duties as Director, Office of Motion Picture and Television Development; however, she will not receive a second salary for these additional duties.
2. This Order supersedes Mayor's Order 2015-052, dated January 29, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 8, 2015.

  
MURIEL BOWSER  
MAYOR

ATTEST:   
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2015-177  
June 30, 2015

**SUBJECT:** Appointment — Acting Commissioner, Department of Insurance,  
Securities, and Banking

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with section 5 of the Department of Insurance and Securities Regulation Establishment Act of 1996, D.C. Law 11-268, effective May 21, 1997, D.C. Official Code § 31-104(a) (2013 Repl.), it is hereby **ORDERED** that:

1. **STEPHEN TAYLOR** is appointed Acting Commissioner, Department of Insurance, Securities, and Banking and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor's Order 2015-074, dated February 5, 2015.
3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 19, 2015.

  
MURIEL BOWSER  
MAYOR

ATTEST:

  
LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, JULY 15, 2015  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

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

- Protest Hearing (Status)** **9:30 AM**  
**Case # 15-PRO-00048;** Brentwood Liquors, t/a Brentwood Liquors, 1319  
Rhode Island Ave NE, License #60622, Retailer A, ANC 5C  
**Application to Renew the License**
- Protest Hearing (Status)** **9:30 AM**  
**Case # 15-PRO-00047;** Omar, LLC, t/a Castello Restaurant and Lounge, 931  
Hamilton Street NW, License #97302, Retailer CT, ANC 4D  
**Application for a New License**
- Protest Hearing (Status)** **9:30 AM**  
**Case # 15-PRO-00045;** TF Two, Inc., t/a Sunny's Liquor, 2400 Martin Luther  
King, Jr. Ave SE, License #82349, Retailer A, ANC 8A  
**Application to Renew the License**
- Protest Hearing (Status)** **9:30 AM**  
**Case # 15-PRO-00044;** Bob-kat, Inc., t/a Minnesota Liquors, 2237 Minnesota  
Ave SE, License #222, Retailer A, ANC 8A  
**Application to Renew the License**
- Protest Hearing (Status)** **9:30 AM**  
**Case # 15-PRO-00042;** Jumbo Liquors, Inc., t/a Jumbo Liquors, 1122 H Street  
NE, License #42, Retailer A, ANC 6A  
**Application to Renew the License**
- Fact Finding Hearing\*** **9:30 AM**  
City Corner, Inc., t/a City Corner; 2601 Sherman Ave NW, License #94587  
Retailer B, ANC 1B  
**Application for a New License**

Board's Calendar  
July 15, 2015

**Show Cause Hearing\*** **10:00 AM**

**Case # 15-CC-00005;** H&Y Chun Corporation, t/a Michigan Liquors, 3934 12th Street NE, License #23640, Retailer A, ANC 5B

**Sale to Minor Violation (Four Counts), Failed to Take Steps Necessary to Ascertain Legal Drinking Age (Three Counts), Allowed the Establishment to be Used for an Unlawful or Disorderly Purpose**

**Show Cause Hearing\*** **11:00 AM**

**Case # 15-CC-00004;** Eun Corporation, t/a West End Market, 2424 Pennsylvania Ave NW, License #90448, Retailer A , ANC 2A

**Sale to Minor Violation (twenty two counts), Failed to Take Steps Necessary to Ascertain Legal Drinking Age (six counts), Allowed the Establishment to be Used for an Unlawful or Disorderly Purpose**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA**

**1:00 PM**

**Show Cause Hearing\*** **1:30 PM**

**Case # 15-CMP-00059;** Neighborhood Restaurant Group XV, LLC, t/a Red Apron Butchery/The Partisan, 709 D Street NW, License #90742, Retailer CR ANC 2C

**Failed to Take Steps Necessary to Ensure Property is Free of Litter**

**Show Cause Hearing\*** **2:30 PM**

**Case # 15-CMP-00056;** Yonas, Inc., t/a Corner Market, 1447 Howard Road SE License #86200, Retailer A, ANC 8A

**Failed to Take Steps Necessary to Ensure Property is Free of Litter**

**Fact Finding Hearing\*** **3:30 PM**

Johnny Rockets Group, Inc., t/a Johnny Rockets; 3131 M Street NW, License #81606, Retailer CR, ANC 2E

**Request to Extend Safekeeping**

**\*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  
CANCELLATION AGENDA

WEDNESDAY, JULY 15, 2015  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The Board will be cancelling the following licenses for the reasons outlined below:

ABRA-079224 – **Muse Nightclub and Lounge** – Retailer – CN - 717 6TH STREET NW  
[The Establishment is no longer operating, as confirmed by Internet resources, and the previous owner indicated via telephone that the Entity that owned the license has dissolved and the license should be cancelled.]

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ABRA-089913 – **Kevin Stewart** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA- 090571 – **Seth H. Williams** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-096592 – **Kardin Wykoff** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-096548 – **Paul B. Ju** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-097099 – **Yohan Lee** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-088225 – **Camilla Giordano** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-091639 – **Nicole C. Lang** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-091058 – **Kalyn A. Melanophy** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-096903 – **Browdis V. Morrison** – Solicitor’s License – 4235 SHERIFF ROAD NE  
[The employer, Republic National, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-095150 – **Peter L. Hong** – Solicitor’s License – 3500 FORT LINCOLN DRIVE NE  
[The employer, Premium DC, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-095409 – **Nicholas B. West** – Solicitor’s License – 3500 FORT LINCOLN DRIVE NE  
[The employer, Premium DC, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-095329 – **Joshua C. Havey** – Solicitor’s License – 3500 FORT LINCOLN DRIVE NE  
[The employer, Premium DC, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-095328 – **Samuel B. LeBlond** – Solicitor’s License – 3500 FORT LINCOLN DRIVE  
NE  
[The employer, Premium DC, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-094940 – **John D. Zeltner** – Solicitor’s License – 3500 FORT LINCOLN DRIVE NE  
[The employer, Premium DC, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-095348 – **Ceidrick Marcelin** – Solicitor’s License – 3500 FORT LINCOLN DRIVE NE  
[The employer, Premium DC, has requested cancellation of this license, as the employee no longer works for the company.]

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ABRA-095527 – **John Matthews** – Solicitor’s License – 3500 FORT LINCOLN DRIVE NE  
[The employer, Premium DC, has requested cancellation of this license, as the employee no longer works for the company.]

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

**NOTICE OF MEETING  
INVESTIGATIVE AGENDA**

**WEDNESDAY, JULY 15, 2015  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On July 15, 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-CC-00011 Seymours Liquors, 5581 CENTRAL AVE SE Retailer A Retail - Liquor Store, License#:ABRA-070948

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2. Case#15-CMP-00342 Chinatown Express, 746 6TH ST NW Retailer C Restaurant, License#: ABRA-011479

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3. Case#15-CMP-00352 The Brixton, 901 U ST NW Retailer C Tavern, License#: ABRA-082871

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4. Case#15-CC-00031 JAKE'S AMERICAN GRILLE, 5016 - 5018 CONNECTICUT AVE NW Retailer C Restaurant, License#: ABRA-086013

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5. Case#15-CMP-00359 Fuel Pizza & Wings, 1606 K ST NW Retailer C Restaurant, License#: ABRA-088452

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6. Case#15-CMP-00338 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

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7. Case#15-CMP-00353 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

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8. Case#15-CMP-00316 Chez Billy Sud, 1039 31ST ST NW Retailer C Restaurant, License#: ABRA-096103

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9. Case#15-CMP-00337 Ethiopia Restaurant & Market, 4630 14TH ST NW Retailer C Restaurant, License#: ABRA-091373

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10. Bistro 18, 2420 18<sup>th</sup> Street NW, Unlicensed

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LEGAL AGENDA

WEDNESDAY, JULY 15, 2015 AT 1:00 PM  
2000 14<sup>th</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Letter of Information, submitted by Kamal Jahanbein, on behalf of the Kamal Foundation. *The Saloon*, 1205 U Street, N.W., Retailer CR, License No.: 071086.
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2. Review of Business Plan Proposal, dated June 15, 2015, submitted by Jay Whittemore, Prospective Licensee.
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**\* In accordance with D.C. Official Code §2-574(b) Open Meetings Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, JULY 15, 2015 AT 1:00 PM  
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request to Extend Safekeeping Status of License – 4th Request. Original Safekeeping Date: 11/30/2012. ANC 1B. SMD 1B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Serv-U-Liquors*, 1935 9<sup>th</sup> Street NW, Retailer A Liquor Store, License No. 060026.

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**\*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.**

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

**SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS**

**July 2015**

<b>CONTACT PERSON</b>	<b>BOARDS AND COMMISSIONS</b>	<b>DATE</b>	<b>TIME/ LOCATION</b>
Jason Sockwell	Board of Accountancy	10	8:30 am-12:00pm
Patrice Richardson	Board of Appraisers	22	8:30 am-4:00 pm
Jason Sockwell	Board Architects and Interior Designers	24	8:30 am-1:00 pm
Cynthia Briggs	Board of Barber and Cosmetology	6	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	RECESS	7:00-pm-8:30 pm
Cynthia Briggs	Board of Funeral Directors	2	9:30am-2:00 pm
Lori Fowler	Board of Professional Engineering	23	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	14	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	16	1:00 pm-4:00 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 1100 4<sup>th</sup> St., SW, Suite E-300 A-B Washington, DC 20024. For further information on this schedule, please contact the front desk at 202-442-4320.



**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue air quality permit #6191-R2 to the Smithsonian Institution to operate an existing 150 kW emergency generator set with a 228 HP natural gas fired engine at National Zoological Park located at 3001 Connecticut Avenue NW, Washington DC. The contact person for the facility is John Michael Bixler, Deputy Director of Facilities Management, at (202) 633-2573.

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

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

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

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

**No written comments or hearing requests postmarked after August 10, 2015 will be accepted.**

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

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue air quality permit #6216-R2 to the Smithsonian Institution to operate an existing 85 kWe emergency generator set with a 164 HP natural gas fired engine at the National Zoological Park located at 3001 Connecticut Avenue NW, Washington DC. The contact person for the facility is John Michael Bixler, Deputy Director of Facilities Management, at (202) 633-2573.

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

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**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue air quality permit #6978 to the Smithsonian Institution to operate a water wash non-auto body paint spray booth at the National Zoological Park, 3001 Connecticut Ave NW, Washington DC. The contact person for the facility is Joseph Cusick, Building Manager, at (202) 633-6258.

**Estimated Emissions**

Estimated maximum emissions from the equipment are 0.280 tons per year of particulate matter and 2.76 tons per year of volatile organic compounds (VOCs).

**Emission Limitations**

The following are the proposed emission limits for the equipment:

- a. No person shall discharge into the atmosphere more than fifteen (15) pounds of volatile organic compound (VOC) emissions in any one (1) day, nor more than three pounds (3 lb.) in any one (1) hour, from any combination of articles, machines, units, equipment, or other contrivances at a facility, unless the uncontrolled VOC emissions are reduced by at least ninety percent (90%) overall capture and control efficiency. [20 DCMR 700.2]
- b. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- c. Visible emissions shall not be emitted into the outdoor atmosphere from the paint spray booth. [20 DCMR 107 and 606]

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

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

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Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after August 11, 2015 will be accepted.**

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

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR §210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue an air quality permit (#6979) to the Smithsonian Institution to construct and operate a sawdust collector to control emissions from woodworking operations at the National Zoological Park located at 3001 Connecticut Avenue NW, Washington, DC 20008. The contact person for the facility is John Michael Bixler, Deputy Director of Facilities Management, at (202) 633-2573.

**Estimated Emissions**

Estimated maximum emissions of the equipment are 0.876 tons per year of particulate matter, assuming continuous operation of the equipment throughout the year.

**Emission Limitations**

The following are the proposed emission limits for the equipment:

- a. Emissions of dust shall be minimized in accordance with the requirements of 20 DCMR 605 and the “Operational Limitations” of this permit.
- b. The emission of fugitive dust from any material handling, screening, crushing, grinding, conveying, mixing, or other industrial-type operation or process is prohibited. [20 DCMR 605.2]
- c. The discharge of total suspended particulate matter into the atmosphere from any process shall not exceed three hundredths (0.03) grains per dry standard cubic foot of the exhaust. [20 DCMR 603.1]
- d. The discharge of total suspended particulate matter from the outlet of the sawdust collector shall not exceed 0.24 pounds per hour. [20 DCMR 603.1 and Appendix 6-1]
- e. Visible emissions shall not be emitted from the outlet of the sawdust collector. (20 DCMR 201 and 20 DCMR 606.1)
- f. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents

should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

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

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

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

**No written comments or hearing requests postmarked after August 10, 2015 will be accepted.**

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

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR § 210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue an air quality permit (#7026) to Gallaudet University to construct and operate a 200 kWe MTU Onsite Energy emergency generator set with a 315 bhp diesel fired engine at the EMG Memorial Building of Gallaudet University, located at 800 Florida Avenue NE, Washington, DC 20002. The contact person for facility is Amon Brown, Manager, Facilities Maintenance & Operations, at 202 651-5007. The applicant’s mailing address is 800 Florida Avenue NE, Washington, DC 20002.

Emissions:

Maximum emissions from the 200 kWe emergency generator, operating five hundred (500) hours per year, are expected to be as follows:

	<b>Maximum Annual Emissions</b>
<b>Pollutant</b>	<b>(tons/yr)</b>
Total Particulate Matter (PM Total)	0.007
Oxides of Sulfur (SO <sub>x</sub> )	0.161
Oxides of Nitrogen (NO <sub>x</sub> )	0.486
Volatile Organic Compounds (VOC)	0.198
Carbon Monoxide (CO)	0.069

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

- a. Emissions from the unit shall not exceed those in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:

<b>Pollutant Emission Limits (g/kW-hr)</b>		
NMHC+NO <sub>x</sub>	CO	PM
4.0	3.5	0.20

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]

- c. In addition to Condition (b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
1. 20 percent during the acceleration mode;
  2. 15 percent during the lugging mode;
  3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*
- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

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

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

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

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

**No written comments or hearing requests postmarked after August 10, 2015 will be accepted.**

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



**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2015

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, D.C. Official Code §2-505, and 20 DCMR § 210, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue an air quality permit (#7027) to Gallaudet University to construct and operate a 400 kWe MTU Onsite Energy emergency generator set with a 600 bhp diesel fired engine at the EMG Memorial Building of Gallaudet University, located at 800 Florida Avenue NE, Washington, DC 20002. The contact person for facility is Amon Brown, Manager, Facilities Maintenance & Operations, at 202 651-5007. The applicant’s mailing address is 800 Florida Avenue NE, Washington, DC 20002.

Emissions:

Maximum emissions from the 200 kWe emergency generator, operating five hundred (500) hours per year, are expected to be as follows:

	<b>Maximum Annual Emissions</b>
<b>Pollutant</b>	<b>(tons/yr)</b>
Total Particulate Matter (PM Total)	0.013
Oxides of Sulfur (SO <sub>x</sub> )	0.308
Oxides of Nitrogen (NO <sub>x</sub> )	1.658
Volatile Organic Compounds (VOC)	0.377
Carbon Monoxide (CO)	0.172

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

- a. Emissions from the unit shall not exceed those in the following table, as measured according to the procedures set forth in 40 CFR 89, Subpart E. [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]:

<b>Pollutant Emission Limits (g/kW-hr)</b>		
NMHC+NO <sub>x</sub>	CO	PM
4.0	3.5	0.20

- c. In addition to Condition (b), exhaust opacity, measured and calculated as set forth in 40 CFR 86, Subpart I, shall not exceed [40 CFR 60.4205(b), 40 CFR 60.4202(a), and 40 CFR 89.113]:
  - 1. 20 percent during the acceleration mode;
  - 2. 15 percent during the lugging mode;

3. 40 percent during the peaks in either the acceleration or lugging modes. *Note that this condition is streamlined with the requirements of 20 DCMR 606.1.*
- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

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

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

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

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

**No written comments or hearing requests postmarked after August 10, 2015 will be accepted.**

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

**DISTRICT DEPARTMENT OF THE ENVIRONMENT  
NOTICE OF FUNDING AVAILABILITY**

**GRANTS FOR A  
Greening the Fleet Study**

The District Department of the Environment (“DDOE”) is seeking eligible entities, as defined below, to develop an inventory of current vehicles and create a comprehensive suite of strategies to help guide large fleets in the District toward greater fuel efficiency and lower air emissions through the adoption of cleaner vehicles. Fleets examined under this project will include District government, federal government, WMATA, universities, and many private fleets (such as taxis, UPS, FedEx, Car2Go, Peapod). DDOE plans to disseminate project outputs in a manner that encourages fleet vehicle switch-outs through policies, programs, incentives, and new purchasing strategies, that result in cleaner air, improve quality of life, and substantially exceed federal vehicle standards.

The amount available for the project in this RFA is approximately \$150,000.00. This amount is subject to continuing availability of funding and approval by the appropriate agencies.

Beginning 7/10/2015, the full text of the Request for Applications (“RFA”) will be available online at DDOE’s website. It will also be available for pickup. A person may obtain a copy of this RFA by any of the following means:

**Download** from DDOE’s website, [www.ddoe.dc.gov](http://www.ddoe.dc.gov). Select “Resources” tab. Cursor over the pull-down list; select “Grants and Funding;” then, on the new page, cursor down to the announcement for this RFA. Click on “Read More,” then download and related information from the “attachments” section.

**Email** a request to [greeningthefleet.grants@dc.gov](mailto:greeningthefleet.grants@dc.gov) with “Request copy of RFA 2015-1513-DIR” in the subject line;

**Pick up a copy in person** from the DDOE reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. Call Charles Satterfield at (202) 671-1744 to make an appointment and mention this RFA by name; or

**Write** DDOE at 1200 First Street NE, 5th Floor, Washington, DC 20002, “Attn: Charles Satterfield RE:2015-1513-DIR” on the outside of the letter.

**The deadline for application submissions is 8/10/2015, at 4:30 p.m.** Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to [greeningthefleet.grants@dc.gov](mailto:greeningthefleet.grants@dc.gov).

**Eligibility:** All the checked institutions below may apply for these grants:

-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;

-Faith-based organizations;

-Government agencies

-Universities/educational institutions; and

-Private Enterprises.

For additional information regarding this RFA, please contact DDOE as instructed in the RFA document, at [greeningthefleet.grants@dc.gov](mailto:greeningthefleet.grants@dc.gov).

## DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PUBLIC MEETING **CANCELATION**

District of Columbia Sustainable Energy Utility  
Advisory Board Public Outreach Meeting - **Canceled**

Pursuant to section 204(i) of the Clean and Affordable Energy Act of 2008 (“CAEA”), D.C. Official Code, §§ 8-1773.01, *et seq.*, § 8-1774.04(i), notice is hereby given that the planned public outreach meeting for Thursday, July 16, 2015, at 6:00 p.m. at the headquarters of the District Department of the Environment (“DDOE”) at 1200 First Street, NE, 5<sup>th</sup> Floor, Washington, DC is canceled and will be rescheduled for a later date.

The CAEA established the District of Columbia Sustainable Energy Utility (“DCSEU”) and vested DDOE with oversight authority. The DCSEU is intended to be a nimble, market driven entity that advances energy savings and renewable energy. The SEU Advisory Board (“Advisory Board”) exists to advise the DDOE Director on the administration of the contract with the DCSEU.

This purpose of this public meeting was to solicit public feedback on the performance and market presence of the DCSEU, methods to optimize the advice provided by the Advisory Board, and potential improvements to the portfolio of energy efficiency and renewable energy programs implemented by the DCSEU.

**A revised notice will be published once the Advisory Board selects a date calculated to encourage maximum public participation.**

A description of the DCSEU can be found online at:  
<http://ddoe.dc.gov/service/dc-sustainable-energy-utility-dcseu>

The CAEA can be found online at:  
<http://ddoe.dc.gov/publication/clean-and-affordable-energy-act-2008>

Any of these documents are available for public review during normal business hours at DDOE Headquarters, 1200 First Street, NE, 5<sup>th</sup> Floor, Washington, DC 20002 and online at the urls provided. For more information, please contact Ms. Lynora Hall at (202) 535-2600

**HEALTH BENEFIT EXCHANGE AUTHORITY****NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4<sup>th</sup> Floor, Washington, DC 20005 on **Monday, July 13, 2015 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 738 129 101.

The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

**DEPARTMENT OF HEALTH (DOH)  
HIV/AIDS, HEPATITIS, STD and  
TUBERCULOSIS ADMINISTRATION (HAHSTA)**

**NOTICE OF FUNDING AVAILABILITY (NOFA)  
HAHSTA\_RFA#\_PrEP072415**

**2015 Pre-Exposure Prophylaxis Outreach and Support**

The Government of the District of Columbia, Department of Health-HIV/AIDS, Hepatitis, STD and TB Administration (HAHSTA) is soliciting applications from qualified organizations to provide prevention services. The following entities are eligible to apply: private, non-profit and for profit organizations, and licensed to conduct business with the District of Columbia. Private entities include community development corporations, community action agencies, community-based and faith-based organizations.

**Target Populations:** Applications are being solicited to target men who have sex with men (MSM), transgender individuals and women.

**Program Area: Pre-Exposure Prophylaxis Outreach and Support**

Total Available - \$560,000.00, up to 3 awards

Grants will be awarded through the use of 2015 federal payment funds allocated to the FY 15 local budget for the District of Columbia Department of Health. Authorization for the use of these funds for subgrants is made under the Department of Health functions Clarification Emergency Amendment Act of 2015 (DC Act 19-391).

All awards resulting from this RFA are contingent upon the availability of funds. Grant awards under this authorization are projected to begin September 30, 2015 and end September 29, 2016, with one option year. The Department of Health holds the right to rescind the RFA and funding at any time.

**The release date for this Request for Applications (RFA) is 07/24/2015.** The HAHSTA\_RFA#PrEP072415 will be available on the following website <http://www.opgs.dc.gov/opgd/cwp/view>, under District Grants Clearinghouse. A limited number of copies of the RFA will be available for pick up at DOH/HAHSTA offices located at 899 North Capitol Street, NE Washington, DC 20002 4<sup>th</sup> floor.

**The Request for Application (RFA) submission deadline is no later than 4:30 p.m. on Monday, August 24, 2015.** Late applications will not be accepted for funding consideration. A Pre-Application Conference will be held **on Wednesday, July 29, 2015 from 10:00 a.m. to 12:00 p.m.** at 899 North Capitol Street, NE, 4<sup>th</sup> Floor, Washington, DC in the HAHSTA 4<sup>th</sup> floor conference room.

Please contact Stacey Cooper at 202-671-4900 or [Stacey.Cooper@dc.gov](mailto:Stacey.Cooper@dc.gov) for additional information.

## DEPARTMENT OF HUMAN RESOURCES

NOTICE OF EXCEPTED SERVICE EMPLOYEES  
AS OF JULY 2, 2015

D.C. Official Code § 1-609.03(c) requires that a list of Excepted Service positions established under the provision of § 1-609.03(a) along with the types of excepted service appointment, names, position titles, and grades of all persons appointed to these positions be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

OFFICE OF THE MAYOR				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Akins	Lamont	Special Assistant	07
Excepted Service - Reg Appt	Alexander-Reid	Sheila	Director	08
Excepted Service - Reg Appt	Anthony	Lavita	Executive Assistant	07
Excepted Service - Reg Appt	Barge	Lolita	Director	08
Excepted Service - Reg Appt	Barnes	Lafayette	Director	08
Excepted Service - Reg Appt	Barnett	Karissa	Associate Director	05
Excepted Service - Reg Appt	Bashford	Janice	Associate Director	06
Excepted Service - Reg Appt	Bassett	Kimberly	Executive Director	07
Excepted Service - Reg Appt	Batchelor	Markus	Community Outreach Specialist	04



OFFICE OF THE MAYOR				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Benab	Yasmin	Outreach & Service Specialist	11
Excepted Service - Reg Appt	Bennett	Jordan	Communications Specialist and Press Assistant	03
Excepted Service - Reg Appt	Branch	Rahman	Executive Director	07
Excepted Service - Reg Appt	Brown	Matthew	Budget Director	11
Excepted Service - Reg Appt	Case	Benjamin	Outreach & Service Specialist	05
Excepted Service - Reg Appt	Castro	Renzo	Associate Director	05
Excepted Service - Reg Appt	Cavendish	Elizabeth	General Counsel	11
Excepted Service - Reg Appt	Christian	Hassan	Associate Director	05
Excepted Service - Reg Appt	Constantino	Justin	Senior Budget Analyst	09
Excepted Service - Reg Appt	Coombs	John	Senior Associate Director	08
Excepted Service - Reg Appt	Czin	Michael	Director	10
Excepted Service - Reg Appt	Dawson	Earnestine	Digital Director	06
Excepted Service - Reg Appt	Douglas	Danielle	Special Assistant	05

OFFICE OF THE MAYOR				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Downing	Roberta	Deputy Director	08
Excepted Service - Reg Appt	Durant	Chan Tei	Special Assistant	07
Excepted Service - Reg Appt	Estes	Maia	Director	11
Excepted Service - Reg Appt	Evans	Ronnie	Special Assistant	05
Excepted Service - Reg Appt	Falcicchio	John	Chief of Staff	11
Excepted Service - Reg Appt	Felder	Wendell	Outreach & Service Specialist	05
Excepted Service - Reg Appt	Fink	Jason	Director	07
Excepted Service - Reg Appt	Floyd	Sean	Special Assistant	05
Excepted Service - Reg Appt	Forman	Sarah	Associate Director	07
Excepted Service - Reg Appt	Foster	LaToya	Senior Communications Officer	08
Excepted Service - Reg Appt	Gamblin	Anthony	Budget Analyst	05
Excepted Service - Reg Appt	George	Deborah	Policy Analyst	06
Excepted Service - Reg Appt	Gluckman	Judah	Deputy Director	08

OFFICE OF THE MAYOR				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Greenfield	Danielle	Special Assistant	04
Excepted Service - Reg Appt	Hawkins	James	Deputy General Counsel	10
Excepted Service - Reg Appt	Hernandez Maduro	Frank	Outreach & Service Specialist	05
Excepted Service - Reg Appt	Hines	Charon	Director	10
Excepted Service - Reg Appt	Isaac	Donald	Director	06
Excepted Service - Reg Appt	Jabbar	Angeline	Associate Director	05
Excepted Service - Reg Appt	Jackson	Gregory	Director	09
Excepted Service - Reg Appt	Johnson	Gabrielle	Scheduling Support Assistant	02
Excepted Service - Reg Appt	Jones Jr.	Tommie	Outreach & Service Specialist	05
Excepted Service - Reg Appt	Kelly	Deborah	Budget Analyst	07
Excepted Service - Reg Appt	Knight	Kristal	Chief Service Officer	09
Excepted Service - Reg Appt	Laney	Terrance	Deputy Director	06
Excepted Service - Reg Appt	Lawson	Justin	Associate Director	05

OFFICE OF THE MAYOR				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Mangum	Larry	Special Assistant	07
Excepted Service - Reg Appt	Matthews	Michael	Outreach & Service Specialist	05
Excepted Service - Reg Appt	McDowney	Carole	Clerical Assistant	02
Excepted Service - Reg Appt	McGaw	John	Deputy Director	10
Excepted Service - Reg Appt	Murray	Christopher	Senior Budget Analyst	09
Excepted Service - Reg Appt	Oruh	Chioma	Director of Operations	06
Excepted Service - Reg Appt	Parker	Lindsey	Deputy Chief of Staff	11
Excepted Service - Reg Appt	Perry	Beverly	Senior Advisor	11
Excepted Service - Reg Appt	Rojo	Luis	Outreach & Service Specialist	05
Excepted Service - Reg Appt	Ross	Ronald	Deputy Director	10
Excepted Service - Reg Appt	Sereke-Brhan	Heran	Program Analyst	06
Excepted Service - Reg Appt	Shapiro	Seth	Outreach & Service Specialist	05
Excepted Service - Reg Appt	Slattery	James	Director	08

OFFICE OF THE MAYOR				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Staples	Sherae	Scheduling Specialist	03
Excepted Service - Reg Appt	Stevens	Anthony	Associate Director	05
Excepted Service - Reg Appt	Talamante	Tomas	Associate Director	06
Excepted Service - Reg Appt	Thompson	Khalil	Outreach & Service Specialist	05
Excepted Service - Reg Appt	Tondoneh Munu	Sward	Travelling Chief of Staff	06
Excepted Service - Reg Appt	Torres	Tatiana	Chief of Staff	08
Excepted Service - Reg Appt	Tucker	Melissa	Associate Director	08
Excepted Service - Reg Appt	Tuohey	Mark	Director	11
Excepted Service - Reg Appt	Walker	Steven	Director	09
Excepted Service - Reg Appt	Williams	Malik	Outreach & Service Specialist	05

DEPUTY MAYOR FOR GREATER ECONOMIC OPPORTUNITY				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Dugger	Tony	Executive Director	07
Excepted Service - Reg Appt	Fletcher	Tina	Community Engagement Director	07
Excepted Service - Term Appt	Harris	Joshua	Chief of Staff	08
Excepted Service - Reg Appt	Nunez	Molly	Public Information Officer	05
Excepted Service - Reg Appt	Powell	Randi	Policy Analyst	05
Excepted Service - Term Appt	Snowden	Courtney	Deputy Mayor	11

OFFICE OF ADMINISTRATIVE HEARINGS				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Adams	Eugene	Chief Administrative Law Judge	11
Excepted Service - Reg Appt	Barber	Claudia	Administrative Law Judge	09
Excepted Service - Reg Appt	Beatty-Arthur	Sherri	Administrative Law Judge	09
Excepted Service - Reg Appt	Bruch	Eli	Administrative Law Judge	09
Excepted Service - Reg Appt	Cobbs	Nicholas	Administrative Law Judge	09

OFFICE OF ADMINISTRATIVE HEARINGS				
Excepted Service - Reg Appt	Crichlow	Claudia	Administrative Law Judge	09
Excepted Service - Reg Appt	Davenport	Joan	Administrative Law Judge	09
Excepted Service - Reg Appt	Dean	John	Administrative Law Judge	09
Excepted Service - Reg Appt	Ellis	Maia	Attorney-Advisor (General)	07
Excepted Service - Reg Appt	England	William	Administrative Law Judge	09
Excepted Service - Reg Appt	Figueroa	Elizabeth	Administrative Law Judge	09
Excepted Service - Reg Appt	Goode	Jesse	Administrative Law Judge	09
Excepted Service - Reg Appt	Goodie	Sharon	Administrative Law Judge	09
Excepted Service - Reg Appt	Gurkin	Danielle	Attorney-Advisor	07
Excepted Service - Reg Appt	Haggerty	Kathleen	Executive Director	08
Excepted Service - Reg Appt	Handy	Paul	Administrative Law Judge	09
Excepted Service - Reg Appt	Harmon	James	Administrative Law Judge	09
Excepted Service - Reg Appt	Harvey	Scott	Administrative Law Judge	09
Excepted Service - Reg Appt	Hines	Caryn	Administrative Law Judge	09

OFFICE OF ADMINISTRATIVE HEARINGS				
Excepted Service - Reg Appt	Jenkins	Audrey	Administrative Law Judge	09
Excepted Service - Reg Appt	Little	Elsie	Administrative Law Judge	09
Excepted Service - Reg Appt	Mangan	Margaret	Administrative Law Judge	09
Excepted Service - Reg Appt	Masulla	Mary	Administrative Law Judge	09
Excepted Service - Reg Appt	McClendon	Samuel	Administrative Law Judge	09
Excepted Service - Reg Appt	Mcdonald	Calonette	Administrative Law Judge	09
Excepted Service - Reg Appt	Meek	Leslie	Administrative Law Judge	09
Excepted Service - Reg Appt	Nash	Beverly	Administrative Law Judge	09
Excepted Service - Reg Appt	Neal	Louis	Attorney-Advisor (General)	07
Excepted Service - Reg Appt	Nolen	Shawn	Attorney-Advisor (General)	07
Excepted Service - Reg Appt	Pierson	Erika	Administrative Law Judge	09
Excepted Service - Reg Appt	Rooney	John	Administrative Law Judge	09
Excepted Service - Reg Appt	Sharkey	Robert	Administrative Law Judge	09
Excepted Service - Reg Appt	Soni	Daljit	Attorney-Advisor (General)	07



OFFICE OF ADMINISTRATIVE HEARINGS				
Excepted Service - Reg Appt	Teal	Arabella	Administrative Law Judge	09
Excepted Service - Reg Appt	Torrez	Marya	Attorney-Advisor (General)	07
Excepted Service - Reg Appt	Tucker	Wanda	Administrative Law Judge	09
Excepted Service - Reg Appt	Vergeer	Vytas	Administrative Law Judge	09
Excepted Service - Reg Appt	Weberman	Bernard	Administrative Law Judge	09
Excepted Service - Reg Appt	Wellner	Steven	Administrative Law Judge	09
Excepted Service - Reg Appt	Wilson Taylor	N	Administrative Law Judge	09
Excepted Service - Reg Appt	Yahner	Ann	Administrative Law Judge	09

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Moosally	Frederick	Director	10

COMMISSION ON ARTS AND HUMANITIES				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Younger	Derek	Special Assistant	07

OFFICE OF THE ATTORNEY GENERAL				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Temp Appt	Donadio	David	Strategic Communications Advisor	10
Excepted Service - Reg Appt	Marus	Robert	Director	09
Excepted Service - Reg Appt	Pittman	James	Director	09
Excepted Service - Reg Appt	White	Robert	Director	08

OFFICE OF THE DC AUDITOR				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Bellanca	Amy	Senior Legal Advisor	09
Excepted Service - Term Appt	Patterson	Kathleen	DC Auditor	11
Excepted Service - Reg Appt	Perry	Lawrence	Deputy Auditor	10

DEPARTMENT OF BEHAVIORAL HEALTH				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Bazron	Barbara	Interim Director	11

BOARD OF ETHICS AND GOVERNMENT				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Burns	Yancey	Attorney Advisor	06
Excepted Service - Reg Appt	Flowers	Brian	General Counsel	09
Excepted Service - Reg Appt	Hughes	Traci	Director	10
Excepted Service - Reg Appt	Patzelt	Cristina	Attorney Advisor	06
Excepted Service - Temp Appt	Ross	Rita	Attorney Advisor	07
Excepted Service - Reg Appt	Sobin	Darrin	Director	10

OFFICE OF THE CHIEF TECHNOLOGY OFFICER				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Baharu	Tegene	Acting Director	11

CHILD AND FAMILY SERVICES AGENCY				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Davidson	Raymond	Acting Director	11

OFFICE OF THE CITY ADMINISTRATOR				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Aqui	Dean	Interim Director	10
Excepted Service - Reg Appt	Donahue	Kevin	Deputy City Administrator	11
Excepted Service - Reg Appt	Garrick	Sean	Executive Assistant	07
Excepted Service - Reg Appt	Holt	Kasmin	Performance Analyst	07
Excepted Service - Reg Appt	Kreiswirth	Barry	Senior Legal Advisor	10
Excepted Service - Reg Appt	Reed	Jennifer	Deputy Budget Director	10
Excepted Service - Reg Appt	Rockett	Ayana	Program Analyst	07
Excepted Service - Reg Appt	Saudek	Anthony	Chief Performance Officer	10
Excepted Service - Reg Appt	Smith	Edward	Director	09
Excepted Service - Reg Appt	Young	Rashad	City Administrator	11

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Bolling	Melinda	Acting Director	11
Excepted Service - Reg Appt	Washington	Jason	Special Assistant	07

CONTRACTS APPEALS BOARD				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Tuttle	Thane	Clerk of Court	09

DEPARTMENT OF CORRECTIONS				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Darby	Enidsia	Staff Assistant	02
Excepted Service - Reg Appt	Mynett	Beth	Medical Officer	11

CRIMINAL JUSTICE COORDINATING COUNCIL				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Butler	Mannone	Executive Director	11
Excepted Service - Reg Appt	Chaudhry	Imran	IT Specialist	09

CRIMINAL JUSTICE COORDINATING COUNCIL				
Excepted Service - Reg Appt	Colbert	Machah	IT Specialist	07
Excepted Service - Reg Appt	Howell	Charisma	Deputy Executive Director	09
Excepted Service - Reg Appt	Hussain	Safdar	IT Specialist	07
Excepted Service - Reg Appt	Jackson	Robin	Special Assistant	07
Excepted Service - Reg Appt	Khan	Mohammad	IT Specialist	07
Excepted Service - Reg Appt	Moses	Colleen	IT Specialist	07

D.C. STATE BOARD OF EDUCATION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Hubbard	Faith	Chief Student Advocate	08
Excepted Service - Reg Appt	Smith	Joyanna	Ombudsman	08

DEPARTMENT OF GENERAL SERVICES				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Davis	Wilbert	Deputy Director	11
Excepted Service - Reg Appt	Gonzalez	Donny	Program Analyst	07

DEPARTMENT OF GENERAL SERVICES				
Excepted Service - Term Appt	Kayne	Jonathan	Interim Director	11
Excepted Service - Reg Appt	Sherrod	Wanda	Special Assistant	09

DEPARTMENT OF HEALTH				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Nesbitt	LaQuandra	Director	E5
Excepted Service - Reg Appt	Talwalkar	Anjali	Senior Deputy Director	MD3
Excepted Service - Reg Appt	Watson	Jacqueline	Chief of Staff	09

DEPARTMENT OF HUMAN SERVICES				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Greenwalt	Kristy	Executive Director	11
Excepted Service - Reg Appt	Kershbaum	Sharon	Chief Operating Officer	10
Excepted Service - Reg Appt	Melder	Joseph	Chief of Staff	09

DEPARTMENT OF THE ENVIRONMENT				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Stutz	Benjamin	Special Assistant	08
Excepted Service - Reg Appt	Wells	Thomas	Director	E5

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Anderson	Keith	Rent Administrator	09
Excepted Service - Reg Appt	Roary	Booker	Staff Assistant	03

DEPARTMENT OF HEALTH CARE FINANCE				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Rapp	Melisa	Chief of Staff	09



DEPARTMENT OF HUMAN RESOURCES				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Aiken	Nicole	Capital City Fellow	04
Excepted Service - Term Appt	Beckham	Michael	Capital City Fellow	04
Excepted Service - Term Appt	Croft	Jennifer	Capital City Fellow	04
Excepted Service - Term Appt	Hughes	Bijan	Legal Fellow	02
Excepted Service - Reg Appt	Kirby	Karla	Interim Director	11
Excepted Service - Term Appt	Lineberger	Akaii	Capital City Fellow	04
Excepted Service - Term Appt	Marsh	John	Legal Fellow	02
Excepted Service - Term Appt	Skow	Jennifer	Capital City Fellow	04
Excepted Service - Term Appt	Spriggs	Sareeta	Capital City Fellow	04
Excepted Service - Term Appt	Taylor Smith	Tyessen	Capital City Fellow	04

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Edwards	Ronnie	Deputy Director	09

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Comey	Jennifer	Special Assistant	08
Excepted Service - Reg Appt	Miller	Taneka	Policy Advisor	08
Excepted Service - Reg Appt	Steinle	Aurora	Senior Policy Analyst	07
Excepted Service - Reg Appt	Wells	Shayne	Special Assistant	05
Excepted Service - Reg Appt	Yeager	Margery	Chief of Staff	09

BOARD OF ELECTIONS AND ETHICS				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Tatum	Clifford	Executive Director	10

DEPARTMENT OF EMPLOYMENT SERVICES				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Carroll	Deborah	Acting Director	11
Excepted Service - Reg Appt	Davis	Crystal	Public Affairs Specialist	08

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Lewis	Turna	Senior Advisor	09
Excepted Service - Reg Appt	Mauro	Amy	Chief of Staff	10
Excepted Service - Term Appt	Mount Varner	Geoffrey	Assistant Medical Director	11

OFFICE OF THE DEPUTY MAYOR FOR HEALTH AND HUMAN SERVICES				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Cevasco	Jenna	Special Assistant	07
Excepted Service - Reg Appt	Donald	Brenda	Deputy Mayor	11
Excepted Service - Reg Appt	Joseph	Rachel	Chief of Staff	10

HEALTH BENEFIT EXCHANGE AUTHORITY				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Curtis	Debra	Senior Deputy Director	11
Excepted Service - Reg Appt	Jordan	Brittney	Attorney Advisor	08
Excepted Service - Reg Appt	Kofman	Mila	Executive Director	11
Excepted Service - Reg Appt	Pompa	Anthony	Manager	08

HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCY				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Brannum	Robert	Community Outreach Specialist	06
Excepted Service - Reg Appt	Gilmore	Edward	Community Outreach Specialist	06

OFFICE OF THE INSPECTOR GENERAL				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Branson	Karen	General Counsel	10
Excepted Service - Reg Appt	Bruce	Blanche	Deputy Inspector General	10

OFFICE OF THE INSPECTOR GENERAL				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Elliott	Shelley	Supervisory Criminal Investigator	10
Excepted Service - Reg Appt	Farley	Edward	Assistant Inspector General	10
Excepted Service - Reg Appt	Hart	Lee	Chief of Staff	10
Excepted Service - Reg Appt	Karrasch	Benjamin	Attorney-Advisor	08
Excepted Service - Reg Appt	Lashley Jr.	Doyle	Attorney-Advisor	08
Excepted Service - Reg Appt	Lucchesi	Victoria	Deputy General Counsel	09
Excepted Service - Reg Appt	Silverman	Stuart	Attorney	09
Excepted Service - Reg Appt	Van Croft	Keith	Attorney-Advisor	08
Excepted Service - Reg Appt	Weeks	Marcus	Attorney-Advisor	08
Excepted Service - Term Appt	Wilkins	Ladonia	Supervisory Auditor	10
Excepted Service - Reg Appt	Williams	Burnette	Attorney-Advisor	08

OFFICE OF THE INSPECTOR GENERAL				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Wolfigbarger	Brentton	Supervisory Attorney Advisor	09

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Taylor	Stephen	Acting Commissioner	11

METROPOLITAN POLICE DEPARTMENT OF THE DISTRICT OF COLUMBIA				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Bromeland	Matthew	Special Assistant	09
Excepted Service - Reg Appt	Crump	Gwendolyn	Director	09
Excepted Service - Reg Appt	Major	Jacob	Lieutenant	09
Excepted Service - Reg Appt	O Meara	Kelly	Executive Director	09

OFFICE OF MOTION PICTURE AND TELEVISION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Gates	Angie	Director	10

DEPARTMENT OF MOTOR VEHICLES				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Stewart	Gregori	Ticket Ombudsman	08

OFFICE OF CABLE TELEVISION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Washington	Lindsay	Producer	03

OFFICE OF DISABILITY RIGHTS				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Taylor	Alexis	Acting Director	09

OFFICE OF THE TENANT ADVOCATE				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Shreve	Johanna	Chief Tenant Advocate	09

DEPARTMENT OF PARKS AND RECREATION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Anderson	Keith	Acting Director	11

OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Bekele	Tsegazeab	Special Assistant	07
Excepted Service - Reg Appt	McPeck	Joaquin	Communications Director	08
Excepted Service - Reg Appt	Olpadwala	Sarosh	Director	10
Excepted Service - Reg Appt	Townley	Dion	Outreach Coordinator	07
Excepted Service - Reg Appt	Trueblood	Andrew	Chief of Staff	11



OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Tyus	Darnetta	Special Assistant	08
Excepted Service - Reg Appt	White	Timothy	Special Assistant	07

OFFICE OF POLICE COMPLAINTS				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Klossner	Christian	Deputy Director	10
Excepted Service - Term Appt	Tobin	Michael	Executive Director	11

OFFICE OF THE DEPUTY MAYOR FOR PUBLIC SAFETY AND JUSTICE				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Term Appt	Compani	Cara	Program Analyst	05
Excepted Service - Reg Appt	Dyer	Christopher	Special Assistant	07

DC PUBLIC LIBRARY				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Reyes-Gavilan	Richard	Executive Director	11

DEPARTMENT OF PUBLIC WORKS				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Reynolds	Wilson	Clean City Coordinator	09
Excepted Service - Reg Appt	Shorter	Christopher	Interim Director	11

OFFICE OF THE SECRETARY				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Bulger	James	Staff Assistant	03
Excepted Service - Reg Appt	Elwood	Patricia	Protocol Officer	08
Excepted Service - Reg Appt	Gold	Judi	Notary & Authent. Officer	07
Excepted Service - Reg Appt	Holland	Joy	Deputy Secretary	09
Excepted Service - Reg Appt	Reid	Victor	Administrator	08

OFFICE OF THE SECRETARY				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Savonis	Luke	Staff Assistant	03

DC SENTENCING COMMISSION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Fry	Linden	General Counsel	08
Excepted Service - Reg Appt	Hebb	Mia	Staff Assistant	03
Excepted Service - Reg Appt	Park	Jinwoo	Law Clerk	06
Excepted Service - Reg Appt	Redfern	Rachel	Attorney Advisor	08
Excepted Service - Reg Appt	Sanders	Thurman	Data Management Specialist	03
Excepted Service - Reg Appt	Schmechel	Richard	Project Director	09
Excepted Service - Reg Appt	Serota	Michael	Attorney Advisor	08
Excepted Service - Reg Appt	Souvey	Barbara	Executive Director	09
Excepted Service - Reg Appt	Wesley	LaToya	Statistician	07

OFFICE OF THE STATE SUPERINTEDENT OF EDUCATION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Kang	Hanseul	State Superintendent of Education	11

STATEHOOD INITIATIVES AGENCY				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Jardas	Haely	Staff Assistant	03

DC TAXICAB COMMISSION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Chrappah	Ernest	Acting Director	11
Excepted Service - Reg Appt	Collins	Theford	Special Assistant	07

DISTRICT DEPARTMENT OF TRANSPORTATION				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Gillis	Greer	Deputy Director	10
Excepted Service - Reg Appt	Hwang	William	Chief of Staff	10

OFFICE OF ZONING				
APPOINTMENT TYPE	LAST NAME	FIRST NAME	POSITION TITLE	GRADE
Excepted Service - Reg Appt	Bardin	Sara	Director	10

**KINGSMAN ACADEMY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSAL BIDS****Food Service Management Services**

**Kingsman Academy PCS** is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2015-2016 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Request for Proposals (RFP) such as; student data, days of service, meal quality, etc. may be obtained beginning on Friday, **July 10, 2015** from Mr. Hasan at 571-348-4213 or **procurement@kingsmanacademy.org**.

Proposals will be accepted at 1375 E Street, NE, Washington, DC 20002 on Thursday, August 6, 2015, not later than **1:00 P.M.**

**All bids not addressing all areas as outlined in the IFB (RFP) will not be considered.**

**KIPP DC PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****New Market Tax Credit Consulting Services**

KIPP DC is soliciting proposals from qualified vendors for New Market Tax Credit Consulting Services. The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00 P.M., EST, on July 17, 2015. Questions can be addressed to alex.shawe@kippdc.org.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2015-39**

March 13, 2015

VIA ELECTRONIC MAIL

Mr. Dan McNeil

RE: FOIA Appeal 2015-39

Dear Mr. McNeil:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-531(a) ("DC FOIA"), dated February 20th, 2015 (the "Appeal"). You ("Appellant") assert in the Appeal that the Office of the State Superintendent of Education ("OSSE") improperly withheld records in response to your request for information under DC FOIA dated August 8, 2014 (the "FOIA Request"). In your FOIA Request you seek documents from OSSE pertaining to the District of Columbia Public Schools and the teacher evaluation system known as IMPACT. The Appeal states that OSSE's "failure and refusal to furnish the requested information is arbitrary and capricious" and "injures WTU and AFT."

Background

Appellant's FOIA Request sought the following records:

1. Documents describing change in student enrollment from month-t month, by school, by grade level and including the number of students: Exiting the state from DCPS
  - a. exiting DCPS to Public Charter Schools;
  - b. entering DCPS;
  - c. entering DCPS from Public Charter Schools; and
  - d. Transfers between DCPS schools.
2. Documents listing teacher transfers by school, including both the school exited and the school receiving, as well as grade, certification, IMPACT group and subject.
3. Documents listing teacher terminations, including each teacher's school, grade, IMPACT group, certification, subject and reason for the termination.
4. Documents showing principal turnover, including terminations and transfer, by school.



5. IMPACT scores for each teacher, including school, grade, IMPACT group, certification and subject, including:
  - a. Individual Value Added score (Group 1);
  - b. Composite Teaching and Learning Framework score;
  - c. Commitment to the School Community score;
  - d. School Value Added score (if applicable); and
  - e. Core Professionalism score.
6. Documents showing the distribution of teachers by IMPACT rating category (i.e., highly effective, effective, minimally effective, and ineffective) by school and grade level.
7. Documents describing bonuses distributed by DCPS to teachers, including the amount, each teacher's school, grade, IMPACT Group, certification and subject.
8. Documents listing bonuses distributed by DCPS to principals, including the amount and identifying the school.
9. Documents showing all changes to IMPACT, including changes to rating categories, for each school year, and the reasons for such changes.
10. Documents describing how IMPACT accounts and adjusts for student poverty, including food stamp recipients, welfare recipients, homelessness, single parent households, parental unemployment.
11. Documents showing the number and percentage of students at each school who are considered to be in poverty for purposes of IMPACT Individual Value Added calculations.
12. Documents showing the number and percentage of students at each school who meet the criteria for identifying the school as eligible (or not) for Community Eligibility status for free school lunch.
13. Documents describing students who attended at least one day of D.C. Comprehensive Assessment System (D.C.-CAS) testing for either Math or ELA, but did not attend or complete all sections of the test. For each student provide their school and grade level.
14. Documents describing any change in calculating D.C.-CAS scale scores or the cut scores for the proficiency levels.
15. Documents describing any change in calculating D.C.-CAS scale scores or the cut scores for the proficiency levels.
16. The value added technical reports prepared by Mathematica for DCPS for school years 2009-10, 2010-11, and 2013-14 (links on DCPS website are broken).

17. Documents listing the number of days of standardized testing for each school by grade level and the name of the tests administered.

18. Documents regarding the erroneous calculation of the IMPACT scores for DCPS teachers for the 2012-2013 school year.

In response, by email dated September 19, 2014, OSSE informed Appellant that the responsive documents were placed on a compact disk and delivered to AFT. In addition, OSSE provided a hyperlink to the location on its website with respect to request #1. OSSE included with the documents a Vaughn Index indicating that some records were being withheld based upon the exemption from disclosure under D.C. Code § 2-534(a)(4) and (6).

On Appeal, Appellant challenges the response to the FOIA Request, as follows:

1. Appellant contends the hyperlink to the 2013 mobility study provided by OSSE is incomplete because:

- It only covers the 2001-2012 school year.
- OSSE did not provide the records describing the change in the student enrollment from month-to-month, by school and grade level for each of the categories requested.
- OSSE provided no records identifying transfers between DCPS schools. Moreover, appellant notes that OSSE did not provide a justification for failing to provide the requested information for the years and in the format requested.

2. Appellant contends that OSSE did not provide a list of teacher transfers by school as requested and did not describe why such records were not provided. Additionally, Appellant claims that the OSSE response was incomplete for the following reasons:

- No information was provided for 2013-2014;
- The lists include only classroom teachers, not counselors, librarians, social workers, psychologists, speech therapists, etc.
- For 2012-2013, the list does not include elementary art, music and PE teachers.
- The list for the earlier years only includes some elementary art, music, and PE teachers.
- The list for 2012-13 omits grade, certification, IMPACT group, and subject
- The lists for preceding years omits the IMPACT group for each teacher

3. Appellant claims that OSSE did not respond to Request #3 and did not describe why such records were not provided. Appellant contends that OSSE provided two documents in response to this request: the first document (for 2011-2012) states 91 teachers and principals were removed for ineffective ratings; the second document (for 2012-13) states that 38 teachers and principals were removed for ineffective ratings. No information was provided for 2009-10, 2010-11 or 2013-14. Moreover, the information provided did not list the terminations by teacher's school, grade, IMPACT group, certification and subject matter.

4. Appellant contends OSSE did not respond to Request #4 and did not describe why such records were not provided. OSSE provided one document indicating that 9 principals were terminated for being ineffective in 2012-13.

5. Appellant contends that the documents responsive to this request, which OSSE claims are exempt from disclosure under DC Code§ 2-534(a)(6) and 6 DCMR § B3113 can be produced without disclosing the identity of each teacher “after deletion of those portions which may be withheld from disclosure” pursuant to D.C. Code§ 2-534(a).

6. In response to this request OSSE provided the following 4 spreadsheets:

1. 2009-10 -showing number of teachers in each category at only 9 schools.
2. 2010-11 quantifying the number of teachers and principals exceeding, meeting or below expectations.
3. 2011-12 - it is unclear what information is described in this spreadsheet.
4. 2012-2013 -it is unclear what information is described in this spreadsheet.

Appellant asserts that these are not responsive to Request #6 and that OSSE does not describe why responsive records were not provided.

7. Appellant contends OSSE did not respond to Request #7 and did not describe why such information was not provided.

8. Appellant contends OSSE did not respond to Request #8 and did not describe why such information was not provided.

9. Appellant contends OSSE did not respond to Request #9 and did not describe why such information was not provided.

10. In response to this request OSSE provided a memo entitled "Accounting for Free and Reduced Price Lunch Eligibility in DC Value Added," dated September 30, 2013. Appellant asserts a belief that there are additional documents within OSSE's possession describing how IMPACT accounts and adjusts for student poverty. Appellant expresses concern over the fact that OSSE provided a memorandum related to free and reduced lunch as the sole measure of poverty. Appellant requests that OSSE provide any additional documents responsive to Request #10 or to explain why no such documents exist.

11. OSSE provided a memo "Accounting for Free and Reduced-Price Lunch Eligibility in DC Value Added" and identified it as being responsive to Request #11. Appellant claims that OSSE did not provide any information responding to Request #11 and did not provide any justification for failing to provide the records requested.

12. In response to request #12, OSSE provided two spreadsheets identified as follows:

1. 12.1 CEP Status DCPS 2013-14

## 2. 12.2 CEP Status DCPS 2012-13

Appellant contends that although the 2013-14 file is responsive, the 2012-13 file has no responsive data at all. Appellant asserts that no files were provided for the remaining years covered by the FOIA and that OSSE did not provide any justification for only providing responsive information only for 2013-14.

13. Appellant contends OSSE did not provide any information responding to Request #13 and did not provide any justification for failing to provide the information requested.

14. OSSE did not provide any information responding to Request #14 and did not provide any justification for failing to provide the records requested.

15. Appellant asserts that the "Technical Report for Spring 2013 Test Administration of DC CAS" which was provided by OSSE in response to this request in only partially responsive to request #15. Appellant believes that there are more documents within OSSE's possession describing changes to the D.C.-CAS scale scores and cut scores for the proficiency levels. Appellant claims that the document provided by OSSE confirms the existence of additional documents, including reports, agendas and training materials, which fall within the definition of records that are responsive to this request.

16. OSSE did not provide any information responding to Request #16 and did not provide any justification for failing to disclose the records that were requested.

17. OSSE did not provide any information responding to Request #17 and did not provide any justification for failing to disclose the records that were requested.

18. Appellant is satisfied with OSSE's response to Request #18.

OSSE was provided with a copy of the Appeal and given an opportunity to respond to the Mayor's Office of Legal Counsel. In reply, by email dated February 27, 2015, as supplemented March 3, 2015 OSSE, stated that upon receiving the FOIA Request, their Data Division did a complete search for responsive records. The OSSE attorney assigned to FOIA reviewed the request and determined that most of the information requested was not maintained by OSSE. OSSE gathered forty-four (44) documents from the data team. These documents were confirmed by the Director of the data team to be the totality of the responsive records maintained by OSSE. The records were reviewed for exemptions. With regard to the specific numeric requests, OSSE responds to Appellant as follows:

1. Documents describing change in student enrollment from month-to-month, by school, by grade level and including the number of students:

OSSE has only conducted analyses of within school year student mobility for school years 2011-2012 and 2012-2013. There are no records in OSSE's possession covering the remaining requested years.

2. Documents listing teacher transfers by school, including both the school exited and the school receiving, as well as grade, certification, IMPACT group and subject:

OSSE does not possess particularized records documenting teacher transfers as requested by the Appellant. Rather, OSSE produces annual records of teachers for its reporting requirements to the United States Department of Education, which were produced. From this information, transfers can be discerned by noting a teacher assigned to one school one year and a new school the next year.

3 & 4. Documents listing teacher terminations, including each teacher's school, grade, IMPACT group, certification, subject and reason for the termination & Documents showing principal turnover, including terminations and transfer, by school:

OSSE states that it does not maintain records listing teacher terminations by school, grade, IMPACT group, certification and subject matter as requested by Appellant. OSSE has only produced records of teacher termination for school years 2011-12 and 2012-13 and principal terminations for 2012-13.

5. IMPACT scores for each teacher, including school, grade, IMPACT group, certification and subject:

OSSE does not believe that there are any segregable portions of a teacher's evaluation that can be produced pursuant to this request. DCPS teachers are government employees, and the evaluations of government employees are confidential personnel records. OSSE reports on teacher evaluations only in aggregate, showing percentages of effective and highly-effective teachers. Those aggregate reports were produced.

6, 10, 11 & 12. (6) Documents showing the distribution of teachers by IMPACT rating category; (10) Documents describing how IMPACT accounts and adjusts for student poverty, including food stamp recipients, welfare recipients, homelessness, single parent households, parental unemployment; (11) Documents showing the number and percentage of students at each school who are considered to be in poverty for purposes of IMPACT Individual Value Added calculations; (12) Documents showing the number and percentage of students at each school who meet the criteria for identifying the school as eligible (or not) for Community Eligibility status for free school lunch:

The disclosed documents are the only records in OSSE's possession responsive to requests #6, 10, 11, and 12.

7, 8, 9, 13, 16, & 17. (7) Documents describing bonuses distributed by DCPS to teachers, including the amount, each teacher's school, grade, IMPACT Group, certification and subject; (8) Documents listing bonuses distributed by DCPS to principals, including the amount and identifying the school; (9) Documents showing all changes to IMPACT, including changes to rating categories, for each school year, and the reasons for such changes; (13) Documents describing students who attended at least one day of D.C. Comprehensive Assessment System (D.C.-CAS) testing for either Math or ELA, but did not attend or complete all sections of the test. For each student provide their school and grade level; (16) The value added technical reports prepared by Mathematica for DCPS for school years 2009-10, 2010-11, and 2013-14; (17) Documents listing the number of days of standardized testing for each school by grade level and the name of the tests administered:

Requests #7, 8, 9, 13, 16, and 17 are records that are not in OSSE's possession.

#7—OSSE does not possess information relating to DCPS teacher bonuses.

#8—OSSE does not possess information related to principal bonuses.

#9—IMPACT is DCPS's internal system; OSSE does not administer the IMPACT system. As a result, OSSE does not receive technical reports on changes to IMPACT.

#13—OSSE does not possess individual student information regarding daily participation in statewide assessments. Local education agencies track individual student participation or non-participation; OSSE receives aggregate reporting on the number of students that participated, not on the students that did not fully participate.

#16—OSSE possesses only the Mathematica reports produced for OSSE, not those produced for DCPS. OSSE's reports were produced, although labeled #17.

#17—OSSE does not possess records of the number of standardized testing days for each school by grade level with the name of the tests administered. Local education agencies administer a number of tests and assessments that are not state-level assessments. The administration of these standardized tests is not overseen by OSSE. The record labeled as #17 is mislabeled. There were no documents produced for #17.

14. OSSE asserts that item #14 requests information that is prohibited from disclosure by OSSE regulation. Individual student assessment scores are available only to the parent. The items for request #14 should have been listed on the original privilege log but it was not. In their response to the Appeal, OSSE provided a revised privilege log that included these documents.

### 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). 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).

DC FOIA requires only that, under the circumstances, a search is reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence, that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States (Dep't of Justice)*, 578 F.2d 261 (9th Cir. 1978). Under the law, an agency “has no duty either to answer questions unrelated to document requests or to create documents.” *Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985).

In order to establish the adequacy of a search,

‘the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.’ [*Oglesby v. United States Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)]. . . The court applies a ‘reasonableness test to determine the ‘adequacy’ of a search methodology, *Weisberg v. United States Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983); *Campbell v. United States DOJ*, 164 F.3d 20, 27 (D.C. Cir. 1998).

We have summarized the arguments and counter-arguments of the parties above. As a general matter, Appellant makes repeated assertions that OSSE did not sufficiently explain why certain documents were not provided. The law only requires the disclosure of nonexempt documents, not answers to questions. Under the law, an agency “has no duty . . . to answer questions unrelated to document requests . . .” *Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985). DC FOIA provides a right to access of documents, not a right to challenge the correctness or reasoning of an agency decision, to interrogate an agency, to require an agency to conduct research, or otherwise to require answers to questions posed as FOIA requests. *See* Department of Justice Guide to the Freedom of Information Act (2009) at 51, n. 127 (collecting cases, reported and unreported). Therefore, as long as OSSE has conducted a reasonable search for documents, and produced all non-exempt, responsive documents, they have met their obligations under FOIA.

With regard to requests #7, 8, 9, 13, 16, 17, OSSE states that it does not possess the requested information. With regard to requests #2, 6, 10, 11, & 12, OSSE declares that it has disclosed all of the records in their possession that are responsive to these requests. As we have stated in prior decisions, *see, e.g.*, Freedom of Information Act Appeal 2012-65, in order to make a reasonable and adequate search, an agency must make reasonable determinations as to the location of

records requested and search for the records in those locations. Based on the administrative record, we are satisfied that OSSE has met its statutory obligation with respect to these requests. We find that OSSE has made a reasonable and adequate search and that no responsive records exist regarding requests #7, 8, 9, 13, 16, 17. Moreover, OSSE is under no obligation to create responsive documents where none exist. Given the wording of your request and the documents provided by OSSE, it is probable that no records exist exactly matching requests #2, 6, 10, 11, & 12. Therefore, we find that there was no denial of FOIA with regard to requests #2, 6, 7, 8, 9, 10, 11, 12, 13, 16 & 17 of Appellant's Request. With regard to these requests, the decision of OSSE is upheld.

With regard to request #1, OSSE states that it only has records relating to the student mobility for school years 2011-12 and 2012-13; there are no records in OSSE's possession covering the remaining requested years. In their response to the FOIA Request, OSSE directed Appellant to a hyperlink connected to these studies. It has been held that an agency is not obligated under FOIA to produce records when the information is publically accessible via its website or the Federal Register. *Antonelli v. Fed. Bureau of Prisons*, 591 F. Supp. 2d 15, 25 (D.D.C. 2008). *See also Crews v. Commissioner*, 85 A.F.T.R.2d 2169, 2000 U.S. Dist. LEXIS 21077 (C.D. Cal. 2000)(production satisfied for documents that are publicly available either in the agency's reading room or on the Internet). Here, we find that OSSE made a reasonable and adequate search and that no additional responsive records exist regarding request #1. Moreover, OSSE posted the available responsive records online and provided Appellant with the information necessary to access these records. Therefore, we find that there was no denial of FOIA regarding request #1. The decision of OSSE is upheld.

Regarding requests # 5 & 14 OSSE asserts that the responsive records are exempt under D.C. Official Code § 2-534(a)(6) as “[i]nformation specifically exempted from disclosure by statute.” In response to Appellant's FOIA request #5, OSSE did provide aggregate reports of teacher evaluations generated by OSSE showing percentages of effective and highly-effective teachers but did not provide documents related to individual teachers because “DCPS teachers are government employees and the evaluation of government employees are confidential personnel records.” Likewise, OSSE maintains that request #14 also relates to information that is prohibited from disclosure by law. OSSE provided this office with an updated that Vaughn index that included this document on the privilege log.

D.C. Official Code § 2-534(a)(6) (“Exemption 6”) provides an exemption for information specifically exempt from disclosure by statute if the statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or establishes particular criteria for withholding or refers to particular types of matters to be withheld. With regard to request #14, OSSE cites 5 DCMR A2302 which provides “[state-wide assessment testing] data that identifies individual student information shall be reported or made public in conformance with District and federal laws.” The applicable federal law in this instance is the Family Educational Rights and Privacy Act (“FERPA”), which “requires schools and educational agencies receiving federal financial assistance to comply with certain conditions. One condition specified in the Act is that [student records] may not be released without [the student's] consent.” *Owasso Independent School District v. Falvo*, 534 U.S. 426, 428-29 (2002). Data about individual students that are maintained by a school district, including individual state wide



assessment testing scores are student records protected by FERPA. 20 U.S.C. § 1232g(a)(4)(A). Their privacy is not impacted by FOIA. *United States v. Miami University*, 294 F.3d 797 (6th Cir. 2002). DC FOIA does not grant anyone the right to view a student's private educational records, which are protected by a federal statute. Therefore, we find that there was no denial of FOIA regarding request #14. The decision of OSSE is upheld.

With regard to request #5, OSSE asserts that requested teacher evaluations are not permitted to be disclosed under 6 DCMR § 3113.2. Accordingly, the contention of OSSE is that disclosure is exempt under Exemption 6, which, as discussed above, provides that an agency can withhold statutorily exempted information. In this instance, OSSE cites a rule under the District of Columbia Municipal Regulations for which there is no statutory counterpart. Accordingly, it is dubious that a personnel rule alone can support an exemption which requires statutory authority. In previous decisions (Freedom of Information Act Appeal 2011-36) we have found that a personnel rule alone does not trigger an exemption under Exemption 6. However, that is not the end of the inquiry. The rule cited by OSSE is rooted in personal privacy considerations, which considerations are addressed by other exemptions under DC FOIA. In our previous decision, we judged the public accessibility of personnel records by the standard of § 2-534(a)(2) ("Exemption (2)").

District of Columbia 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." All information that "applies to a particular individual" qualifies for consideration under this exemption. *Dep't of State v. Washington Post Co.*, 456 U.S. 595 (1982); see also *New York Times Co. v. NASA*, 920 F.2d 1002, 1005 (D.C. Cir. 1990) (en banc). 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. See *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 756 (1989). The first part of the analysis is to determine whether there is a sufficient privacy interest present.

There is cognizable and sufficient privacy interests in information about an individual contained in performance evaluations and relating to the employment process. *Core v. United States Postal Service*, 730 F.2d 946 (4th Cir. 1984); *Barvick v. Cisneros*, 941 F. Supp. 1015 (D. Kan. 1996). They describe such personal matters as a teacher's aptitude, attitude, and basic competence.

Teacher evaluations are intra-agency documents, meant to improve teacher performance, not to embarrass them, harm their reputation, or make people less willing to enter the profession. Disclosure of evaluative materials would discourage candid discussion within the agency regarding teacher performance and thus undermine the OSSE's ability to perform its functions. Teachers have a reasonable expectation of privacy regarding their performance evaluation, particularly in light of the language of 6 DCMR § 3113.1, which limits the public dissemination of personnel information to: 1) name, 2) present and past position titles, 3) present and past grades, 4) present and past salaries, and 4) present and past duty stations (which includes room numbers, shop designations, or other identifying information regarding buildings or places of employment). Performance evaluations are not included among those items available for public

review. 6 DCMR § 3113.1. Thus, we find that there is an individual privacy interest in the information contained in individual teacher evaluations.

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 360-361 (quoting S. Rep. No. 813, 89th Cong., 1st Sess., 3 (1965)). This basic policy of ‘full agency disclosure unless information is exempted under clearly delineated statutory language,’ indeed focuses on the citizens' right to be informed about “what their government is up to.” *Department of Air Force v. Rose*, 425 U.S., at 360-361 (quoting S. Rep. No. 813, 89th Cong., 1st Sess., 3 (1965)). 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 claims that redaction can safeguard the privacy of the information contained in the evaluations. D.C. Official Code § 2-534(b) provides, in pertinent part, that “any reasonably segregable portion of a public record shall be provided to any person requesting such record after deletion of those portions which may be withheld from disclosure under subsection (a) of this section.” Thus, there is a question as to whether OSSE should have disclosed the evaluations with redactions. A determination of whether non-exempt information in a record is reasonably segregable turns on the intelligibility of the record after the removal of the exempt information and the burden that removing the exempt material would impose on the agency. *Kalwasinski*, 2010 U.S. Dist. LEXIS 62659, 2010 WL 2541363, (citing *Mokhiber v. U.S. Dep't of Treasury*, 335 F. Supp. 2d 65, 71 (D.D.C. 2004)). To the extent that the removal of exempt information would leave “little more than templates,” so that “the purpose served by releasing the records in full is no longer served,” disclosure of redacted records is not required. *See id.*, (citing *Warren v. Soc. Sec. Admin.*, 2000 U.S. Dist. LEXIS 12385, 2000 WL 1209383, (W.D.N.Y. Aug. 22, 2000)). Generally, “[a]gencies are entitled to a presumption that they complied with the obligation to disclose reasonably segregable material.” *Sussman v. U.S. Marshal's Serv.*, 494 F. 3d 1106, 1117, 377 U.S. App. D.C. 460 (D.C. Cir. 2007). However, “[i]f the requester successfully rebuts this presumption, the burden lies with the government to demonstrate that no segregable, non-exempt portions were withheld.” *Id.*

OSSE states that the evaluations are non-segregable. Due to the nature of the requested information, it is reasonable to conclude that any portions of the compiled responsive documents that may be exempt from non-disclosure under FOIA are so inextricably intertwined with exempt material as to be non-segregable and that “little more than a template” would remain.

Appellant does not persuade us that OSSE withheld segregable, non-exempt information. Thus, given the privacy concerns at issue, which are inherent in the decision to adopt 6 DCMR § B3113, we find that disclosure of teacher evaluations is exempt under Exemption (2) because the public interest in disclosure does not outweigh the individual privacy interest. The aggregated data that was delivered in response to request #5 represents OSSE's best documents available in

response to your FOIA request. Therefore, we find that there was no denial of FOIA regarding request #5. The decision of OSSE is upheld.

With regard to requests #3 &4, OSSE's response does not indicate whether or not documentation exists for each school year covered by the request. Based on the administrative record, it is unclear why OSSE only produced records for school years 2011-12 and 2013-13 in response to requests #3 &4.

With regard to request #15, OSSE's response does not indicate whether certain documentation referenced in the "Technical Report for Spring 2013 Test Administrative of DC CAS" is in OSSE's possession and available for disclosure. Therefore, we are ordering OSSE to respond to items #3, 4, & 15 in Appellant's FOIA Request within five business days of the date of this order.

### Conclusion

Therefore, we UPHOLD, in part, the decision of OSSE and REVERSE and REMAND, in part. OSSE is ordered to provide to Appellant any additional documentation in their possession regarding teacher terminations for 2009-2010, 2010-11, and 2013-14, documents showing principal turnover for 2009-10, 2010-11, and 2013-14, as well as any documentation referenced in the "Technical Report for Spring 2013 Test Administrative of DC CAS" that exists and is in OSSE's possession.

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,

/s/ Sarah J Forman

Sarah Jane Forman  
Associate Director  
Mayor's Office of Legal Counsel (MOLC)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2015-40**

March 18, 2015

VIA ELECTRONIC MAIL

Mr. Dan McNeil

RE: FOIA Appeal 2015-40

Dear Mr. McNeil:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-531(a) ("DC FOIA"), dated February 20th, 2015 (the "Appeal"). You ("Appellant") assert in the Appeal that the District of Columbia Public Schools ("DCPS") improperly withheld records in response to your request for information under DC FOIA dated August 8, 2014 (the "FOIA Request"). In your FOIA Request you seek documents from DCPS pertaining to the teacher evaluation system known as IMPACT. The Appeal states that DCPS's "failure and refusal to furnish the requested information is arbitrary and capricious" and "injures WTU and AFT."

Background

Appellant's FOIA Request sought the following records:

1. Documents describing change in student enrollment from month-to-month, by school, by grade level and including the number of students:
  - a. exiting the state from DCPS
  - b. exiting DCPS to Public Charter Schools;
  - c. entering DCPS;
  - d. entering DCPS from Public Charter Schools; and
  - e. Transfers between DCPS schools.
2. Documents listing teacher transfers by school, including both the school exited and the school receiving, as well as grade, certification, IMPACT group and subject.
3. Documents listing teacher terminations, including each teacher's school, grade, IMPACT group, certification, subject and reason for the termination.
4. Documents showing principal turnover, including terminations and transfer, by school.
5. IMPACT scores for each teacher, including school, grade, IMPACT group, certification and subject, including:

- a. Individual Value Added score (Group 1);
  - b. Composite Teaching and Learning Framework score;
  - c. Commitment to the School Community score;
  - d. School Value Added score (if applicable); and
  - e. Core Professionalism score.
6. Documents showing the distribution of teachers by IMPACT rating category (i.e., highly effective, effective, minimally effective, and ineffective) by school and grade level.
  7. Documents describing bonuses distributed by DCPS to teachers, including the amount, each teacher's school, grade, IMPACT Group, certification and subject.
  8. Documents listing bonuses distributed by DCPS to principals, including the amount and identifying the school.
  9. Documents showing all changes to IMPACT, including changes to rating categories, for each school year, and the reasons for such changes.
  10. Documents describing how IMPACT accounts and adjusts for student poverty, including food stamp recipients, welfare recipients, homelessness, single parent households, parental unemployment.
  11. Documents showing the number and percentage of students at each school who are considered to be in poverty for purposes of IMPACT Individual Value Added calculations.
  12. Documents showing the number and percentage of students at each school who meet the criteria for identifying the school as eligible (or not) for Community Eligibility status for free school lunch.
  13. Documents describing students who attended at least one day of D.C. Comprehensive Assessment System (D.C.-CAS) testing for either Math or ELA, but did not attend or complete all sections of the test. For each student provide their school and grade level.
  14. Documents describing any change in calculating D.C.-CAS scale scores or the cut scores for the proficiency levels.
  15. Documents describing any change in calculating D.C.-CAS scale scores or the cut scores for the proficiency levels.
  16. The value added technical reports prepared by Mathematica for DCPS for school years 2009-10, 2010-11, and 2013-14 (links on DCPS website are broken).
  17. Documents listing the number of days of standardized testing for each school by grade level and the name of the tests administered.

18. Documents regarding the erroneous calculation of the IMPACT scores for DCPS teachers for the 2012-2013 school year.

DCPS fully responded to the FOIA Request on November 26, 2014. Documents were provided to Appellant as well as hyperlinks to websites where the responsive information could be located. In their response, DCPS indicated that some records were being withheld based upon the exemption from disclosure under D.C. Code § 2-534(a)(2) and § 2-534(a)(6).

On Appeal, Appellant challenges the DCPS response to the FOIA Request, as follows:

1. Appellant is satisfied with the DCPS response to request #10.
2. Appellant questions the assertion that DCPS does not possess any responsive documents. To the extent that DCPS possesses such documents, Appellant requests that these documents be produced or that DCPS explain why they do not exist.
3. Appellant claims that DCPS can provide the information requested without creating an unwarranted invasion of privacy.
4. Appellant contends DCPS only partially responded to this request. Attachment A included a list of principals by school each school year 2009-10 through 2013-14. DCPS did not provide any documents describing principal turnover, listing the number or schools from which principals had been terminated, or identifying transfers of principals from one DCPS school to another. Appellant believes that there are additional documents within DCPS's possession that are responsive to request #4 and requests that DCPS provide such additional documentation or explain why no such documents exist.
5. Appellant contends that the documents responsive to this request, which DCPS claims are exempt from disclosure under DC Code § 2-534(a)(2) can be produced without disclosing the identity of each teacher "after deletion of those portions which may be withheld from disclosure" pursuant to D.C. Code § 2-534(a).
6. Appellant asserts that the documents produced are not responsive and DCPS did not provide a legal justification for failing to provide responsive documents. Attachment B provided only the district-wide percentages of teachers in each rating category, while the request asked for the distribution of IMPACT ratings by grade and school for 2009-10 through 2013-14. Appellant believes that DCPS has this data because it would be impossible to provide district-wide percentages without knowing the distribution by school and grade level. In fact, DCPS submitted the more specific information to the DC Council for the 2011-12 school year.
7. Appellant asserts that the documents produced are only partially responsive, Attachment C contained only the bonus amount awarded by year, but without identifying each teacher's school, grade, IMPACT group, certification and subject. Appellant claims that DCPS has this information because they have provided it to the DC council in past

years for oversight hearings. Appellant believes that these records can be produced subject to redaction.

8. Appellant contends DCPS was non-responsive. The documents provided contained the bonus amounts awarded by year, but without identifying each teacher's school, grade, IMPACT group, certification and subject. Appellant believes that DCPS has this information because it was provided to the DC Council in past years for oversight hearings.

9. Appellant contends the DCPS response was only partially responsive because the IMPACT guidebooks contain some of the requested information, but does not describe why changes were made. For example, in 2012-13, DCPS added the IMPACT rating category of "developing" and AFT believes that DCPS possesses additional documents related to that significant change. DCPS did not include a legal justification for their limited response.

10. Appellant is satisfied with the DCPS response to request #10.

11. Appellant claims that the DCPS was non-responsive with regard to request #11 and that DCPS did not provide a legal justification for failing to provide responsive documents. The document identified in DCPS's response lists whether a school is high or low poverty and the stated purpose of that document is for "determining LIFT and IMPACT plus bonuses and service credits." For this reason, Appellant believes there are additional, undisclosed documents.

12. Appellant contends that DCPS was non-responsive and did not provide a legal justification for failing to provide responsive documents. According to Appellant, the link provided only lists schools that meet Community Eligibility stats and not the number and percentages of students who meet the criteria.

13. Appellant is satisfied with the DCPS response to request #13.

14. Appellant contends that DCPS was only partially responsive and did not provide a legal justification for failing to provide the D.C.-CAS scale scores without personally identifiable information. Appellant notes that the DC Council posted the scaled scores on its website on February 17, 2015.

15-18. Appellant is satisfied with the DCPS response to request #15-18.

DCPS was provided with a copy of the Appeal and given an opportunity to respond to the Mayor's Office of Legal Counsel. In reply, by email dated March 3, 2015, DCPS stated that it affirms all of its responses with the exception of Request #12. With regard Request #12, DCPS is willing to perform another search for responsive documents. With regard to the remaining specific numeric requests, DCPS responds to Appellant as follows:

1. Documents describing change in student enrollment from month-to-month by school, by grade level and including the number of students:

- a. Exiting the state from DCPS;
- b. exiting DCPS to Public Charter Schools;
- c. entering DCPS;
- d. entering DCPS from Public Charter Schools; and
- e. Transfers between DCPS schools.

DCPS does not maintain the requested information.

2. Documents listing teacher transfers by school, including both the school exited and the school receiving, as well as grade, certification, IMPACT group and subject.

DCPS does not possess any responsive documents.

3. Documents listing teacher terminations, including each teacher's school, grade, IMPACT group, certification, subject, and reason for the termination.

DCPS denies this request. The requested information is exempt from release pursuant to D.C. Official Code §2-534 (a) (2) - Information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

4. Documents showing principal turnover, including terminations and transfer, by school.

In response to this request, DCPS provided appellant with spreadsheets for schools years 2009-10 -2013-14 (“Attachment A”).

5. IMPACT scores for each teacher, including school, grade, IMPACT group, certification and subject, including:
  - a. Individual Value Added score (Group 1);
  - b. Composite Teaching and Learning Framework score;
  - c. Commitment to the School Community score;
  - d. School Value Added score (if applicable); and
  - e. Core Professionalism score.

DCPS denied this request, asserting an exemption from disclosure pursuant to D.C. Official Code §2-534 (a) (2). DCPS states that these records are exempt because they include information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

6. Documents showing the distribution of teachers by IMPACT rating category (i.e., highly effective, effective, minimally effective, and ineffective) by school and grade level.

In response to this request, DCPS provided appellant with spreadsheets for schools years 2009-10 - 2013-14 (“Attachment B”) that display district-wide percentages of teachers in each IMPACT rating category.



7. Documents describing bonuses distributed by DCPS to teachers, including the amount, each teacher's school, grade, IMPACT Group, certification and subject.

In response to this request, DCPS provided appellant with spreadsheets for schools years 2009-10 -2013-14 ("Attachment C") that document bonuses paid to DCPS staff. DCPS also provided a hyperlink to additional responsive information. DCPS claimed an exemption pursuant to D.C. Official Code §2-534 (a) (2) with regard to some of the information responsive to this request.

8. Documents listing bonuses distributed by DCPS to principals, including the amount and identifying the school.

In response to this request, DCPS also referred the Appellant to Attachment C, which included spread sheets documents principal and school leader bonuses for school years 2012-13 and 2013-14. Additional responsive information has been withheld from release pursuant to D.C. Official Code §2-534 (a) (2).

9. Documents showing all changes to IMPACT, including changes to rating categories, for each school year, and the reasons for such changes.

DCPS directed Appellant to the IMPACT Guidebook in the DCPS website.

10. Documents describing how IMPACT accounts and adjusts for student poverty, including food stamp recipients, welfare recipients, homelessness, single parent households, parental unemployment.

DCPS directed Appellant to segment of the DCPS website where this information is located.

11. Documents showing the number and percentage of students at each school who are considered to be in poverty for purposes of IMPACT Individual Value Added calculations.

In response to this request, DCPS referred the Appellant to a document on the DCPS website entitled "IMPACTplus/LIFT Permanent FARM Status" which consists of a list of high- and low-poverty schools that "will be used for the purposes of determining LIFT and IMPACTplus bonuses and service credits."

12. Documents showing the number and percentage of students at each school who meet the criteria for identifying the school as eligible (or not) for Community Eligibility status for free school lunch.

In response to request #12, DCPS agrees to perform another search for responsive documents.

13. Documents describing students who attended at least one day of D.C.

DCPS asserts that it does not possess any data or documents responsive to this request.

14. Documents listing D.C. CAS scores - both the scale score and proficiency level sorted by student, school, grade, and teacher, including student subgroup characteristics.

DCPS provided a hyperlink to data sets located on their website where responsive information regarding aggregate DC CAS data (broken down by school and subgroup) is publicly available. DCPS denies any additional disclosure of individual level student data pursuant to D.C. Official Code §2-534 (a) (6) (B) and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g. Moreover, DCPS informed us that DC CAS is administered and maintained by the Office of the State Superintendent of Education (“OSSE”), thus any request for this data should have been filed with OSSE.

### Discussion

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).

DC FOIA requires only that, under the circumstances, a search is reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence, that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States (Dep't of Justice)*, 578 F.2d 261 (9th Cir. 1978). Under the law, an agency “has no duty either to answer questions unrelated to document requests or to create documents.” *Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985). DC FOIA provides a right to access of documents, not a right to challenge the correctness or reasoning of an agency decision, to interrogate an agency, to require an agency to conduct research, or otherwise to require answers to questions posed as FOIA requests. *See* Department of Justice Guide to the Freedom of Information Act (2009) at 51, n. 127 (collecting cases, reported and unreported). Moreover, an administrative appeal under DC FOIA is a summary process and we have not insisted on the same rigor in establishing the adequacy of a search as would be expected in a judicial proceeding.

We have summarized the arguments and counter-arguments of the parties above. As a general matter, Appellant makes repeated assertions that DCPS did not provide sufficient “legal justification” regarding why specific requests for documents were not satisfied. The law only requires the disclosure of nonexempt documents in the possession of the agency, not answers to questions. Therefore, as long as DCPS conducted a reasonable search, produced all non-exempt responsive documents, and explained why they withheld exempted information, they have met their obligations under FOIA.

With regard to requests #2 & 14 DCPS states that it does not possess the requested information. With regard to requests #4, 7, 8, & 9 DCPS declares that it has disclosed all of the non-exempt records in their possession that are responsive to these requests. As we have stated in prior decisions, see, e.g., Freedom of Information Act Appeal 2012-65, in order to make a reasonable and adequate search, an agency must make reasonable determinations as to the location of records requested and search for the records in those locations. Based on the administrative record, we are satisfied that DCPS has met its statutory obligation with respect to these requests. We find DCPS conducted a reasonable search with regard to requests #2, 4, 7, 8, 9 & 14.

Moreover, DCPS is under no obligation to create responsive documents where none exist. Given the wording of your request and the documents provided by DCPS, it is probable that no records exists exactly matching requests #2, 4, 9 & 14. Although additional records may exist with regard to requests #7 & 14, we find that DCPS has properly claimed an exemption under DC Code 2-534 (a) (2) ("Exemption 2") and DC Code 2-534 (a) (6) ("Exemption 6") with regard to these requests. A more detailed analysis of the application of these exemptions to requests #7 & 14 follows later in this decision.

It has been held that an agency is not obligated under FOIA to produce records when the information is publically accessible. *Antonelli v. Fed. Bureau of Prisons*, 591 F. Supp. 2d 15, 25 (D.D.C. 2008). See also *Crews v. Commissioner*, 85 A.F.T.R.2d 2169, 2000 U.S. Dist. LEXIS 21077 (C.D. Cal. 2000)(production satisfied for documents that are publicly available either in the agency's reading room or on the Internet). "[A]gency record[s]" have not been "improperly withheld," when they are "already are available from their primary sources" because they are "on the public record" cannot be deemed "improperly withheld." *Tax Analysts v. Department of Justice*, 643 F. Supp. 740, 743-44 (D.D.C. 1986). In the case of records already publicly available, FOIA's primary purpose, to prevent "secret agency law," is not at risk. *Id.*

Here, Appellant contends that DCPS must possess records that are fully responsive to requests #7, 8 & 14 because DCPS submitted this kind of information to the DC Council in years past during oversight hearings. Because the DC Council has extensive authority to oversee DCPS, the Council, in exercising this authority, is within its right to compel DCPS to create records. Appellant does not enjoy the same authority under FOIA. Thus, simply because DCPS can create records of a certain kind, does not mean they regularly do so or that they can be compelled to do so under FOIA. Moreover, the DC Council is the primary source of this information, since it was created by DCPS specifically for the Council's education committee. Appellant has acknowledged that these records can be found online at the DC Council website. DCPS is not obligated to create any records akin to those provided to the DC Council under this FOIA request. Furthermore, we find that DCPS is not required to produce documents responsive to requests #7, 8 & 14 which are publicly available on the Council website.

Therefore, we find that there was no denial of FOIA with regard to requests ##2, 4, 7, 8, 9 & 14 of Appellant's Request. With regard to these requests, the decision of DCPS is upheld. DCPS has claimed Exemption 2 applies to withheld documents responsive to requests #3, 5, 7 & 8. These requests pertain to teacher termination information, teacher evaluations, and teacher and principal bonuses, respectively.

District of Columbia 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." All information that "applies to a particular individual" qualifies for consideration under this exemption. *Dep't of State v. Washington Post Co.*, 456 U.S. 595 (1982); *see also New York Times Co. v. NASA*, 920 F.2d 1002, 1005 (D.C. Cir. 1990) (en banc). 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. *See United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 756 (1989). The first part of the analysis is to determine whether there is a sufficient privacy interest present.

[A]n employee has at least a minimal privacy interest in his or her employment history and job performance evaluations. *See Department of the Air Force v. Rose*, 425 U.S. 352, 48 L. Ed. 2d 11, 96 S. Ct. 1592 (1976); *Simpson v. Vance*, 208 U.S. App. D.C. 270, 648 F.2d 10, 14 (D.C. Cir. 1980); *Sims v. CIA*, 206 U.S. App. D.C. 157, 642 F.2d 562, 575 (D.C. Cir. 1980). That privacy interest arises in part from the presumed embarrassment or stigma wrought by negative disclosures. *See Simpson*, 648 F.2d at 14. But it also reflects the employee's more general interest in the nondisclosure of diverse bits and pieces of information, both positive and negative, that the government, acting as an employer, has obtained and kept in the employee's personnel file.

*Stern v. FBI*, 737 F.2d 84, 91 (D.C. Cir. 1984).

Moreover, "numerous courts have held that disclosure of both favorable and unfavorable information regarding an employee's job performance, such as the receipt of a financial bonus, or a particular rating after an evaluation, constitutes more than a de minimis invasion of privacy because the information contains personal information about job performance. *Long v. Office of Pers. Mgmt.*, 2007 U.S. Dist. LEXIS 72887, 64 (N.D.N.Y. Sept. 30, 2007) (citing *Warren v. SSA*, No. 98-CV-0116E (SC), 2000 U.S. Dist. LEXIS 12385, 2000 WL 1209383, (W.D.N.Y. Aug. 22, 2000)).

Although it has been recognized that "the privacy interests of public officials are 'somewhat reduced' when compared to those of private citizens, 'individuals do not waive all privacy interests . . . simply by taking an oath of public office.' [citation omitted.]" *Forest Serv. Emples. v. United States Forest Serv.*, 524 F.3d 1021, 1025 (9th Cir. 2008). A disclosure that the employment of a person has been terminated due to poor performance may be, at the least, embarrassing and may result in further contact and questioning by third parties. Thus, there is a

cognizable and sufficient privacy interest in information about teacher terminations, performance evaluations and financial bonuses.

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 360-361 (quoting S. Rep. No. 813, 89th Cong., 1st Sess., 3 (1965)). “This basic policy of ‘full agency disclosure unless information is exempted under clearly delineated statutory language,’ indeed focuses on the citizens’ right to be informed about ‘what their government is up to.’” *Department of Air Force v. Rose*, 425 U.S., at 360-361 (quoting S. Rep. No. 813, 89th Cong., 1st Sess., 3 (1965)). 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 claims that redaction can safeguard the privacy of the withheld information. D.C. Official Code § 2-534(b) provides, in pertinent part, that “any reasonably segregable portion of a public record shall be provided to any person requesting such record after deletion of those portions which may be withheld from disclosure under subsection (a) of this section.” Thus, there is a question as to whether DCPS should have disclosed the additional information about terminations, evaluations and bonuses with redactions. A determination of whether non-exempt information in a record is reasonably segregable turns on the intelligibility of the record after the removal of the exempt information and the burden that removing the exempt material would impose on the agency. *Kalwasinski*, 2010 U.S. Dist. LEXIS 62659, 2010 WL 2541363, (citing *Mokhiber v. U.S. Dep’t of Treasury*, 335 F. Supp. 2d 65, 71 (D.D.C. 2004)). To the extent that the removal of exempt information would leave “little more than templates,” so that “the purpose served by releasing the records in full is no longer served,” disclosure of redacted records is not required. *See id.*, (citing *Warren v. Soc. Sec. Admin.*, 2000 U.S. Dist. LEXIS 12385, 2000 WL 1209383, (W.D.N.Y. Aug. 22, 2000)). Generally, “[a]gencies are entitled to a presumption that they complied with the obligation to disclose reasonably segregable material.” *Sussman v. U.S. Marshal’s Serv.*, 494 F. 3d 1106, 1117, 377 U.S. App. D.C. 460 (D.C. Cir. 2007). However, “[i]f the requester successfully rebuts this presumption, the burden lies with the government to demonstrate that no segregable, non-exempt portions were withheld.” *Id.*

DPS states with regard to requests #3, 5, 7 & 8, “providing the information in the manner that it was requested would force us to produce personally identifiable personnel information that is exempt under 2-534 (a) (2). We provided information in a manner that would not invoke that exemption.” Due to the nature of the requested information, it is reasonable to conclude that any portions of the compiled responsive documents that may be exempt from non-disclosure under FOIA are so inextricably intertwined with exempt material as to be non-segregable and that “little more than a template” would remain.

Appellant does not persuade us that DCPS withheld segregable, non-exempt information. Thus, given the privacy concerns at issue, we find that disclosure of detailed information related to

teacher terminations, teacher evaluations and teacher and principal bonuses are exempt under Exemption (2) because the public interest in disclosure does not outweigh the individual privacy interest. The portions of data that were delivered in response to requests #3, 5, 7 & 8 represent DCPS's best documents available in response to your FOIA request. Therefore, we find that there was no denial of FOIA regarding request #3, 5, 7 & 8. The decision of DCPS is upheld.

Regarding requests #14 DCPS asserts that the some of the responsive records are exempt under D.C. Official Code § 2-534(a)(6) as “[i]nformation specifically exempted from disclosure by statute.” In response to Appellant’s FOIA request #14, DCPS did direct Appellant to publicly available aggregated data sets containing CAS proficiency levels in reading and math, broken down by school and subgroup.

D.C. Official Code § 2-534(a)(6) (“Exemption 6”) provides an exemption for information specifically exempt from disclosure by statute if the statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or establishes particular criteria for withholding or refers to particular types of matters to be withheld. With regard to request #14, DCPS cites § 2-534(a)(6)(B) which covers information “specifically exempted from disclosure by statute (other than this section), provided that such statute: (A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.”

The relevant statute in this case is the Family Educational Rights and Privacy Act (“FERPA”), which “requires schools and educational agencies receiving federal financial assistance to comply with certain conditions. One condition specified in the Act is that [student records] may not be released without [the student's] consent.” *Owasso Independent School District v. Falvo*, 534 U.S. 426, 428-29 (2002). Data about individual students that are maintained by a school district, including individual state wide assessment testing scores are student records protected by FERPA. 20 U.S.C. § 1232g(a)(4)(A). Their privacy is not impacted by FOIA. *United States v. Miami University*, 294 F.3d 797 (6th Cir. 2002). DC FOIA does not grant anyone the right to view a student’s private educational records, which are protected by a federal statute. Therefore, we find that there was no denial of FOIA regarding request #14. The decision of DCPS is upheld.

With regard to request #6 DCPS’s response provided the district-wide percentages of teachers in each rating category, while the request asked for the distribution of IMPACT ratings by grade and school for 2009-10 through 2013-14. We agree with Appellant that it is possible that DCPS has additional data because it would be impossible to provide district-wide percentages without knowing the distribution by school and grade level. We order DCPS to conduct an additional search to determine if such records are in their possession and to produce any such records that are non-exempt.

With regard to request #11 DCPS responded with a document that lists whether a school is high or low poverty for the purpose of “determining LIFT and IMPACT plus bonuses and service credits” rather than for purposes of IMPACT Individual Value Added calculations, as requested. It is unclear from the DCPS response if they possess any documents that more closely align with

the specific inquiry of request #11. We order DCPS to conduct an additional search to determine if such records are in their possession and to produce any such records that are non-exempt.

With regard to request #12, DCPS agrees to perform another search for responsive documents.

We order DCPS to respond to items #6, 11, & 12 in Appellant's FOIA Request within five business days of the date of this order.

### Conclusion

Therefore, we UPHOLD, in part, the decision of DCPS and REVERSE and REMAND, in part. DCPS is ordered to provide to Appellant any additional documentation in their possession regarding 1) IMPACT ratings by grade and school, and 2) wealth disparities among students for purposes of IMPACT Individual Value Added calculations that exist, are non-exempt, and in the possession of DCPS.

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,

/s/ Sarah J Forman

Sarah Jane Forman  
Associate Director  
Mayor's Office of Legal Counsel (MOLC)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeals: 2015-41 and 2015-42**

March 9, 2015

VIA ELECTRONIC MAIL

Mr. Nicholas Hallenbeck,

RE: FOIA Appeal 2015-41 and 2015-42

Dear Mr. Hallenbeck:

This letter responds to your administrative appeals submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) ("FOIA"), dated October 24, 2014. The first appeal, identified as 2014-FOIA-00196 in the FOIAxpress database, seeks a copy of certain 911 calls made on January 8, 2014. It is my understanding that the Metropolitan Police Department ("MPD") responded to you regarding this request, stating that it was denied. Your appeal, however, does not appear to challenge this decision; rather, it reads as an initial request for the same records. On February 26, 2015, I sent you an email message regarding this request but received no response. As a result, we consider this appeal to be moot and it dismissed; provided, that the dismissal shall be without prejudice to you to assert any substantive challenge, by separate appeal, to MPD's response.

Your second FOIA appeal submitted in FOIAxpress appears to be an initial request for the number of reported incidents at the intersection of F and 14th Streets on certain dates in 2012. The MPD responded to your request, informing you that these records are now processed by the Office of Unified Communications (OUC). As I indicated to you in an email message on February 26, 2015, I have contacted OUC's FOIA officer and asked him to respond to your request. Based on the foregoing, we consider this 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 OUC's response.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker  
Associate Director  
Mayor's Office of Legal Counsel



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2015-43**

April 20, 2015

VIA ELECTRONIC MAIL

Mr. Seth Rosenthal

RE: FOIA Appeal 2015-43

Dear Mr. Rosenthal:

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 March 6, 2015 (the “Appeal”). You (“Appellant”) assert that the Metropolitan Police Department (“MPD”) improperly withheld records in response to your request for information under DC FOIA dated February 13, 2015 (the “FOIA Request”).

Background

Appellant’s FOIA Request sought records pertaining to the investigation and prosecution of Leon Timberlake and Leonard Johnson for the murder of Warren “Peanut” Davis on or about September 25, 1994. In response, by email dated March 2, 2015, MPD denied the FOIA Request based on an assertion that the records in question are investigatory files that are exempt from disclosure pursuant to D.C. Official Code § 2-534(a)(3)(A) and (C).

On Appeal, Appellant challenges the denial of the FOIA Request on the ground that MPD is improperly asserting the investigative records exemption. Further, Appellant claims that MPD should have provided some of the requested materials with redactions because some of the individuals involved in the case are no longer living, while other have been prosecuted in a public trial.

In response, by letter dated April 3, 2015, MPD reasserts its position that the release of any records in its possession responsive to the FOIA Request would constitute a clearly unwarranted invasion of personal privacy and interfere with an ongoing MPD enforcement proceeding.

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).

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 DC FOIA contains an exemption for investigatory records compiled for law enforcement purposes that were (1) compiled for law enforcement purposes and (2) whose disclosure would interfere with enforcement proceedings. The purpose of the exemption is a prevention of “the release of information in investigatory files prior to the completion of an actual, contemplated enforcement proceeding.” *National Labor Relations Bd. V. Robbins Tire & Rubber Co.*, 437 U.S. 124, 232 (1978). “So long as the investigation continues to gather evidence for a possible future criminal case, and that case would be jeopardized by the premature release of the evidence, the investigatory record exemption applies.” *E.g. Fraternal Order of Police, Metro. Labor Comm. v. D.C.*, 82 A.3d 803, 815 (D.C. 2014) (internal quotation and citation omitted).

Conversely, “where an agency fails to demonstrate that the documents sought relate to any ongoing investigation or would jeopardize any future law enforcement proceedings, the investigatory records exemption would not provide protection to the agency’s decision.” *Id.*

Moreover, in asserting an investigatory records exemption it is impermissible for an agency to issue a “blanket exemption” that calls for an exemption of all records in a file by virtue of the records’ location in that file. *Crooker v. Bureau of Alcohol, Tobacco & Firearms*, 789 F.2d 64, 66 (D.C. Cir. 1986). Instead, in responding to a FOIA request and compiling the legally mandatory *Vaughn* Index, an agency is permitted to make claims of generic exemptions for functionally similar records. *Id.*

In asserting the investigatory records exemption under the generic approach, the task of the agency is “three-fold.” *Bevis v. Department of State*, 801 F.2d 1386, 1388 (D.C. Cir. 1986). The agency must (1) “define its categories functionally;” (2) “conduct a document-by-document review in order to assign documents to the proper category;” and (3) “explain to the court how the release of each category would interfere with enforcement proceedings.” *Id.* This process is designed to “allow the court to trace a rational link between the nature of the document and the alleged likely interference.” *Crooker*, 789 F.2d at 67. What’s more, an agency must sustain its burden “by identifying a pending or potential law enforcement proceeding or providing sufficient facts from which the likelihood of such a proceeding may reasonably be inferred.” *Durrani v. United States Dep’t of Justice*, 607 F.Supp.2d 77, 90 (D.D.C. 2009).

Here, the issue is not whether the records were compiled for law enforcement purposes but instead whether their release would interfere with an enforcement proceeding. In response to the instant appeal, MPD offers no *Vaughn* Index and only an impermissible “blanket exemption” as to the entire homicide file, failing to indicate the nature of the records withheld. Moreover, MPD has not offered an affidavit to this office, for *in camera* review, explaining facts “from which the likelihood of . . . a proceeding may reasonably be inferred,” or from which this office could

“trace a rational link between the nature of the document and the alleged likely interference.” *Id*; *Crooker*, 789 F.2d at 67.<sup>1</sup>

### Conclusion

Based on the foregoing, the decision of MPD is remanded for disposition in accordance with this decision as follows. The MPD shall:

- (1) Conduct a document-by-document review of all repositories likely to contain a responsive record;
- (2) Categorize the documents located, asserting any applicable exemptions;
- (3) Provide Appellant with non-exempt, responsive records; and
- (4) Provide Appellant with an index of all withheld records and the applicable statutory exemptions.

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 Sarah J. Forman

Sarah Jane Forman  
Associate Director  
Mayor’s Office of Legal Counsel

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<sup>1</sup> This burden may be met by an affidavit that provides the “identification of the targets of the investigation.” *Boyd v. Criminal Div. of U.S. Dep’t of Justice*, 475 F.3d 381, 386 (D.C. Cir. 2007).

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2015-44**

April 10, 2015

VIA ELECTRONIC MAIL

Mr. Will Sommer

RE: FOIA Appeal 2015-44

Dear Mr. Sommer:

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 Office of the City Administrator (“OCA”) improperly withheld records you requested under the DC FOIA.

Background

On January 13, 2015, you submitted a request under the DC FOIA to OCA seeking “all emails and attachments contained in . . . [a list of email accounts] that relate to the D.C. United stadium project and land negotiations with Akridge.” The OCA provided you with responsive records, some of which were partially redacted pursuant to an assertion of the deliberative process privilege exemption under D.C. Official Code § 2-534(a)(4).

On appeal, you challenge OCA’s response to your request, contending that some of the redacted emails cannot constitute interagency communications because they were either produced by, or sent to, a lawyer, who is not an employee of the District.

The OCA responded to your appeal by email to this office on April 10, 2015. Therein, the OCA explained the role of the named lawyer as a contracted consultant, specifically hired to advise and consult the District in matters of real estate development and construction procurement. In support of this position, the OCA attached both (1) a copy of the named lawyer’s contract with the District, and (2) a former DC FOIA appeal decision (No. 2013-11R) that found the same named lawyer’s communications to be protected by the deliberative process privilege.

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. Official Code § 2-502(18).

D.C. Official Code § 2-534(a)(4) (“Exemption 4”), vests public bodies with discretion to withhold “inter-agency or intra-agency memorandums and letters which would not be available by law to a party other than an agency in litigation with the agency[.]” One of the privileges that falls under the umbrella of Exemption 4 is 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.*

As we explained in DC FOIA Appeal No. 2013-11R, communications with parties outside of the government may still qualify as “inter-agency” communications for the purposes of the deliberative process privilege. *E.g. Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1 (2001).

When interpreted in light of its purpose, . . . the language of Exemption [4] clearly embraces this situation. The exemption was created to protect the deliberative process of the government, by ensuring that persons in an advisory role would be able to express their opinions freely to agency decision-makers without fear of publicity. In the course of its day-to-day activities, an agency often needs to rely on the opinions and recommendations of temporary consultants, as well as its own employees. Such consultations are an integral part of its deliberative process; to conduct this process in public view would inhibit frank discussion of policy matters and likely impair the quality of decisions.

*Nat’l Inst. of Military Justice v. U.S. Dep’t of Def.*, 512 F.3d 677, 680 (D.C. Cir. 2008) (quoting *Ryan v. Department of Justice*, 617 F.2d 781 (D.C.Cir.1980))

However, communications from consultants are not considered inter-agency communications when they are made by “an interested party seeking a Government benefit at the expense of other applicants.” *Klamath Water Users Protective Ass'n*, 532 U.S. at 12.

The analysis here is almost identical to Appeal No. 2013-11R, and is not “novel” as you suggest in the text of your appeal. It is true that as you pointed out, many of the responsive documents that were redacted by OCA were either produced by or sent to a lawyer with a non-government email address. From this you conclude that the communications “definitely don’t fall under deliberative process privilege.” However, the appropriate analysis here is not so conclusory.

As discussed above (and in Appeal No. 2013-11R), non-government entities’ communications may still qualify as inter-agency communications, so long as the interests of the nongovernmental consultants are aligned with the government’s and not in competition with a third party. *Klamath Water Users Protective Ass'n*, 532 U.S. at 12. Here, OCA has represented that the named attorney is, and has been, contracted with the District to provide predecisional advice to the District for capital construction and renovation programs. In support of this assertion, OCA has provided this office with a copy of the lawyer’s firm’s contract with the District. Further, OCA has directed this office’s attention to Appeal No. 2013-11R, in which the same firm’s communications were determined to be protected by the deliberative process privilege.

In reliance of OCA’s representations, it is the opinion of this office that the communications in question concern matters within the scope of the lawyer’s contract as an advisor for the District. As a result, we must determine that the named lawyer is a consultant not excluded by *Klamath Water Users Protective Ass'n*, and that his communications with the District may be treated as inter-agency communications exempted under the deliberative process privilege under Exemption 4.

#### Conclusion

Based on the foregoing, we UPHOLD the OCA’s decision. 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 Gregory Evans

Gregory Evans  
Associate Director  
Mayor’s Office of Legal Counsel

cc: Barry Kreiswirth, General Counsel, OCA (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2015-45**

April 7, 2015

VIA ELECTRONIC MAIL

William Burrington

RE: FOIA Request 2015-45

Dear Mr. Burrington:

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"), which this office received on March 11, 2015. You assert that the Office of the Chief Technology Officer ("OCTO") improperly withheld records in response to your request for information under the DC FOIA dated January 23, 2015, by failing to adequately respond to the FOIA Request.

The DC FOIA request you submitted to OCTO on January 23, 2015, sought "electronic copies of the complete bill for every DC-Net customer purchasing voice and data telecommunications services for the 11/1/2014 thru 11/30/2014 billing cycle." OCTO responded to your request on March 4, 2015; however, you notified OCTO on March 10, 2015, that you deemed its response to be incomplete. OCTO's FOIA officer responded to you on March 12, 2015, stating that she would reconsider your request. As a result, I informed you on March 13, 2015, that your appeal would be temporarily suspended pending a supplemental response from OCTO. On March 19, 2015, OCTO notified you that it had completed compiling records that are responsive to your request and explained in a detailed letter the applicable fees and how to obtain the records from OCTO.

Based on the foregoing, we consider your 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 OCTO's response.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker  
Associate Director  
Mayor's Office of Legal Counsel

cc: Christina Fleps, OCTO (via email)

## NATIONAL COLLEGIATE PREPARATORY PUBLIC CHARTER HIGH SCHOOL

## REQUEST FOR PROPOSALS

National Collegiate Preparatory Public Charter High School is requesting bids for various services for the 2015-16 school year. Services required include the following:

- Special Education Services
- Event Catering/Rental Supplies
- Promotional Materials
- IT Support Services
- Computers & Technological supplies
- Student Transportation Services
- Instructional Materials & Supplies
- Public Relations Services
- Part-time Sign Language Teacher
- Travel Agent
- Legal Services
- Cafeteria Manager
- Cafeteria Assistant
- Social Worker

If you are a vendor/entrepreneur and are interested in offering any of these services to our school, please e-mail Eric Stultz, Business Manager, at [estultz@nationalprepd.org](mailto:estultz@nationalprepd.org) for further information on what will be required to fulfill the contract. Please also note that all bids must include evidence of experience in the field, the qualifications of principles, and estimated fees, and *three (3) copies* of all proposals must be mailed or delivered to the following address **by 4 pm on Monday, July 13th, 2015:**

Mr. Eric Stultz  
Business Manager  
4600 Livingston Rd SE  
Washington, DC 20032

*Please include on the envelope the type of service you and/or your company is offering\**



**THE NOT-FOR-PROFIT HOSPITAL CORPORATION****BOARD OF DIRECTORS****NOTICE OF CLOSED EMERGENCY MEETING**

The Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will hold a closed emergency meeting at 3:30pm on Thursday, June 30, 2015. The emergency meeting will be held via conference call. Notice will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website ([www.united-medicalcenter.com](http://www.united-medicalcenter.com)).

**DRAFT AGENDA**

- I. CALL TO ORDER**
- II. DETERMINATION OF A QUORUM**
- III. APPROVAL OF AGENDA**
- IV. BOARD DISCUSSION**
  1. Personnel/Contract/Legal Matters - (D.C. Official Code §§ 2-575(b)(2)(4A)(9)(10)(14))
- V. ANNOUNCEMENT**
  1. The next Governing Board Meeting will be held 9:00 a.m., July 23, 2015 at United Medical Center.
- VI. ADJOURNMENT**

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF PROPOSED TARIFF

## FORMAL CASE NO. 988, IN THE MATTER OF THE DEVELOPMENT OF UNIVERSAL SERVICE STANDARDS AND A UNIVERSAL SERVICE TRUST FUND FOR THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia (“Commission”), pursuant to its authority under D.C. Official Code § 34-802 (2001), and D.C. Official Code § 34-2003 (2015 Supp.) hereby gives notice of its intent to act upon the Application of Verizon Washington, DC Inc. (“Verizon DC”)<sup>1</sup> in the above-captioned matter. Pursuant to D.C. Official Code § 2-505 (2001), the Commission will act upon the Application in not less than 30 days after the date of publication of this Notice of Proposed Tariff in the *D.C. Register*.

2. On June 24, 2015, Verizon DC filed an application requesting authority to amend the following tariff page:

**GENERAL REGULATIONS TARIFF P.S.C.-D.C.-NO. 201  
Section 1A, 9<sup>th</sup> Revised Page 3**

3. Verizon DC identifies the proposed tariff amendment as an update to its District of Columbia Universal Service Trust Fund (“DC USTF”) surcharge, which is required by Chapter 28 of the Commission’s Rules of Practice and Procedure. The surcharge is being updated to true up the 2014 payments with the amounts actually billed to customers, and to adjust the surcharge for the 2015 assessment. Verizon DC provides confidential calculations in its Attachment 1. Verizon DC notes that its calculations in Attachment 1 are based on an implementation date of October 1, 2015. Any differential will true-up in the next DC USTF surcharge filing pursuant to 15 DCMR § 2815.4.<sup>2</sup>

4. Verizon DC represents that last year’s payment rate was below the prior period and the estimation used at that time resulted in an over-collection.<sup>3</sup> The over-collection was due to a decrease in the DC USTF’s 2015 assessment rate resulting from the reduced 2015 DC USTF budget.<sup>4</sup> With the approval of this Application, the monthly per line surcharge will be \$0.00 per non-Centrex line and \$0.00 per Centrex line. Verizon DC represents that this Application decreases the surcharge \$0.29 for non-Centrex lines and \$0.036 for Centrex lines. Verizon DC

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<sup>1</sup> *Formal Case No. 988, In the Matter of the Development of Universal Service Standards and the Universal Service Trust Fund for the District of Columbia, District of Columbia Universal Service Trust Fund Surcharge Compliance Filing for 2015 (“Verizon DC Application”), filed June 24, 2015.*

<sup>2</sup> Verizon DC Application at 2.

<sup>3</sup> Verizon DC Application at 2.

<sup>4</sup> Verizon DC Application at 2, n. 2.

requests expedited treatment of this tariff pursuant to Chapter 35 of the Commission's rules, so that this tariff would become effective October 1, 2015.<sup>5</sup>

5. The complete text of this Application is on file with the Commission. The proposed tariff revision is on file with the Commission and may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, NW, Suite 800, Washington, DC 20005 between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of Verizon DC's Application may be obtained by visiting the Commission's website at [www.dcpSC.org](http://www.dcpSC.org). Once at the website, open the "eDocket" tab, click on the "Search database" and input "FC 988" as the case number and "1083" as the item number. Copies of the Verizon DC Application may also be purchased, at cost, by contacting the Commission Secretary at (202) 626-5150 or [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

6. All persons interested in commenting on Verizon DC's Application may submit written comments and reply comments not later than 30 and 45 days, respectively, after publication of this Notice of Proposed Tariff in the *D.C. Register* with Brinda Westbrook-Sedgwick, Commission Secretary, at the above address. After the comment period has expired, the Commission will take final action on Verizon DC's Application.

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<sup>5</sup> Verizon DC Application at 2.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA****NOTICE OF****RULEMAKING 3-2014-01, CONSUMER RIGHT'S AND RESPONSIBILITIES****and****RULEMAKING 46-2015-01, LICENSURE OF ELECTRICITY SUPPLIERS**

On October 17, 2014, the Public Service Commission of the District of Columbia (“Commission”) caused a Notice of Proposed Rulemaking (“NOPR”) for the Consumer Bill of Rights (“CBOR”) to be published in the *D.C. Register*.<sup>1</sup> In addition, on February 6, 2015, the Commission published a NOPR giving notice of the adoption of Chapter 46 of Title 15 District Code of Municipal Regulations (“D.C.M.R.”). Chapter 46 is a new chapter which establishes rules governing the licensure and bonding of Electricity Suppliers in the District of Columbia (“LBES”).<sup>2</sup> The proposed amendments were prompted by the need for enhanced consumer protections in the retail choice market and the Commission’s desire to codify the licensing and bonding requirements for Electric Suppliers in one chapter of the Commission’s rules.

Having reviewed the comments received on the NOPRs, the Commission has determined that a Supplier Education Workshop and a Technical Conference in the above referenced proceedings should be convened prior to the revision of the NOPRs. The Supplier Education Workshop will be a general information session during which the Commission Staff will describe and answer questions about the Commission’s current consumer complaint process, and its current requirements for licensed suppliers. The Commission Staff will also provide a brief summary of the proposed changes to the CBOR and the proposed codification of the licensing rules. All interested natural gas and electric suppliers are invited to attend the workshop.

The Technical Conference will be more narrowly-focused. The purpose of the Technical Conference is to provide an opportunity for further discussion of the proposed amendments and comments to the CBOR and LBES rules with the Commission Staff and interested persons. The subject matter of the Technical Conference will be limited to a discussion of the proposed rules and the comments on the CBOR and LBES NOPRs that were timely filed in the above noted proceedings.

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<sup>1</sup> 61 *D.C. Reg.* 10807-10822 (October 17, 2014).

<sup>2</sup> 62 *D.C. Reg.* 1712-1764 (February 6, 2015).

Both the Supplier Education Workshop and the Technical Conference will be held on August 4, 2015, in the Commission's Hearing Room at 1325 G St., NW, 8<sup>th</sup> Floor, Washington, D.C. 20005. The workshop will begin at 10:00 a.m. The Technical Conference will begin at 11:30 a.m.

**DISTRICT OF COLUMBIA RETIREMENT BOARD**

**INVESTMENT COMMITTEE**

**NOTICE OF CLOSED MEETING**

July 16, 2015  
10:00 a.m.

DCRB Board Room  
900 7<sup>th</sup> Street, N.W.  
Washington, D.C 20001

On Thursday, July 16, 2015, at 10:00 a.m., the District of Columbia Retirement Board (DCRB) will hold a closed investment committee meeting regarding investment matters. In accordance with D.C. Code §2-575(b)(1), (2), and (11) and §1-909.05(e), the investment committee meeting will be closed to deliberate and make decisions on investments matters, the disclosure of which would jeopardize the ability of the DCRB to implement investment decisions or to achieve investment objectives.

The meeting will be held in the Board Room at 900 7<sup>th</sup> Street, N.W., Washington, D.C 20001.

For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or [Deborah.Reaves@dc.gov](mailto:Deborah.Reaves@dc.gov).

**DISTRICT OF COLUMBIA RETIREMENT BOARD****NOTICE OF OPEN PUBLIC MEETING**

July 16, 2015  
1:00 p.m.

900 7<sup>th</sup> Street, N.W.  
2<sup>nd</sup> Floor, DCRB Boardroom  
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, July 16, 2015, at 1:00 p.m. The meeting will be held at 900 7<sup>th</sup> Street, N.W., 2<sup>nd</sup> floor, DCRB Boardroom, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

*Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled.* For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or [Deborah.reaves@dc.gov](mailto:Deborah.reaves@dc.gov).

**AGENDA**

- |       |                                   |                 |
|-------|-----------------------------------|-----------------|
| I.    | Call to Order and Roll Call       | Chairman Bress  |
| II.   | Approval of Board Meeting Minutes | Chairman Bress  |
| III.  | Chairman's Comments               | Chairman Bress  |
| IV.   | Executive Director's Report       | Mr. Stanchfield |
| V.    | Investment Committee Report       | Ms. Blum        |
| VI.   | Operations Committee Report       | Mr. Ross        |
| VII.  | Benefits Committee Report         | Mr. Smith       |
| VIII. | Legislative Committee Report      | Mr. Blanchard   |
| IX.   | Audit Committee Report            | Mr. Hankins     |
| X.    | Other Business                    | Chairman Bress  |
| XI.   | Adjournment                       |                 |

## DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

## NOTICE OF FUNDING AVAILABILITY

DC Main Streets  
(Tenleytown and Van Ness Target Areas)

The Department of Small and Local Business Development is soliciting applications from qualified non-profit organizations that are incorporated in the District of Columbia to **operate two DC Main Streets programs for the Van Ness and Tenleytown commercial corridors in Ward 3.**

The two designated DC Main Streets programs (organizations) will receive \$200,000 each in grant funding and technical assistance to support commercial revitalization initiatives. The Van Ness and Tenleytown Main Streets organizations will develop programs and services to: (1) assist business districts with the retention, expansion and attraction of neighborhood-serving retail stores; and (2) unify and strengthen the commercial corridor. The DC Main Streets grant award is a recurring grant, which can be renewed annually as long as the grantee continues to meet the standards for accreditation by the National Main Street Center.

The grant recipient will be selected through a competitive application process and announced November 16, 2015. Interested applicants must complete an application and submit it electronically via email on or before **Friday, October 2, 2015 at 2:00 p.m.** Applicants submitting incomplete applications will be notified by Monday, October 5, 2015 and will have two business days to upload missing information. Corrected applications are due on October 7, 2015 at 2 p.m. DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be reviewed.**

The Request for Application (RFA) will be posted at [www.dslbd.dc.gov](http://www.dslbd.dc.gov) (click on the Our Programs tab and then Solicitations and Opportunities on the left navigation column) on or before July 24, 2015.

Instructions and guidance regarding application preparation can be found in the RFA. DSLBD will host an Information Session on August 6, 2015 at 3:00 p.m. at DSLBD's office (441 4th Street, NW, #805 South Washington DC 20001). A photo ID is required to enter the building.

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA. For more information, contact Cristina Amoruso, DC Main Streets Coordinator, Office of Commercial Revitalization, Department of Small and Local Business Development at (202) 727-3900 or [DSLBD.grants@dc.gov](mailto:DSLBD.grants@dc.gov).



**SOMERSET PREP DC PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Food Service Management Services**

Somerset Prep DC Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, and snack to children enrolled at the school for the 2015-2016 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast & Lunch. Additional specifications outlined in the Request for Proposals (RFP) such as; student data, days of service, meal quality, etc. may be obtained beginning on Friday, July 10, 2015 by emailing [sspdc\\_bids@somersetprepdc.org](mailto:sspdc_bids@somersetprepdc.org).

**Contact (questions):**

**Email:** [sspdc\\_bids@somersetprepdc.org](mailto:sspdc_bids@somersetprepdc.org)

**Subject:** Attention - Food Supplies Bid

Proposals will be accepted at 3301 Wheeler Rd SE, Washington, DC 20032 on **Wednesday, August 5, 2015** no later than **3 p.m.**

**All bids not addressing all areas as outlined in the RFP will not be considered.**

**THE CHILDREN'S GUILD DC PUBLIC CHARTER SCHOOL**  
**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT**

**Educational Materials**

The Children's Guild DC Public Charter School (CG DC PCS) intends to enter into a sole source contract with the following vendors for the purchase of educational materials. These vendors offer goods and services that exactly meet out specific requirements/needs:

1. Scholastic Classroom and Community Group – Approx. Value - \$47,000
2. School Outfitters – Approx. Value - \$26,000
3. Scholastic – Approx. Value - \$40,000

For further information on the notice please email [willist@childrensguild.com](mailto:willist@childrensguild.com).

**UNIVERSITY OF THE DISTRICT OF COLUMBIA  
REGULAR MEETING OF THE BOARD OF TRUSTEES**

**NOTICE OF PUBLIC MEETING**

The regular meeting of the Board of Trustees of the University of the District of Columbia will be held on Tuesday, July 14, 2015 at 5:00 p.m. in the Board Room, Third Floor, Building 39 at the Van Ness Campus, 4200 Connecticut Avenue, N.W., Washington, D.C. 20008. Below is the planned agenda for the meeting. The final agenda will be posted to the University of the District of Columbia's website at [www.udc.edu](http://www.udc.edu).

For additional information, please contact: Beverly Franklin, Executive Secretary at (202) 274-6258 or [bfranklin@udc.edu](mailto:bfranklin@udc.edu).

**Planned Agenda**

- I.** Call to Order and Roll Call
- II.** Approval of the Minutes
- III.** Action Items
  - a. Resolutions: UDC David A. Clarke School of Law Tenure Approval for Professors Debra Cohen, Andrew Ferguson, and Kristina Campbell
  - b. Resolution: UDC David A. Clarke School of Law Appointment and Tenure Approval for Ronald Mason, Jr.
  - c. University of the District of Columbia 15% Pay Band Adjustment for Associate Professor, Assistant Professor and Instructor Faculty Ranks
  - d. Resolution: Notice of Final Rulemaking, Amendments to Chapter 7, Updating Tuition Rates for AY2016-2017
  - e. Resolution: Board of Trustees Approval of Undocumented Student In-State Tuition Rates and Local Financial Aid Eligibility
  - f. Resolution: Notice of Proposed Rulemaking, Amendment to Chapter 1, Minimum Number of Regular Meetings
  - g. Resolution: Notice of Proposed Rulemaking, Amendment to Chapter 1, Guidelines for Public Testimony/Comment at Public Meetings
  - h. Resolution: Notice of Final Rulemaking, 8B DCMR Chapter 19, Background Checks
  - i. Resolution: Notice of Final Rulemaking, University Rules Regarding Performance Management
- IV.** Report of the Chair – Dr. Crider
- V.** Report of the President – Mr. Mason
- VI.** Committee Reports
  - a. Executive – Dr. Crider
  - b. Committee of the Whole – Dr. Crider
  - c. Academic and Student Affairs – Mr. Wyner
    - i. Alumni Task Force – Mr. Shelton
    - ii. Communications Task Force – Mr. Wilhite
  - d. Audit, Budget and Finance – Mr. Felton

- e. Community College – Dr. Tardd
- f. Operations – Mr. Bell
- VII.** Unfinished Business
- VIII.** New Business
- IX.** Closing Remarks

## **Adjournment**

### *Expected Meeting Closure*

In accordance with Section 2-575 (b) (10) of the D. C. Code, the Board of Trustees hereby gives notice that it may conduct an executive session, for the purpose of discussing the appointment, employment, assignment, promotion, performance, evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials.

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Audit Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Thursday, July 23, 2015, 2015 at 9:30 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at [www.dcwater.com](http://www.dcwater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [lmanley@dcwater.com](mailto:lmanley@dcwater.com).

**DRAFT AGENDA**

- |    |   |                  |
|----|---|------------------|
| 1. | Call to Order   | Chairman         |
| 2. | Summary of Internal Audit Activity -<br>Internal Audit Status | Internal Auditor |
| 3. | Executive Session   | Chairman         |
| 4. | Adjournment   | Chairman         |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY****BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Environmental Quality and Sewerage Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee will be holding a meeting on Thursday, July 16, 2015 at 9:30 a.m. The meeting will be held in the Board Room (4<sup>th</sup> 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](http://www.dewater.com).

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

**DRAFT AGENDA**

- |    |                               |  |
|----|-------------------------------|--|
| 1. | Call to Order                 | Committee Chairperson                          |
| 2. | AWTP Status Updates           | Assistant General Manager,<br>Plant Operations |
|    | 1. BPAWTP Performance         |  |
| 3. | Status Updates                | Chief Engineer                                 |
| 4. | Project Status Updates        | Director, Engineering &<br>Technical Services  |
| 5. | Action Items                  | Chief Engineer                                 |
|    | - Joint Use                   |  |
|    | - Non-Joint Use               |  |
| 6. | Emerging Items/Other Business |  |
| 7. | Executive Session             |  |
| 8. | Adjournment                   | Committee Chairperson                          |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, July 23, 2015 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at [www.dcwater.com](http://www.dcwater.com).

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or [lmanley@dcwater.com](mailto:lmanley@dcwater.com).

**DRAFT AGENDA**

- |    |  |                              |
|----|--|------------------------------|
| 1. | Call to Order                          | Chairman                     |
| 2. | June 2015 Financial Report             | Director of Finance & Budget |
| 3. | Agenda for September Committee Meeting | Chairman                     |
| 4. | Adjournment                            | Chairman                     |

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

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Wednesday, July 8, 2015 at 9:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> 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](http://www.dewater.com).

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

**DRAFT AGENDA**

- |  |                                 |
|--|---------------------------------|
| 1. Call to Order                               | Chairperson                     |
| 2. Government Affairs: Update                  | Government Relations<br>Manager |
| 3. Update on the Compliance Monitoring Program | TBD                             |
| 4. Update on the Workforce Development Program | Contract Compliance Officer     |
| 5. Emerging Issues                             | Chairperson                     |
| 6. Agenda for Upcoming Committee Meeting (TBD) | Chairperson                     |
| 7. Executive Session                           |                                 |
| 8. Adjournment                                 | Chairperson                     |



**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Human Resources and Labor Relations Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will be holding a meeting on Wednesday, July 8, 2015 at 11:00 am. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at [www.dcwater.com](http://www.dcwater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dcwater.com](mailto:لمانley@dcwater.com).

**DRAFT AGENDA**

- |    |                   |                       |
|----|-------------------|-----------------------|
| 1. | Call to Order     | Committee Chairperson |
| 2. | Other Business    |                       |
| 3. | Executive Session | Committee Chairperson |
| 4. | Adjournment       | Committee Chairperson |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY****BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Retail Water and Sewer Rates Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, July 28, 2015 at 9:30 a.m. The meeting will be held in the Board Room (4<sup>th</sup> 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 the DC Water's website at [www.dcwater.com](http://www.dcwater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dcwater.com](mailto:لمانley@dcwater.com).

**DRAFT AGENDA**

- |    |   |                         |
|----|---|-------------------------|
| 1. | Call to Order                                   | Committee Chairman      |
| 2. | Monthly Updates                                 | Chief Financial Officer |
| 3. | Committee Work plan                             | Chief Financial Officer |
| 4. | Other Business                                  | Chief Financial Officer |
| 5. | Agenda for September 22, 2015 Committee Meeting | Committee Chairman      |
| 6. | Adjournment                                     | Chief Financial Officer |

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

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Strategic Planning Committee will be holding a meeting on Thursday, July 16, 2015 at 8:30 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dcwater.com](http://www.dcwater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [lmanley@dcwater.com](mailto:lmanley@dcwater.com).

**DRAFT AGENDA**

- |                                  |                    |
|----------------------------------|--------------------|
| 1. Call to Order                 | Committee Chairman |
| 2. Strategic Plan Implementation | General Manager    |
| 3. Other Business                | Committee Chairman |
| 4. Adjournment                   | Committee Chairman |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Water Quality and Water Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Water Quality and Water Services Committee will be holding a meeting on Thursday, July 16, 2015 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> 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](http://www.dewater.com).

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

**DRAFT AGENDA**

- |    |                                |  |
|----|--------------------------------|--|
| 1. | Call to Order                  | Committee Chairperson                    |
| 2. | Water Quality Monitoring       | Assistant General Manager, Consumer Ser. |
| 3. | Action Items                   | Assistant General Manager, Consumer Ser. |
| 4. | Emerging Issues/Other Business | Assistant General Manager, Consumer Ser  |
| 5. | Executive Session              |  |
| 6. | Adjournment                    | Committee Chairperson                    |

**D.C. BOARD OF ZONING ADJUSTMENT****Chairman's Motion and Follow-up Announcement for Closed Meetings for  
Legal Advice and Deliberating but Not Voting****Month of *JULY* 2015 Roll Call Vote**

“In accordance with Section 405(c) of the Open Meetings Act, D.C. Official Code Section 2-575(c), I move that the Board of Zoning Adjustment hold closed meetings on the Mondays of:

- July 6th;
- July 13th;
- July 20th; and
- July 27th.

These meetings start at 4:00 p.m. and are held for the purpose of obtaining legal advice from our counsel and deliberating upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting. Those cases are identified on the Board's public hearing agendas for:

- July 7th;
- July 14th;
- July 21th;and
- July 28th.

A closed meeting for these purposes is permitted by Sections 405(b)(4) and (b)(13) of the Act.

Is there a second?

(Once Seconded): Will the Secretary please take a roll call vote on the motion?

(As it appears the Motion has passed): I request that the Office of Zoning provide notice of these closed meetings in accordance with the Act.

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

**Application No. 17606-E of Dakota Points LLC, Motion of Fort Totten South<sup>1</sup> for a Fourth Two-Year Extension of BZA Order Nos. 17606 and 17606-A, pursuant to § 3130 of the Zoning Regulations.**

The original application (No. 17606) was pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure uniform height provisions under § 411, to construct a four-story residential building in the C-2-A District at premises 5545-5549 South Dakota Avenue, N.E. (Square 3760, Lot 10) and 5553-5575 South Dakota Avenue, N.E. (Parcel 137/86).

<b>HEARING DATE (Orig. Application):</b>	May 8, 2007
<b>DECISION DATE (Orig. Application):</b>	May 8, 2007
<b>FINAL ORDER ISSUANCE DATE (No. 17606):</b>	May 9, 2007
<b>FINAL DATE OF CORRECTED ORDER (No. 17606-A):</b>	May 9, 2007
<b>DECISION ON 2009 MOTION FOR EXTENSION:</b>	March 24, 2009
<b>FINAL DATE OF ORDER ON 1<sup>ST</sup> EXTENSION MOTION (No. 17606-B):</b>	April 7, 2009
<b>DECISION ON 2011 MOTION FOR EXTENSION:</b>	April 12, 2011
<b>FINAL DATE OF ORDER ON 2<sup>ND</sup> EXTENSION MOTION (No. 17606-C):</b>	June 19, 2011
<b>DECISION DATES ON 2013 MOTION FOR EXTENSION:</b>	April 23 and May 7, 2013
<b>FINAL DATE OF ORDER ON 3<sup>RD</sup> EXTENSION MOTION (No. 17606-D):</b>	May 22, 2013
<b>DECISION DATE ON MOTION FOR 4<sup>TH</sup> EXTENSION:</b>	June 16, 2015

**ORDER ON FOURTH MOTION TO EXTEND  
THE VALIDITY OF BZA ORDER NOS. 17606 AND 17606-A**

The Underlying BZA Orders

On May 8, 2009, the Board of Zoning Adjustment (the “Board” or “BZA”) approved the application for a special exception from the roof structure uniform height provisions under § 411, to construct a four-story residential building in the C-2-A District at premises 5545-5549 South Dakota Avenue, N.E. (Square 3760, Lot 10) and 5553-5575 South Dakota Avenue, N.E. (Parcel 137/86) (the “Subject Property”). On May 9, 2007, the Board issued Summary Order No. 17606, as well as Corrected Summary Order No. 17606-A<sup>2</sup>, granting special exception relief from the roof structure requirements of § 411

<sup>1</sup> Fort Totten South is the current property owner (“Property Owner” or “Applicant” or “Movant”) and the successor in interest to Dakota Points LLC which was the original Applicant.

<sup>2</sup> Because of a minor error in the caption of the order (BZA Order No. 17606), the Board issued a corrected summary order (BZA Order No. 17606-A) to accurately reflect that the proposal was for a four-story residential building, and not a four-unit residential building. The corrected order was in all other respects

**BZA APPLICATION NO. 17606-E****PAGE NO. 2**

of the Zoning Regulations to construct a four-story residential building in the C-2-A District. (Exhibits 36 and 38, Case No. 17606.)

Pursuant to 11 DCMR §§ 3125.5 and 3125.9, the Order became “final” on that date and took effect 10 days later. Under the corrected Order, and pursuant to § 3130.1<sup>3</sup> of the Zoning Regulations, the Order was valid for two years from the time it was issued – until May 9, 2009.

Prior Time Extensions of BZA Order Nos. 17606 and 17606-A

The Applicant has requested, and the Board has granted for good cause, three prior time extensions on this project: Order No. 17606-B (March 24, 2009) (Exhibit 42, Case No. 17606), Order No. 17600-B / 17606-C<sup>4</sup> (July 19, 2011) (Exhibit 47, Case No. 17606), and Order No. 17606-D (May 22, 2013) (Exhibit 58, Case No. 17606). On March 24, 2009, by Order No. 17606-B, the Board extended the Order until May 9, 2011. On July 19, 2011, by Order No. 17606-C, the Board extended the previous orders until May 9, 2013. Also, on May 22, 2013, by Order No. 17606-D, the Board extended the validity of the Order in Case No. 17606 until May 9, 2015.

2015 Request to Extend Validity of Order Nos. 17606 and 17606-A

On May 8, 2015, the Applicant submitted a request to the Board, pursuant to 11 DCMR § 3130.6, for a two-year extension of the expiration date of Order Nos. 17606 and 17606-A (the “Order”). The Applicant requested that the Board extend the validity of the Order by a period of two years until May 9, 2017. This request for extension is pursuant to § 3130.6 of the Zoning Regulations, which permits the Board to extend the time periods in § 3130.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Criteria for Evaluating Motion to Extend

Subsection 3130.6 of the Zoning Regulations authorizes the Board to extend the time periods for good cause provided: (i) the extension request is served on all parties to the application by the applicant, and all parties are allowed 30 days in which to respond; (ii) there is no substantial change in any of the material facts upon which the Board based its original approval; and (iii) the applicant demonstrates there is good cause for such

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identical to BZA Order No. 17606, including its final date of May 9, 2007 (BZA Order No. 17606-A (the “Order”).)

<sup>3</sup> Subsection 3130.1 states:

No order authorizing the erection or alteration of a structure shall be valid for a period longer than two (2) years, or one (1) year for an Electronic Equipment Facility (EEF), unless, within such period, the plans for the erection or alteration are filed for the purposes of securing a building permit, except as permitted in § 3130.6.  
(11 DCMR § 3130.1.)

<sup>4</sup> Order No. 17600-B / 17606-C pertained to both Fort Totten North and South.

**BZA APPLICATION NO. 17606-E****PAGE NO. 3**

extension. Pursuant to 11 DCMR § 3130.6(c)(1), good cause is established through the showing of substantial evidence of one or more of the following criteria:

1. An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;
2. An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or
3. The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

(11 DCMR § 3130.6.)

*Background.*

In its motion, the Applicant summarized the project, thusly: The Fort Totten development consists of two related projects separated by Riggs Road, N.E.: Fort Totten North and Fort Totten South. The subject of this time extension motion is Fort Totten South. However, the two projects were intended to be built in two phases with Fort Totten North being built first before Fort Totten South was built. Both projects received BZA approval in 2007. The Applicant indicated that Fort Totten North is almost completed.

In 2006, the District Department of Transportation (“DDOT”) began the process of a project to realign and improve the intersection at South Dakota Avenue and Riggs Road, affecting both Fort Totten North and South. DDOT significantly completed this project in 2012. The Fort Totten South site (the “Subject Property”), originally had frontage on South Dakota Avenue, but the realignment resulted in the creation of another parcel of developable land adjacent to the Subject Property where the road had been previously. This parcel, which is currently publicly owned, is known as the Triangle Parcel.

The record shows that since 2007, this second parcel of land has been intended by DMPED, DDOT, and the Applicant to be developed simultaneously as part of the Fort Totten South project, so that Fort Totten South will include the Subject Property and the second parcel. The consolidation of the two parcels will allow for a larger project that would provide many benefits to the community, including affordable housing as part of a mixed-income residential community, neighborhood-serving retail along Riggs Road, and more active, walkable streets in this central location within the Fort Totten neighborhood. However, for that to be possible, the second parcel first must be transferred to the Applicant through the appropriate public disposition process. (Exhibits 1 and 1C, Case No. 17606-E.)

*The Merits of the Request to Extend the Validity of the Order Pursuant to 11 DCMR § 3130.6*



**BZA APPLICATION NO. 17606-E****PAGE NO. 4**

The Motion was submitted on May 8, 2015 which was prior to the then expiration date of May 9, 2015. The Board finds that the request was timely as it was made before the underlying approval expired, per the requirements of 11 DCMR § 3130.6.

In its Motion, the Applicant indicated that it had met the service requirements of § 3130.6(a) and that there are no material changes to the facts, as required by § 3130.6(b).

To establish good cause for the request, the Applicant submitted a letter dated May 8, 2015, that stated the reasons the Applicant was requesting a time extension. The Applicant cited several factors beyond its control that prevented it from moving forward with the project. The Applicant argued that a confluence of factors contributed to the “good cause” necessary to extend the Order, including:

- (1) The delay of DDOT's reconfiguration of the intersection of Riggs Road, South Dakota Avenue, and 3rd Street, N.E.;
- (2) The phased nature of the Fort Totten redevelopment;
- (3) Ongoing property acquisition negotiations; and
- (4) Economic and market conditions.

(Exhibits 1-1G, Case No. 17606-E.)

The Applicant stated that it was requesting a two-year extension of Order Nos. 17606 and 17606-A for the following reasons:

- The intersection realignment was a massive infrastructure improvement that took a significant amount of time to complete;
- The extended time for completion of the intersection realignment deferred the Applicant's ability to commence work on Fort Totten North. Since Fort Totten North was the first of the two phases, the start of Fort Totten South was subsequently deferred. Fort Totten North, which includes approximately 350 apartment units, a Wal-Mart, and additional neighborhood serving retail, is nearing completion and is expected to deliver in the summer of 2015;
- The Applicant's and DMPED's discussions regarding the transfer of the parcel created by the intersection realignment are progressing, but the disposition process is complex and a significant amount of time is required from all stakeholders to ensure the goals of the District are properly served. The extension is necessary to ensure that the Triangle Parcel and the Subject Property are developed together in a unified manner; and
- With the introduction of Fort Totten North and several nearby rental projects, the Applicant has recognized a greater need for for-sale housing, as opposed to additional rental product, in the neighborhood. The Applicant is now reconfiguring its program to account for this change by modifying the plans for

**BZA APPLICATION NO. 17606-E****PAGE NO. 5**

Fort Totten South to for-sale units, which the Applicant believes will improve the neighborhood by enhancing the diversity of housing options.

If the extension is granted, the Applicant has stated that it intends later this year to submit applications to the BZA to: 1) modify the currently approved plans for the Subject Property, and 2) seek approval of plans for the Triangle Parcel.

The Applicant is seeking an extension of the validity of the Order as the result of the confluence of factors that have slowed its project, and the Applicant believes that together, these factors constitute the "good cause" necessary for the Board to extend the Fort Totten South Orders. To support its argument and demonstrate good cause, the Applicant submitted to the record:

- (1) News articles regarding the Fort Totten redevelopment (Exhibits 1A and 1E, Case No. 17606-E);
- (2) Site plans, and street realignment plans (Exhibits 1B, 1D, and 1G, Case No. 17606-E);
- (3) Letter from the Deputy Mayor for Planning and Economic Development ("DMPED")(Exhibit 1C, Case No. 17606-E); and
- (4) Affidavit from the developer (Exhibit 1F, Case No. 17606-E).

*DDOT's Intersection Reconfiguration*

The Board finds that the extended period for the DDOT's extensive reconfiguration of the intersection of Riggs Road, South Dakota Avenue and 3rd Street, N.E. is a factor beyond the Applicant's reasonable control that meets the good cause requirement of § 3130.6(c). The changes in the road configurations were a complex infrastructure project that took a long time to complete, and which, ultimately, delayed the Applicant's ability to proceed with the Fort Totten South project. The road reconfiguration was not completed until 2012, at which time the Fort Totten North project was able to commence construction. The Applicant stated that it initially had expected that it would be able to begin construction of the Fort Totten North project in 2010, when DDOT had anticipated completion of the road realignment. However, the road realignment took two years longer than expected, which deferred the commencement of the Fort Totten North project. The development team had to wait to commence construction on Phase 1 until the new roads were operational. Ultimately, Phase 1 was delayed by three years, which had a cascading effect of delaying Phase 2.

*Planned Phasing of Fort Totten Development*

The Board finds that the phased nature of the broader overall Fort Totten redevelopment effort and the resultant delays in a phase that, by design, preceded the Fort Totten South project constitute an additional good cause reason for granting this extension request. Since 2007, the redevelopment of Fort Totten North had been intended to precede the project at Fort Totten South. All of the planning and underwriting for the two Fort Totten projects included this phasing. The Fort Totten North and Fort Totten South projects were

**BZA APPLICATION NO. 17606-E****PAGE NO. 6**

approved by separate BZA orders, although the cases were considered together. The Board credits the Applicant's statement that it would not have been reasonable or prudent, given the Fort Totten market, for both phases to proceed to construction and then deliver simultaneously, making it necessary to delay the Fort Totten South project until after the Fort Totten North project was well underway or completed. However, plans to redevelop Fort Totten North were delayed by the extended completion of the intersection realignment. Phase 1 is now under construction and is nearing completion, as described in the news article in Exhibit 1A of the record of Case No. 17606-E. Unfortunately, the delayed start of Fort Totten North had a domino effect, setting back the plans for Fort Totten South. The development of Fort Totten South cannot begin until Phase 1 is complete, thus necessitating this time extension request.

*Acquisition of Public Parcel and Design of Phase 2- Ongoing Negotiations*

Now that Phase 1 is nearly complete<sup>5</sup>, the Applicant and its affiliates want to proceed with Phase 2 (Fort Totten South) as soon as possible and prudent. However, the Applicant asserts that delays beyond the Applicant's control regarding the ownership of the project site constitute good cause for granting of this time extension request. The Board finds this to be an additional factor to meet the good cause requirement.

The Applicant already controlled the Fort Totten North parcel and the Subject Property and had a project planned when the District decided to improve the intersection of Riggs Road and South Dakota Avenue, N.E. The realignment of the intersection resulted in a new publicly owned parcel (the "Triangle Parcel") adjacent to the privately owned Subject Property. The prior street alignment with the Subject Property fronting on South Dakota Avenue and the Triangle Parcel are shown in Exhibit 1B, Case No. 17606-E.

Together, the Subject Property and the Triangle Parcel comprise the totality of the land that will contain the Fort Totten South development. Since at least 2007, when it became apparent that the Triangle Parcel would be created, both the Property Owner and the District of Columbia have intended that Fort Totten South would include the Triangle Parcel. However, the Fort Totten South Orders govern only the Subject Property and not the Triangle Parcel, so the Applicant intends to file a separate application with the Board for the portion of the Fort Totten South project that will be on the Triangle Parcel.

The Applicant, DDOT, and DMPED have been working in good faith for several years to dispose of the Triangle Parcel, and the parties have made significant progress. However, the disposition of public land is an understandably complex process that takes time. It is important that the goals of the District are achieved through the transfer of public land, so all parties must consider many factors in the discussions regarding the Land Disposition Agreement ("LDA") that will allow the Applicant to take title. As the letter from DMPED in the record explains, (Exhibit 1C, Case No. 17606-E), this has resulted in a process that is productive but ongoing and not yet completed.

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<sup>5</sup> Fort Totten North was approved pursuant to BZA Order No. 17660, as extended.

**BZA APPLICATION NO. 17606-E****PAGE NO. 7**

Once the Applicant takes title to the Triangle Parcel, it plans to combine it with the Subject Property to become one parcel for the entire Fort Totten South project, as shown in Exhibit 1D, Case No. 17606-E. The Fort Totten South development will be designed, constructed, and will have the appearance of a single project seamlessly spanning both parcels. The LDA negotiations must be completed and the Applicant must be able to take title to the Triangle Parcel before it can proceed with the Fort Totten South project. The Board credits the Applicant's statement that no prudent developer would construct half of an integrated project with title to the other half unresolved and thus finds that title to the Triangle Parcel is essential to allowing the construction of the entire Fort Totten South project as one.

In addition, the Applicant has indicated that due to changes in the market conditions (described below), the Applicant must modify the plans approved in the Fort Totten South Orders. The Applicant plans to submit a modification request as soon as practical, but until resolution of the LDA and certainty about the title of the Triangle Parcel is reached, the Applicant stated that it cannot proceed with changing its plans and filing such an application.

*Economic and Market Conditions*

According to the Applicant, while delayed phasing and ongoing negotiations with DMPED posed the main impediment to pursuing the development approved under the Fort Totten South Orders, ongoing challenges with market conditions have also contributed to the delay. Thus, difficulty with changing market conditions constitutes another independent condition beyond the Applicant's reasonable control that the Applicant says supports the Board's finding that good cause exists to grant the extension request.

The neighborhood residential submarket has changed from when the Fort Totten South was first designed and approved. As designed and approved, the Fort Totten South is a rental apartment building, and with a reasonable horizon at the time, the Applicant expected a market appropriate for that product. However, a glut of rental apartments has recently been delivered in the Fort Totten submarket, as described in the news article in the record at Exhibit 1E, Case No. 17606-E. The Applicant now plans to offer a for-sale residential project, because, as described in the developer's affidavit in the record at Exhibit 1F, Case No. 17606-E, the market is much more receptive to for-sale units. This change in ownership type also necessitates a modification to the plans to make the units suitable for a sale, as opposed to rental.

*Good Faith Effort to Move Forward*

When evaluating this extension request, the Board also has considered the Applicant's and its affiliates' good faith and diligent efforts to move forward with development on the Subject Property. The Applicant has indicated that it has every intention of proceeding with this project, and it indicated that it has recently engaged in a redesign of the plans to allow the project to proceed in response to current market demands for for-sale housing

**BZA APPLICATION NO. 17606-E****PAGE NO. 8**

in this neighborhood. The Board's approval of this time extension request will give the Applicant time to finish plans that it intends to submit soon as a modification application. Concept plans for the proposed modification are in the record at Exhibit 1G, Case No. 17606-E.

Based on the foregoing, the Board finds that the Applicant has demonstrated good faith efforts to progress towards building permits to the extent possible at this time. This good faith effort to proceed is evidenced by construction being nearly complete on the Fort Totten North parcel. Also, the good faith effort is shown by that fact that the Applicant has continued to perform site studies and to prepare the Fort Totten South site for construction. The Board credits the Applicant's assertion of good faith and that the Applicant has no advantage to sitting on a vacant parcel of land. The Applicant has demonstrated a great interest in seeing the Fort Totten North and Fort Totten South projects through to completion as planned. The Board finds that approval of the extension request will make completing the Fort Totten South project possible.

*The Extensions Meet the Requirements of §§ 3130.6(a), (b), and (c)*

The Board finds that the Applicant provided sufficient evidence of the requirements of the regulation to support the approval of the requested extensions as described below.

*Extension Request Served on All Parties to the Application*

The Applicant stated that the extension request was served simultaneously on all parties to the original application for BZA Case No. 17606, which included only the Office of Planning ("OP") and Advisory Neighborhood Commission ("ANC") 4B. The application for an extension contained a Certificate of Service indicating that it was served on all parties. (Exhibit 1, Case No. 17606-E.)

Also, as required by the regulation, the parties to the application were allowed 30 days to respond to this request.

*No Substantial Change to Any of the Material Facts*

There has been no substantial change in any of the material facts relating to the case. Based on the record, the factors satisfying the special exception relief for the Subject Property remain as they were for the Board's approval of the requested relief. Regarding the special exception relief under the Fort Totten South Orders, the roof structure relief is still in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and does not affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

The Board finds that the Applicant's motion has met the criteria of § 3130.6 for extending the validity of the underlying order. To meet the burden of proof, the Applicant submitted a letter and supporting documents and information that described the factors

**BZA APPLICATION NO. 17606-E****PAGE NO. 9**

beyond its control that prevented it from moving forward with the project, as described above. (Exhibits 1-1G, Case No. 17606-E.)

Given the totality of the conditions and circumstances described above in the Applicant's letter and other supplemental information that was provided, the Board finds that the Applicant satisfied the "good cause" required under § 3130.6. And, despite the challenges the Applicant described in its submissions, the Applicant demonstrated that it has acted diligently, prudently, and in good faith to proceed towards the implementation of the Order's approval.

The Board finds that the Applicant has met the criteria set forth in 11 DCMR § 3130.6. The reasons given by the Applicant were beyond the Applicant's reasonable control within the meaning of § 3130.6(c)(3) and constitute "good cause" required under § 3130.6(c)(1). In addition, as required by § 3130.6(b), the Applicant demonstrated that there is no substantial change in any of the material facts upon which the Board based its original approval in Order Nos. 17606 and 17606-A. There have also been no changes to the Zone District classification applicable to the Site or to the Comprehensive Plan affecting the Site since the issuance of the Board's order.

The Office of Planning ("OP"), in its report dated June 5, 2015, reviewed the application for the extension of the Order for "good cause" pursuant to 11 DCMR § 3130.6 and recommended approval of the requested two-year extension. (Exhibit 3, Case No. 17606-E.) The Site is within the boundaries of Advisory Neighborhood Commission ("ANC") 4B. The ANC did not submit a report with regard to the request for a time extension.

The motion for the time extension was served on all the parties to the application and those parties were given 30 days in which to respond under § 3130.6(a). No party to the application objected to an extension of the Order. The Board concludes that extension of the relief is appropriate under the current circumstances.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirements of 11 DCMR § 3125.3, which requires that the order of the Board be accompanied by findings of fact and conclusions of law. Pursuant to 11 DCMR § 3130, the Board of Zoning Adjustment hereby **ORDERS APPROVAL** of Case No. 17606-E for a two-year time extension of Order Nos. 17606 and 17606-A, which Order shall be valid until **May 9, 2017**, within which time the Applicant must file plans for the proposed project with the Department of Consumer and Regulatory Affairs for the purpose of securing a building permit.

**VOTE:**           **3-1-1** (Lloyd J. Jordan, Jeffrey L. Hinkle, and Marnique Y. Heath to APPROVE; Marcie I. Cohen, OPPOSED; one Board seat vacant).

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

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

**FINAL DATE OF ORDER:** June 26, 2015

**BZA APPLICATION NO. 17606-E**  
**PAGE NO. 10**

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

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

**Application No. 18897 of Julian Hunt and Lucrecia Laudi**, pursuant to 11 DCMR § 3103.2, for variances from the nonconforming structure requirements under § 2001.3, the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1, to allow construction of an addition to an existing single family dwelling and conversion to a flat in the DC/R-4 District at premises 1504 Swann Street, N.W. (Square 191, Lot 817).

**HEARING DATES:** January 13, 2015, February 10, 2015, March 24, 2015, May 5, 2015, and June 16, 2015  
**DECISION DATE:** June 16, 2015

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 3.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a resolution in support of the application dated December 17, 2014. The ANC’s resolution indicated that at a duly noticed and scheduled public meeting on December 10, 2014, at which a quorum was in attendance, the ANC voted 6-0 in support of the application. (Exhibit 50.) The Office of Planning (“OP”) submitted a report stating that it does not oppose the application. (Exhibits 28 and 30.) The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 24.) Fourteen letters from neighbors in support were filed in the record. (Exhibits 32 – 45.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from §§ 2001.3, 403.2, and 404.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 2001.3, 403.2, and 404.1, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a



**BZA APPLICATION NO. 18897**  
**PAGE NO. 2**

practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 6 AND THE FOLLOWING CONDITION:**

1. The Applicant shall have design flexibility to change approved plans based on Historic Preservation Review Board (“HPRB”) review, provided that there is no new zoning relief required or any increase in the approved relief.

**VOTE:**           **4-0-1**           (Lloyd J. Jordan, Marcie I. Cohen, Marnique Y. Heath, and Jeffrey L. Hinkle to Approve, one Board seat vacant).

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

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

**FINAL DATE OF ORDER:** June 25, 2015

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

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

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR

**BZA APPLICATION NO. 18897**  
**PAGE NO. 3**

THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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

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

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

**Application No. 18974 of Jarek Mika**, as amended,<sup>1</sup> pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements under § 401.3, to allow the conversion of an existing building to a three-unit apartment building in the R-4 District at premises 3209 13th Street, N.W. (Square 2844, Lot 818).

**HEARING DATES:** April 14, 2015, May 12, 2015, and June 16, 2015  
**DECISION DATE:** June 16, 2015

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 and 31.)

The Board of Zoning Adjustment (the “Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission (“ANC”) 1A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on June 10, 2015, at which a quorum was in attendance, ANC 1A voted 6-2-2 to not object to the application. (Exhibit 43.)

The Office of Planning (“OP”) submitted a timely report and testified at the hearing that it is not opposed to the application. (Exhibit 29.) The District Department of Transportation (“DDOT”) filed a timely report expressing no objection to the approval of the application. (Exhibit 30.) Two letters from three neighbors were submitted in support of the application (Exhibits 37 and 41.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance

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<sup>1</sup>The Applicant originally filed an application for a use variance from the provisions under § 330.5(e). (Exhibit 4.) At the hearing on June 16<sup>th</sup>, the Chair of the Board asked the Applicant’s agent if the application had been amended to an area variance, to which the Applicant’s agent responded in the affirmative. He said that he had provided a new burden of proof for an area variance in the pre-hearing statement. However, the Applicant’s pre-hearing statement provides an analysis of an area variance under § 401.3 without actually saying that the application was seeking that relief. (Exhibit 35.) The Applicant also submitted the first page of an amended self-certification, citing both a use and an area variance, both under § 330.5. (Exhibit 31.) The Office of Planning analyzed the case as one for an area variance under § 401.3. The Board found that the amended application was for as an area variance under § 401.3, accepting the Applicant’s intent to amend the relief as testified on the record. The caption has been changed accordingly.

**BZA APPLICATION NO. 18974****PAGE 2**

under § 3103.2, from the strict application of the lot area requirements under § 401.3, to allow the conversion of an existing building to a three-unit apartment building in the R-1-4 District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11DCMR §§ 3103.2 and 401.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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

It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 38.**

**VOTE:**           **4-0-1** (Lloyd J. Jordan, Marcie I. Cohen, Marnique Y. Heath, and Jeffrey L. Hinkle to APPROVE; one Board seat vacant).

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

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

**FINAL DATE OF ORDER:** June 29, 2015

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

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

**BZA APPLICATION NO. 18974****PAGE 2**

MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

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

**Application No. 18992 of Congressional 1015 E Street, LLC**, as amended,<sup>1</sup> pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 772.1, the court width requirements under § 776.3, the closed court requirements under § 776.4, and the nonconforming structure requirements under § 2001.3(b)(2), to allow the renovation and expansion of an existing building to create a five-unit apartment building in the CHC/C-2-A District at premises 105 E Street S.E. (Square 973, Lot 813).

**HEARING DATE:** May 5, 2015

**DECISION DATE:** June 16, 2015

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3A2.) The zoning relief requested was subsequently amended, based on revised plans filed by the Applicant. (Exhibit 41.)

The Board of Zoning Adjustment (the “Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission (“ANC”) 6B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report indicating that at its regularly scheduled and properly noticed public meeting of April 20, 2015, at which a quorum was in attendance, ANC 6B voted 6-3-1 to take no position regarding the application. (Exhibit 22).

The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the application. (Exhibit 26.) The District Department of Transportation (“DDOT”) filed a report expressing no objection to the approval of the application. (Exhibit 42.)

In advance of the Board’s public hearing on May 5, 2015, 13 letters in opposition from neighbors were submitted to the record. (Exhibits 17, 19-21, 23-25, 27, 28, 30, 34, 35, and 37.) A letter from an Advocacy Associate with Casey’s Trees submitted a letter raising concerns regarding potential damage to a nearby elm tree. (Exhibit 31.) Two letters from Pitchford Associates were

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<sup>1</sup> The Applicant’s original request was for variance relief from the side yard requirements under § 775.5, and the nonconforming structure requirements under § 2001.3(b)(2). The Applicant requested an amendment to the relief requested in its statement under Exhibit 41, in conjunction with revised plans filed under Exhibit 41B.

**BZA APPLICATION NO. 18992**  
**PAGE NO. 2**

filed to the record providing an arborist's opinion on how the proposed construction might affect the critical root zones of nearby trees. (Exhibits 32 and 33.)

During the hearing, three neighbors, Janet Crowder, Michael Ford, and Neil Rhodes, testified in opposition to the application. Michael Ford also presented a shadow study that was submitted to the record. (Exhibit 38A.) Gary Peterson of Capitol Hill Restoration Society was unable to testify in person at the hearing, but submitted written testimony indicating that Capitol Hill Restoration Society voted to support variance relief for the existing nonconforming side yard, but voted to oppose the variance for the extension of the side yard. (Exhibit 39.)

In response to concerns raised at the hearing, the Applicant submitted revised plans, accompanied by a request to amend the relief requested. (Exhibits 41 and 41B.) The filings also included a letter signed by the three neighbors who testified in opposition, expressing their support for the revised plans. (Exhibit 41A.) After the Applicant presented revised plans to the ANC, it submitted a supplemental report indicating that at its regularly scheduled and properly noticed public meeting on June 9, 2015, at which a quorum was in attendance, ANC 6B voted 9-0 in support of the amended application. (Exhibit 43). Also in response to the revised plans, OP submitted a supplemental report on June 15, 2015, indicating that it recommends approval of the amended relief. (Exhibit 44.) Three neighbors filed letters raising concerns about how the proposed development would affect nearby trees. (Exhibits 45 – 47.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for variances under § 3103.2, from the strict application of lot occupancy requirements under § 772.1, the court width requirements under § 776.3, the closed court requirements under § 776.4, and the nonconforming structure requirements under § 2001.3(b)(2), to allow the renovation and expansion of an existing building to create a five-unit apartment building in the CHC/C-2-A District. The only parties to the case were the ANC which was in support and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11DCMR §§ 3103.2, 772.1, 776.3, 776.4, and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or undue hardship for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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

**BZA APPLICATION NO. 18992**  
**PAGE NO. 3**

It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 41B.**

**VOTE: 4-0-1** (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath, and Anthony J. Hood<sup>2</sup> to APPROVE; one Board seat vacant.)

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

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

**FINAL DATE OF ORDER:** June 26, 2015

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

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

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR,

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<sup>2</sup> Chairman Hood voted by absentee ballot.



**BZA APPLICATION NO. 18992****PAGE NO. 4**

RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**Application No. 18995 of Rokas Reipa**, as amended, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the rear yard requirements under § 404.1, the side yard setback requirements under § 405.9, the court requirements under § 406.1, and the non-conforming structure requirements under § 2001.3, to allow the expansion of an existing one-story garage into a two-story garage with accessory apartment and covered walkway to the dwelling in the R-4 District at premises 1254 Florida Avenue N.E. (Square 4069, Lot 15).<sup>1</sup>

**HEARING DATES:** May 12, 2015<sup>2</sup> and June 16, 2015  
**DECISION DATE:** May 12, 2015

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.) The Applicant later amended the application to add relief from the open court minimum requirements under 11 DCMR § 406.1. (Exhibit 36.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 5D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. The ANC did not submit a report regarding the application. The Applicant testified at the June 16<sup>th</sup> hearing that it had presented the project at an ANC meeting and that the full ANC had voted in support of the project.

The Office of Planning ("OP") submitted a timely report recommending approval of the application (Exhibit 32) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a report of no objection. (Exhibit 33.)

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<sup>1</sup> The Applicant amended the application to add relief from the open court minimum requirements under 11 DCMR § 406.1. (Exhibit 36.)

<sup>2</sup> At the May 12<sup>th</sup> public hearing, the Applicant testified that it had not been able to present before the full ANC and the Board continued the hearing to allow time for the ANC to review the application and provide its input. Also at that hearing, the Board heard testimony from an adjacent neighbor who raised concerns about the fence between the properties. The Board requested that the Applicant work with the neighbor to address the neighbor's concerns and conduct a sun study. The Applicant submitted a letter as well as testified at the June 16<sup>th</sup> hearing and indicated that, it had worked to address the neighbor's issues by removing the tall section of the fence. (Exhibit 38.)

BZA APPLICATION NO. 18995  
PAGE NO. 2

Seven letters in support were submitted by neighbors. (Exhibits 21-23, 27-29, and 31.) One neighbor testified in opposition, but according to the Applicant's testimony, that neighbor's concerns were resolved.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the rear yard requirements under § 404.1, the side yard setback requirements under § 405.9, the court requirements under § 406.1, and the non-conforming structure requirements under § 2001.3, to allow the expansion of an existing one-story garage into a two-story garage with accessory apartment and covered walkway to the dwelling in the R-4 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, 404.1, 405.9, 406.1, and 2001.3 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7**.

**VOTE:**           **4-0-1** (Lloyd L. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Marcie I. Cohen<sup>3</sup> to Approve; one Board seat vacant.)

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

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

**FINAL DATE OF ORDER:** June 26, 2015

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

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<sup>3</sup> Board Member Cohen announced that she had read the full record to participate in this case.

BZA APPLICATION NO. 18995

PAGE NO. 3

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

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

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

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

**Application No. 19008 of Joe and Joyce Hezir**, as amended<sup>1</sup> pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the side yard requirements under § 405, and the non-conforming structure requirements under § 2001.3, to allow a two-story rear addition to an existing three-story, one-family dwelling in the R-3 District at premises 2907 P Street, N.W. (Square 1268, Lot 810).

**HEARING DATE:** Applicant waived right to a public hearing

**DECISION DATE:** June 16, 2015 (Expedited Review Calendar).

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 31 (amended).)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the expedited review calendar of the Board of Zoning Adjustment (the “Board”) for decision without hearing as a result of the applicant’s waiver of its right to a hearing. (Exhibit 2.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 2E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on May 4, 2015, at which a quorum was in attendance, ANC 2E voted 8-0 to support the application. (Exhibit 30.)

The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the application. (Exhibit 34.) The District Department of Transportation (“DDOT”) submitted a report of no objection to the application. (Exhibit 36.) Three neighbors of the Applicant filed letters in support of the application. (Exhibits 26-28.)

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

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<sup>1</sup>The Applicant initially filed for special exception relief under § 223 for a rear addition not meeting the lot occupancy requirements of § 403.2. (Exhibit 5.) Subsequently, the Applicant filed a revised application and Self-Certification form requesting relief from the non-conforming structure requirements under § 2001.3 and from the side yard requirements under § 405 (Exhibit 31), in addition to the relief initially requested. The caption has been changed accordingly.

**BZA APPLICATION NO. 19008**  
**PAGE NO. 2**

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223, 403.2, 405, and 2001.3. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, 405, and 2001.3, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7.**

**VOTE:**           **4-0-1** (Lloyd J. Jordan, Marcie I. Cohen, Marnique Y. Heath, and Jeffrey Hinkle to APPROVE; one Board seat vacant).

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

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

**FINAL DATE OF ORDER:** June 26, 2015

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

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

**BZA APPLICATION NO. 19008**  
**PAGE NO. 3**

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

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

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

**Application No. 19014 of Gary A. Robinson II**, pursuant to 11 DCMR § 3103.2, for a variance from the alley width requirements under § 2507.3, to allow the alteration and conversion of an existing non-residential building into a one-family dwelling on an alley lot where the alley is less than 30 feet in width in the CAP/R-5-B District at premises 320-Rear 3rd Street N.E. (Square 756, Lot 826).

**HEARING DATE:** June 16, 2015  
**DECISION DATE:** June 16, 2015

**SUMMARY ORDER**

**SELF-CERTIFIED**

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

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 6C and to owners of property within 200 feet of the site.

The site of this application is located within the boundaries of ANC 6C, which is an automatic party to this application. ANC 6C submitted a report noting that at a duly noticed meeting on June 10, 2015, with a quorum present, it voted 6-0 in support of the application. (Exhibit 34.) The Office of Planning (“OP”) filed a report recommending that the relief should be deemed a use variance under § 2507.1 and that it could not support the requested variance relief because it did not find a nexus between the exceptional and extraordinary conditions inherent in the property and the practical difficulty those conditions created in complying with the 30-foot alley width requirement. (Exhibit 32.) The D.C. Department of Transportation submitted a report expressing no objection to the application. (Exhibit 33.) The D.C. Department of Housing and Community Development submitted a letter in support of the application. (Exhibit 26.) Eight property owners in the immediate area signed a letter in support of the application. (Exhibit 35.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 2507.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party. Based upon the record before the Board, and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant is seeking an area variance from § 2507.3, as described in § 3103.5(d). The Board disagrees with OP’s assessment that a use variance is required under § 2507.1. The Applicant is proposing to use the property as a single-



**BZA APPLICATION NO. 19014**  
**PAGE NO. 2**

family dwelling, which is the only use permitted under that subsection, and thus the application complies with that provision. In seeking an area variance under § 2507.3, the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2. There exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 10.**

**VOTE:**           **4-0-1**           (Marcie I. Cohen, Marnique Y. Heath, Lloyd J. Jordan, and Jeffrey L. Hinkle to Approve; one Board seat vacant).

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

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

**FINAL DATE OF ORDER:** June 25, 2015

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

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

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR

**BZA APPLICATION NO. 19014**  
**PAGE NO. 3**

THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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

**District of Columbia REGISTER – July 10, 2015 – Vol. 62 - No. 29    009441 – 009657**