

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council passes Law 21-27, Fiscal Year 2016 Budget Request Act of 2015
- D.C. Council schedules a public hearing on B21-361, Youth Suicide Prevention and School Climate Survey Act of 2015
- D.C. Council schedules a public hearing on B21-397, Procurement Practices Reform Amendment Act of 2015
- D.C. Council schedules a public hearing on Early Learning and Early Care in the District of Columbia
- Department of Housing and Community Development announces funding availability for Small Business Technical Assistance
- Department of Small and Local Business Development announces funding availability for the DC Clean Team Program

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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COUNCIL OF THE DISTRICT OF COLUMBIA

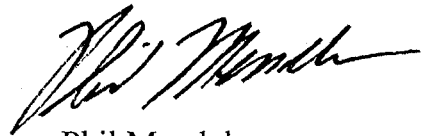
NOTICE

D.C. LAW 21-25

"Heat Wave Safety 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 21-209 on first and second readings June 2, 2015, and June 16, 2015, respectively. Following the signature of the Mayor on July 2, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-97 and was published in the July 10, 2015 edition of the D.C. Register (Vol. 62, page 9454). Act 21-97 was transmitted to Congress on July 13, 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 21-97 is now D.C. Law 21-25, effective September 23, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

July	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31
August	3, 4, 5, 6
September	8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 21-26

**"TOPA Bona Fide Offer of Sale 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 21-223 on first and second readings June 2, 2015, and June 16, 2015, respectively. Following the signature of the Mayor on July 2, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-98 and was published in the July 10, 2015 edition of the D.C. Register (Vol. 62, page 9456). Act 21-98 was transmitted to Congress on July 13, 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 21-98 is now D.C. Law 21-26, effective September 23, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

July	13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31
August	3, 4, 5, 6
September	8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 21-27

"Fiscal Year 2016 Budget Request 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 21-157 on first and second readings May 27, 2015, and June 10, 2015, respectively. Following the signature of the Mayor on July 9, 2015, as required by Section 404(e) of the Charter, the bill became Act 21-99 and was published in the July 17, 2015 edition of the D.C. Register (Vol. 62, page 9658). Act 21-99 was transmitted to Congress on July 17, 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 21-99 is now D.C. Law 21-27, effective September 29, 2015.



Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

July	17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31
August	3, 4, 5, 6
September	8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-153

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 6, 2015

To adjust, on an emergency basis, certain allocations requested in the Fiscal Year 2015 Budget Request Act of 2014 pursuant to the Omnibus Appropriations Act, 2009; to authorize that available Fiscal Year 2015 funds be retained as fund balance and carried over into Fiscal Year 2016; and to adjust certain allocations requested in the Fiscal Year 2016 Budget Request Act of 2015 pursuant to the Omnibus Appropriations Act, 2009.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2015 and Fiscal Year 2016 Revised Budget Request Adjustment Emergency Act of 2015".

Sec. 2. Pursuant to section 817 of the Omnibus Appropriations Act, 2009, approved March 13, 2009 (123 Stat. 699; D.C. Official Code § 47-369.02), the Fiscal Year 2015 budgets for the following agencies shall be adjusted by the following amounts:

TITLE II – DISTRICT OF COLUMBIA FUNDS – SUMMARY OF EXPENSES

\$57,612,000 is added from local funds; to be allocated as follows:

Financing and Other

The appropriation for Financing and Other is increased by \$57,612,000 in local funds; to be allocated as follows:

(1) Emergency and Contingency Reserve Funds. - \$57,612,000 is added to be available in local funds.

Sec. 3. In accordance with Title II – Summary of Expenses of the Fiscal Year 2015 Budget Request Act of 2014 allowing General Funds to be increased by proceeds from one-time transactions, the Council authorizes budget authority to expend \$17,700,000 of unallocated, one-time funds received by the Office of Tax and Revenue related to the settlement payment in the *District of Columbia v. Expedia, Inc., et al.* (Nos. 14-CV-308, 14-CV-309) case. These funds shall be spent in accordance with section 5.

ENROLLED ORIGINAL

Sec. 4. Remaining Fiscal Year 2015 unexpended revenue of \$28,287,881 shall be carried over into Fiscal Year 2016 as fund balance. This revenue shall be spent in accordance with section 5.

Sec. 5. Pursuant to section 817 of the Omnibus Appropriations Act, 2009, approved March 13, 2009 (123 Stat. 699; D.C. Official Code § 47-369.02), the Fiscal Year 2016 budgets for the following agencies shall be adjusted by the following amounts:

TITLE II – DISTRICT OF COLUMBIA FUNDS – SUMMARY OF EXPENSES

\$28,288,000 is added from local funds; and \$5,000,000 is increased in enterprise and other funds; to be allocated as follows:

Economic Development and Regulation

The appropriation for Economic Development and Regulation is increased by \$4,492,000 in local funds; to be allocated as follows:

(1) Department of Employment Services. - \$4,492,000 is added to be available from local funds.

Public Safety and Justice

The appropriation for Public Safety and Justice is increased by \$14,214,000 in local funds; to be allocated as follows:

(1) Metropolitan Police Department. - \$5,864,000 is added to be available from local funds;

(2) Department of Forensic Sciences. - \$8,024,000 is added to be available from local funds; and

(3) Office of the Chief Medical Examiner. - \$326,000 is added to be available from local funds.

Human Support Services

The appropriation for Human Support Services is increased by \$3,776,000 in local funds; to be allocated as follows:

(1) Department of Parks and Recreation. - \$2,526,000 is added to be available from local funds; and

(2) Children and Youth Investment Trust Corporation. - \$1,250,000 is added to be available from local funds.

Public Works

The appropriation for Public Works is increased by \$806,000 in local funds; to be allocated as follows:

ENROLLED ORIGINAL

(1) Department of Public Works. - \$806,000 is added to be available from local funds.

Financing and Other

The appropriation for Financing and Other is increased by \$5,000,000 in local funds; to be allocated as follows:

(1) Convention Center Transfer – Dedicated Taxes. - \$5,000,000 is added to be available from local funds.

Enterprise and Other Funds

The appropriation for Enterprise and Other Funds is increased by \$5,000,000 in local funds; to be allocated as follows:

(1) Washington Convention and Sports Authority. - \$5,000,000 is added to be available from local funds.

Sec. 6. Metropolitan Police Department body-worn cameras funded by any funds made available in Fiscal Year 2016 shall not be worn until rules are approved by the Council pursuant to section 3003 of the Fiscal Year 2016 Budget Support Act of 2015, enacted on August 11, 2015 (D.C. Act 21-148; 62 DCR 10905), or by an act of the Council.

Sec. 7. Funds to incentivize a neighborhood camera initiative to encourage businesses, property owners, and churches to install security cameras made available in Fiscal Year 2016 shall not be issued until parameters governing the initiative are approved by an act of the Council.

Sec. 8. Program evaluation.

The Office of Performance Management within the Office of the City Administrator shall conduct, in consultation with the Department of Employment Services, a rigorous, high-quality evaluation of both the Career Connection Program and the LEAP Academy. The Office of Performance Management shall issue a report to the Council detailing the study design for this evaluation by October 9, 2015. The report shall include plans for continuous monitoring and oversight of program activities, a list of outcome metrics to be collected, how the data will be collected, how existing administrative data from across the government will be incorporated, and how the evaluation will be built into the startup of the program.

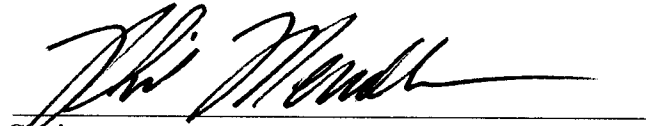
Sec. 9. Fiscal impact statement.

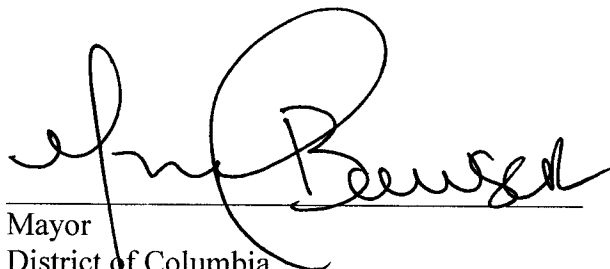
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 10. Effective date.

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


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
October 6, 2015

ENROLLED ORIGINAL

A RESOLUTION

21-133

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 30, 2015

To confirm the appointment of Mr. Fred Hill to the Board of Zoning Adjustment.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Zoning Adjustment Fred Hill Confirmation Resolution of 2015”.

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

Mr. Fred Hill
912 F Street, N.W., Unit 208
Washington, D.C. 20004
(Ward 2)

as a member of the Board of Zoning Adjustment, established by section 8 of An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, approved June 20, 1938 (52 Stat. 799; D.C. Official Code § 6-641.07), for a term to end September 30, 2017.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-170

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 14, 2015

To approve as a small area action plan the proposed Southwest Neighborhood Plan.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Southwest Neighborhood Plan Approval Resolution of 2015”.

Sec. 2. Pursuant to section 4(c)(4) of the District of Columbia Comprehensive Plan Act of the 1984 Land Use Element Amendment Act of 1984, effective March 16, 1985 (D.C. Law 5-187; D.C. Official Code § 1-306.03(c)(4)), the Mayor transmitted to the Council the proposed Southwest Neighborhood Plan, dated March 27, 2015 (“Plan”).

Sec. 3. The Council finds that:

(1) The Plan area, located in Ward 6, is bordered on the north by I-395, to the west by Maine Avenue, S.W., to the east by South Capitol Street, and to the south by P Street, S.W.

(2) Several of the recommendations for the Plan area contained in the Comprehensive Plan have been completed or are underway, including the restoration of 4th Street, S.W., and the replacement of Waterside Mall. In addition, significant change has happened in and around Southwest since the adoption of the Comprehensive Plan in 2006, necessitating the creation of a small area action plan to guide both growth and preservation at the neighborhood level in the Southwest community.

(3) The Office of Planning commenced the process of developing the Plan with a public kickoff in September of 2013. The proposed Plan was published and made available to the public on November 21, 2014, and a Mayoral hearing was conducted on January 28, 2015.

(4) The purpose of the Plan is to provide a community-based strategy and an urban-design, land-use, and neighborhood-preservation framework to enhance parks and pedestrian and street connections, integrate community amenities, enhance transportation choices, and accommodate and guide the direction of future growth in the Southwest neighborhood. The Plan also provides land-use guidance, as well as design guidelines for new development throughout the neighborhood. The Plan envisions creating a thriving, active environment that preserves and enhances the Southwest Neighborhood’s culture and character.

(5) The Plan documents the community-based process and records the shared vision and guiding principles that were collectively developed to serve as the foundation for the Plan’s key opportunity areas and recommendations.

ENROLLED ORIGINAL

(6) The Plan is informed by existing conditions, land use, and market analysis, and incorporates a broad range of planning techniques and practical solutions to achieve the District's goals and objectives.

(7) The Plan outlines strategies under 7 core concepts, as follows:

(A) Model Community – remain an exemplary model of equity and inclusion that retains diversity of races, ages, and income levels as the neighborhood continues to grow and change;

(B) Modernist Gem – promote the preservation of Southwest's unique architectural legacy and support new development that reflects the form and rhythm of the historic fabric, reinforcing the neighborhood's architectural legacy;

(C) Green Oasis – improve and enhance existing parks and green spaces, incorporating sustainable best practices and improved environmental performance;

(D) Arts and Culture – position Southwest to flourish as a premier arts and cultural destination, creating synergies between existing cultural assets and attracting new and creative uses and arts-related activities;

(E) Thriving Town Center – develop 4th Street, S.W., as the town center of neighborhood-serving retail and high-quality public realm;

(F) Optimized District Parcels – anticipate future demands on District-controlled parcels, allowing for the use of public resources to benefit the greater community and encouraging high-quality design, while meeting District needs; and

(G) Vibrant Connections – create vibrant connections that support an active and attractive environment, accommodate multiple transportation modes, increase mobility and safety within the community, and provide ease of access to adjacent neighborhoods and the Waterfront.

(8) The Plan includes an implementation table to define each recommendation as near-, mid-, or long-term, and to identify the agency, community partner, or civic organization primarily responsible for the implementation of each recommendation.

(9) Once approved, the Plan will provide supplemental guidance to the Zoning Commission and other District agencies in carrying out the policies of the Comprehensive Plan.

(10) These findings are further explained in the committee report accompanying this resolution.

Sec. 4. The Plan, as submitted, is approved by the Council as a small area action plan.

Sec. 5. The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-171

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 14, 2015

To approve the disposition by lease of District-owned real property located at 908 Wahler Place, S.E., commonly known as the Draper School and designated for tax and assessment purposes as Lot 0801 in Square 5926.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Draper School Lease Approval Resolution of 2015”.

Sec. 2. Definitions

For the purposes of this resolution, the term:

(1) “CBE Agreement” means an agreement with the District governing certain obligations of the Lessee or the developer of the Property under the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) (“CBE Act”), including the equity and development participation requirements set forth in section 2349a of the CBE Act (D.C. Official Code § 2-218.49a).

(2) “Certified Business Enterprise” means a business enterprise or joint venture certified pursuant to the CBE Act.

(3) “First Source Agreement” means an agreement with the District governing certain obligations of the Lessee or the developer of the Property pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor’s Order 83-265 (November 9, 1983), regarding job creation and employment generated as a result of the construction on the Property.

(4) “Lessee” means Achievement Preparatory Academy, Inc., a District of Columbia non-profit corporation or its successor.

(5) “Property” means the real property located at 908 Wahler Place, S.E. in Washington, D.C, commonly known as the Draper School and designated for tax and assessment purposes as Lot 0801, Square 5926.

Sec. 3. Approval of disposition

(a) Pursuant to section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code §10-801) (“Act”), the Mayor transmitted to the Council a request for Council to authorize a lease of the Property to the Lessee.

ENROLLED ORIGINAL

(b) The proposed disposition would occur through a negotiated ground lease of greater than 20 years to the Lessee, whose primary address is 908 Wahler Place, S.E., Washington, D.C. 20032.

(c) The proposed disposition is expected to include the following terms and conditions, in addition to such other terms and conditions as the Mayor deems necessary or appropriate:

(1) The Lessee shall redevelop the Property in accordance with plans approved by the District and shall use the Property primarily as an educational facility.

(2) The Lessee will enter into a CBE Agreement with the District. The CBE Agreement will require the Lessee to contract with Certified Business Enterprises for at least 35% of the contract dollar volume of the redevelopment of the Property, if any, and if possible, will require at least 20% equity and development participation of local, small and disadvantaged business enterprises.

(3) The Lessee will enter into a First Source Agreement with the District.

(d) The Council finds that the Property is not required for public purposes.

(e) The Council finds that the Mayor's analysis of economic and other policy factors supporting the disposition of the Property justifies the lease proposed by the Mayor.

(f) All documents executed in accordance with this resolution shall be consistent with the executed term sheet (the April 29, 2015 "Letter of Intent") transmitted to the Council pursuant to section 1(b-1)(2) of the Act (D.C. Official Code §10-801 (b-1)(2)).

(g) The Council approves the disposition of the Property.

Sec. 4. Transmittal

The Council shall transmit a copy of this resolution, upon its adoption, to the Office of the Mayor, the Department of General Services, and the Chief Financial Officer.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-172

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 14, 2015

To confirm the appointment of Mr. Thorn Pozen to the Metropolitan Washington Airports Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Metropolitan Washington Airports Authority Board of Directors Thorn Pozen Confirmation Resolution of 2015”.

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

Mr. Thorn Pozen
4822 Upton Street, N.W.
Washington, D.C. 20016
(Ward 3)

as a member of the Metropolitan Washington Airports Authority Board of Directors, established by section 5 of the District of Columbia Regional Airports Authority Act of 1985, effective December 3, 1985 (D.C. Law 6-67; D.C. Official Code § 9-904), replacing Shirley Robinson Hall, for a term to end January 5, 2021.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-173

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 14, 2015

To confirm the appointment of Mr. George Schutter as the Chief Procurement Officer.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Chief Procurement Officer George Schutter Confirmation Resolution of 2015”.

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

Mr. George Schutter
611 Elliott Street, N.E.
Washington, D.C. 20002
(Ward 6)

as the Chief Procurement Officer, established by section 203 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371, D.C. Official Code § 2-352.03), to serve for one 5-year term.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-210

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Legalization of Marijuana for Medical Treatment Initiative of 1999 to allow any applicant that received notification on July 25, 2014, that its medical marijuana cultivation center was eligible for registration to modify its application, to allow a holder of a cultivation center registration that owns or has a valid lease for the real property adjacent to its existing cultivation center to expand its facility into that adjacent real property for purposes of increasing production of marijuana plants, not to exceed the authorized limit, and to increase the number of living plants a cultivation center may possess at any time to 1000.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Medical Marijuana Cultivation Center Expansion Congressional Review Emergency Declaration Resolution of 2015".

Sec. 2. (a) Enactment of the Medical Marijuana Cultivation Center Expansion Emergency Amendment Act of 2015, effective July 20, 2015 (D.C. Act 21-104; 62 DCR 9965) ("Emergency Act"), enables the District to increase the number of live marijuana plants to assuage the demand for medical marijuana in medical marijuana distribution centers.

(b) The District is currently experiencing higher demand for medical marijuana than there is capacity to produce.

(c) The Emergency Act enables existing cultivation centers to expand the size of their facilities when they have leaseholds for adjacent real property.

(d) The Emergency Act also authorizes twice the number of live marijuana plants, up to a maximum of 1000, for all cultivation centers.

(e) New emergency legislation is necessary to prevent a gap in the law between the expiration of the Emergency Act, which expires on October 18, 2015, and the effectiveness of temporary legislation, the Medical Marijuana Cultivation Center Expansion Temporary Amendment Act of 2015, enacted on July 21, 2015 (D.C. Act 21-0145; 62 DCR 10896), which is expected to become law on October 22, 2015.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Medical Marijuana Cultivation Center Expansion Congressional Review Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-211

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency, due to congressional review, with respect to the need to adjust certain allocations requested in the Fiscal Year 2015 Budget Request Act of 2014 pursuant to the Omnibus Appropriations Act, 2009.

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

Sec. 2. (a) On May 27, 2015, the Council passed the Fiscal Year 2015 Second Revised Budget Request Emergency Adjustment Act of 2015, effective June 17, 2015 (D.C. Act 21-76; 62 DCR 8815) (“Act 21-76”). Act 21-76 was signed by the Mayor on June 17, 2015 and expired on September 15, 2015.

(b) On June 10, 2015, the Council passed the Fiscal Year 2015 Budget Request Temporary Adjustment Act of 2015, effective September 17, 2015 (D.C. Act 21-94; 62 DCR 9221) (“Act 21-94”), a temporary version of Act 21-76. The Mayor signed that temporary legislation on June 25, 2015. Due to the congressional review period, the temporary legislation did not take effect until September 17, 2015.

(c) Acts 21-76 and 21-94 consist of substantial adjustments to existing budget authority upon which the approved Fiscal Year 2016 Budget and Financial Plan were based.

(d) The congressional review period for Act 21-94 has created a funding and authority gap upon the expiration of Act 21-76. This gap must be addressed to ensure the proper implementation and balancing of both the Fiscal Year 2015 Budget and the Fiscal Year 2016 Budget and Financial Plan.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-212

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency, due to congressional review, with respect to the need to amend section 47-2844 of the District of Columbia Official Code to enable the Mayor to suspend or revoke the business license of any business engaged in the buying or selling of a synthetic drug and to enable the Chief of Police to seal a business licensee's premises for up to 96 hours for the buying or selling of a synthetic drug; and to amend the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 to designate the sale of a synthetic drug as a per se imminent danger to the health or safety of District residents and provide for an administrative hearing after the sealing of a business licensee's premises.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sale of Synthetic Drugs Congressional Review Emergency Declaration Resolution of 2015."

Sec. 2. (a) There is an immediate need to amend section 47-2844 of the District of Columbia Official Code to enable the Mayor to suspend or revoke the business license of any business engaged in the buying or selling of a synthetic drug and to enable the Chief of Police to seal a business licensee's premises for up to 96 hours for the buying or selling of a synthetic drug; and to amend the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 to designate the sale of a synthetic drug as a per se imminent danger to the health or safety of District residents and provide for an administrative hearing after the sealing of a business licensee's premises.

(b) This bill is necessary to prevent a gap in the law as the emergency legislation, the Sale of Synthetic Drugs Emergency Amendment Act of 2015, effective July 10, 2015 (D.C. Act 21-0100; 62 DCR 9689), expires on October 8, 2015.

(c) Temporary legislation, the Sale of Synthetic Drugs Temporary Amendment Act of 2015, enacted on July 31, 2015 (D.C. Act 21-0146; 62 DCR 10898), was transmitted to Congress for the 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

(d) The temporary legislation may not become law until after the expiration of the emergency legislation; therefore, a congressional review emergency is needed to prevent a gap in the law.

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(e) The Committee on the Judiciary held a hearing on the permanent legislation, the Sale of Synthetic Drugs Amendment Act of 2015, as introduced on June 18, 2015 (Bill 21-0261), on September 16, 2015.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-213

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare that the District-owned real property located at 965 Florida Avenue, N.W., and known for tax and assessment purposes as Parcel 1102 in Square 2873, is no longer required for public purposes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “965 Florida Avenue, N.W., Surplus Property Declaration Resolution of 2015”.

Sec. 2. Findings.

(a) The District is the owner of the real property located at 965 Florida Avenue, N.W., known for tax and assessment purposes as Parcel 1102 in Square 2873 (“Property”). The Property consists of approximately 63,418 square feet of land.

(b) The Property is no longer required for public purposes because the Property’s condition cannot viably accommodate a District agency use or other public use without cost-prohibitive new construction. The most pragmatic solution for reactivating this space is to declare the Property surplus and dispose of the Property for redevelopment.

(c) The District has satisfied the public hearing requirements of section 1(a-1)(4) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(a-1)(4)) (“Act”), by holding a public hearing on December 1, 2014, at DCHFA Auditorium, located at 815 Florida Avenue, N.W.

Sec. 3. Pursuant to section 1(a-1) of the Act, the Council finds that the Property is no longer required for public purposes.

Sec. 4. Transmittal.

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

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-215

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with respect to the need to amend the Rental Housing Act of 1985 to limit the amount of a hardship petition conditional rent increase to 5% of the rent charged, and to require that a rent adjustment be repaid by a housing provider to a tenant within 21 days of a conditional increase being amended.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Rent Control Hardship Petition Limitation Emergency Declaration Resolution of 2015”.

Sec. 2. (a) The District’s rent control regime is established by the Rental Housing Act of 1985; approximately 79,000 housing units are subject to the law, accounting for 66% of the rental housing stock in the District.

(b) For units subject to rent control, annual rent increases are limited to a maximum of 10% for most tenants and 5% for seniors and individuals with disabilities.

(c) However, under the hardship petition process a housing provider can apply to the Rent Administrator at the Department of Housing and Community Development to raise rents by more than the standard increase, in order to achieve a 12% rate of return on the housing provider’s investment in the building.

(d) The hardship petition requires the housing provider to submit a schedule of income and expenses, which the Rent Administrator can use to calculate a new rent based on the 12% rate of return.

(e) If a hardship petition is not decided within 90 days, the housing provider may automatically start collecting the entire rent for which the housing provider originally applied.

(f) As hardship petitions are rarely decided within the 90-day time period, conditional increases are frequently granted that result in rent increases of 50% to 100%.

(g) These rent increases place a significant burden on low-income renters, increasing the likelihood of displacement and homelessness.

(h) For example, tenants of a building in Ward 7 were charged a 34% increase and were threatened with eviction if they did not pay the rent increase. Tenants were forced to file a lawsuit challenging the increase based on numerous housing code violations, and the dispute was prolonged for more than 4 years. During this time the higher rents were required to be paid into a court-mandated escrow account.

(i) Although a conditional increase may ultimately be reversed, it is often too late for

ENROLLED ORIGINAL

tenants who have been displaced by rent increases that housing providers were ultimately not authorized to charge.

(j) More than 88 hardship petitions were filed between 2007 and 2013, significantly raising the rent on thousands of District residents.

(k) Without swift action by the Council to counter opportunities for abuse of the hardship petition process, additional tenants will likely be priced out of their homes.

(l) Emergency and temporary legislation was moved in Council Period 20, by Councilmember Bowser, to deal with these issues. As permanent legislation was not completed during Council Period 20, and the temporary legislation will expire on October 9, 2015, additional emergency legislation is necessary so there will not be a gap in the law.

(m) On March 17, 2015, permanent legislation, Bill 21-146, the Rent Control Hardship Petition Limitation Amendment Act of 2015, was introduced by Councilmember Bonds along with Councilmembers Silverman, Nadeau, and Cheh. The bill was referred to the Committee on Housing and Community Development, and a hearing on the bill was held on Tuesday, May 26, 2015. The Committee will soon mark up Bill 21-146 and send it to the full Council for consideration.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Rent Control Hardship Petition Limitation Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-216

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with respect to the need to amend the Education Licensure Commission Act of 1976 to change the name of the Education Licensure Commission to the Higher Education Licensure Commission, to extend authority to the commission to require institutions physically located outside the District of Columbia offering postsecondary degree-granting or non-degree-granting online programs or courses to District of Columbia residents physically in the District to be licensed in the District, to permit members of the commission to serve in a hold-over capacity for no more than 180 days after expiration of their second full consecutive term, to provide the commission with the authority to enter into reciprocity agreements with regards to online courses, and to authorize the commission to impose alternative sanctions for violations of provisions of the act or regulations promulgated under the authority of the act; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to increase the annual compensation of members of the Higher Education Licensure Commission from \$4,000 to \$8,000; to amend the State Education Office Establishment Act of 2000 to designate the Office of the State Superintendent of Education the state portal agency for state authorization reciprocity; and to amend the Office of Administrative Hearings Establishment Act of 2001 to make a conforming amendment.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Higher Education Licensure Commission Emergency Declaration Resolution of 2015".

Sec. 2. (a) The District of Columbia seeks to ensure that a wide array of post-secondary learning opportunities is available for our residents. Across the country, at least 7 million students are using online technology to access post-secondary courses. Post-secondary online distance education expands learning opportunities by providing flexible, accessible methods to acquiring new skills and fulfilling degree requirements.

(b) The rapid growth of distance education has brought to the forefront the need to provide a coherent and comprehensive structure that focuses on consumer protection and security while maintaining the unique features of online distances learning. Students in online distance education programs require stronger protections because they are completing their courses and programs outside of the visibility of traditional oversight and monitoring structures. Many other

ENROLLED ORIGINAL

states have already taken the step to protect their residents and the District must move forward to keep up with best practices in post-secondary licensing.

(c) Since the current Education Licensure Commission law does not specifically require schools outside of the District offering online distance education programs to District residents to be licensed, District residents are left unprotected against unethical practices by false or misleading postsecondary entities. Therefore, a need exists to protect District residents who may be unable to assess the legitimacy, quality, or legality of a post-secondary educational institution.

(d) Currently, over 100 postsecondary institutions outside of the District are already providing distance education to District residents and have inquired with the Education Licensure Commission about getting licensed. Until the changes proposed in this emergency legislation are made, there is no guidance that the Education Licensure Commission can provide to these institutions and no basic standards or safeguards that the Education Licensure Commission can require of these institutions.

(e) Furthermore, District-based postsecondary institutions that are engaging in distance education in other jurisdictions must navigate multiple state licensing requirements that are both cumbersome and costly. The changes in this emergency legislation will allow the Education Licensure Commission to enter into reciprocity agreements with other jurisdictions regarding licensing online distance education programs, which would result in ensuring security and consumer protections while making the process and costs for providing distance education far less involved. The Education Licensure Commission has already entered into a State Authorization Reciprocity Agreement (“SARA”), per authority provided by the Education Licensure Commission Temporary Amendment Act of 2014 (D.C. Law 20-239) (“Temporary Act”), which expires on October 24, 2015, but cannot maintain the SARA if the Temporary Act expires.

(f) Without this emergency legislation, private and public higher education institutions in the District, including the University of the District of Columbia (“UDC”), will have to pay fees to each state to conduct online learning programs in their respective states. This is extremely expensive and burdensome for the District’s institutions of higher learning. Thus, this emergency legislation, through the SARA, will save both UDC and the District’s private higher education institutions in the District tens of thousands of dollars in fees in the coming months.

(g) This emergency legislation is necessary to prevent a gap in the law as the Temporary Act expires on October 24, 2015. The permanent version of this law, the Higher Education Licensure Commission Amendment Act of 2015 (B21-295), was introduced on July 8, 2015, and referred to the Committee on Education, which will hold a public hearing on October 1, 2015.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-217

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with respect to the need to amend the Fiscal Year 2016 Budget Support Act of 2015, the Fiscal Year 2016 Budget Support Emergency Act of 2015, and various other acts to clarify provisions supporting the Fiscal Year 2016 budget.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fiscal Year 2016 Budget Support Clarification Emergency Declaration Resolution of 2015”.

Sec. 2. (a) On June 30, 2015, the Council passed the Fiscal Year 2016 Budget Support Act of 2015, enacted on August 11, 2015 (D.C. Act 21-148; 62 DCR 10905) (“Act 21-148”). Act 21-148 was signed by the Mayor on August 11, 2015, was transmitted to Congress on September 9, 2015, and has a projected law date of October 22, 2015.

(b) At the June 30, 2015 Legislative Meeting, the Council also adopted the Fiscal Year 2016 Budget Support Emergency Act of 2015, effective July 27, 2015 (D.C. Act 21-127; 62 DCR 10201) (“Act 21-127”), an emergency version of Act 21-148. Act 21-127 was signed by the Mayor and became effective on July 27, 2015.

(c) Since the Council’s adoption of Acts 21-127 and 21-148, it has been discovered that several provisions within these measures are in need of technical corrections or further clarification. As such, the Fiscal Year 2016 Budget Support Clarification Emergency Amendment Act of 2015 makes the following changes:

(1) Clarifies the scope of the District of Columbia Auditor’s review of the summer youth jobs program to include multiple years;

(2) Adds a residency requirement to the Kids Ride Free program at the request of the Mayor;

(3) Repeals the subject-to-appropriations clause for section 302(b) of the Sustainable DC Omnibus Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-142; 62 DCR 1243);

(4) Repeals the subject-to-appropriations clause for the Food Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-191; 62 DCR 3820);

(5) Repeals the subject-to-appropriations clause for section 103(c) of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; 62 DCR 3600);

ENROLLED ORIGINAL

(6) Clarifies that the Combined Reporting Clarification subtitle (section 7182 of the Fiscal Year 2016 Budget Support Act of 2015, enacted on August 11, 2015 (D.C. Act 21-148; 62 DCR 10905), applies starting in tax year 2016;

(7) Renames the WMATA Momentum Fund as the WMATA Operations Support Fund, and correspondingly modifies the scope of the fund to include extraordinary or unanticipated operating or capital needs of WMATA that arise outside of WMATA's regular inter-jurisdictional subsidy allocation formulae;

(8) Clarifies administrative requirements related to tax sales;

(9) Clarifies that a uniform interest rate applies to delinquent vault rents; and

(10) Clarifies provisions of the Accrued Paid Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-131.01 *et seq.*), with regard to substitute teachers and substitute aides.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2016 Budget Support Clarification Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-218

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with the respect to the need amend An Act To amend the Act entitled “An Act to classify the officers and members of the Fire Department of the District of Columbia, and for other purposes”, approved June 20, 1906, and for other purposes, to permit members of the Fire and Emergency Medical Services Department that worked overtime hours during the 2013 Presidential Inauguration to be paid for work performed.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fire and Emergency Medical Services Department Presidential Inauguration Pay Rectification Emergency Declaration Resolution of 2015”.

Sec. 2. (a) On June 5, 2012, the Council adopted the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025). Section 3023 of that legislation provided an exemption from the allowable overtime hours that Fire and Emergency Medical Services Department (“Department”) members were permitted to work during the 2013 Presidential Inauguration. Specifically, the legislation exempted pay periods 1 and 2 from the overtime restrictions set forth at D.C. Official Code § 5-405.

(b) This exemption from overtime hours was subsequently amended, following the recommendation of the Office of the Chief Financial Officer, as it was believed that the incorrect pay periods were identified in D.C. Law 19-168. Thus, on March 1, 2013 the Council adopted emergency legislation in order to remedy the perceived error. The Department of Fire and Emergency Medical Services Inaugural Overtime Clarification Emergency Act of 2013, effective March 1, 2013 (D.C. Act 20-20; 60 DCR 3976), changed the applicable pay periods for the exemption from pay periods 1 and 2 to pay periods 2 and 3.

(c) Complicating this legislative history further, the Department issued a Special Order on January 14, 2013—midway through the period for which the exemption was to apply—implementing the “waiver of the Overtime Implementation Act.”

(d) It is now apparent that the pay periods provided in the law for the exemption, both as originally put forth and as amended, were incorrect.

(e) Regardless of the error in applicable pay periods, the Department, without statutory authorization and contrary to its own Special Order, ordered 6 members of the Department to work beyond the statutory cap for overtime. These 6 individuals, despite having served during the 2013 Presidential Inauguration, have not yet been paid for the hours worked in excess of the cap. Having exceeded the hour cap also triggers compensation at time-and-a-half.

ENROLLED ORIGINAL

(f) After 2½ years, it is important for the District to finally resolve this issue and for the Office of Pay and Retirement Services to pay these 6 individuals for work performed. The accompanying emergency removes any statutory barrier that may be perceived as preventing payment to these individuals.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fire and Emergency Medical Services Department Presidential Inauguration Pay Rectification Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-219

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with respect to the need to amend the Sexual Assault Victims' Rights Act of 2014 to extend the date by which the Sexual Assault Victim Rights Task Force shall submit its report to the Council and the Sexual Assault Response Team.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sexual Assault Victim Rights Task Force Report Extension Emergency Declaration Resolution of 2015".

Sec. 2. (a) Title II of the Sexual Assault Victims' Rights Act of 2014, effective November 20, 2014 (D.C. Law 20-139; D.C. Official Code § 4-561.01 *et seq.*) ("Act") requires the Office of Victim Services and Justice Grants to establish a Sexual Assault Victim Rights Task Force ("Task Force") to study nationally recognized best practices and develop recommendations regarding:

- (1) The development and implementation of an effective mechanism for submitting, tracking, and investigating complaints regarding the handling of, or response to, a sexual assault report or investigation by any agency or organization involved in the response;
- (2) Whether a need exists for additional sexual assault victim advocates;
- (3) Whether a need exists to expand the right to a sexual assault victim advocate beyond the hospital and law enforcement interview settings, such as meetings and conversations with prosecutors; and
- (4) Whether a need exists to expand the right to a sexual assault victim advocate to juvenile sexual assault victims.

(b) The Act requires the Task Force to submit its report of the results of its assessments, developments, and recommendations to the Council and the Sexual Assault Response Team by September 30, 2015.

(c) The Task Force has met monthly since October 2014 and is now primarily considering its recommendations relating to juvenile sexual assault victims.

(d) The Task Force has committed to producing a draft report for public comment by October 14, 2015, and to holding an open meeting no later than November 18, 2015.

(e) The emergency act would extend the date by which the Task Force must submit its report to January 31, 2016, to enable it to complete consideration of its recommendations and to finalize the report following the open meeting.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Sexual Assault Victim Rights Task Force Report Extension Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-220

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with respect to the need to establish a qualified ABLE Program, to be known as the ABLE Program Trust, pursuant to the requirements of the federal Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 to exempt from income taxation the earnings on deposits made to an ABLE Program Trust by an eligible individual to assist the individual with certain expenses related to the individual's blindness or disability.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "ABLE Program Trust Establishment Emergency Declaration Resolution of 2015".

Sec. 2. (a) According to the 2012 Disability Status Report of the District of Columbia, 11.5% of District residents have a disability. Of these residents, 13,100 working-age people with disabilities received Supplementary Security Income ("SSI") benefits.

(b) Eligibility for public benefits, such as SSI, do not allow a person to possess more than \$2,000 in cash savings or retirement funds. A person with a disability must therefore forego accumulating savings or planning for the future in order to remain eligible for public benefits.

(c) In 2014, the federal Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 ("ABLE Act") was enacted and mandated that states provide people with disabilities and their families the opportunity to create tax-exempt savings accounts. Since enactment of the federal ABLE Act, 41 states have pending or signed legislation establishing ABLE programs in their jurisdictions.

(d) Without this emergency legislation, District residents with a disability cannot possess a savings account in excess of \$2,000 and therefore cannot have access to personal finances in case of an emergency of for long-term plans.

(e) This emergency is necessary to enable District residents with a disability to establish an ABLE account of up to \$100,000 and therefore enable these residents and their families to create more opportunities to live independently and provide access to work and wealth without relegating people to government benefits alone.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the ABLE Program Trust Establishment Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-221

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with respect to the need to confirm the reappointment of Howard Gibbs to the District of Columbia Water and Sewer Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Water and Sewer Authority Board of Directors Howard Gibbs Confirmation Emergency Declaration Resolution of 2015”.

Sec. 2. (a) The District of Columbia Water and Sewer Authority (“DC Water”) has a service area of approximately 725 square miles. Within that area, DC Water provides critical municipal water services, including providing drinking water and sewer/wastewater treatment to more than 640,000 residents and 17.8 million annual visitors. The infrastructure required to operate this impressive system includes more than 1,350 miles of water pipes, 4 pumping stations, 5 reservoirs, more than 9,000 public hydrants, and nearly 2,000 miles of sanitary and combined sewers.

(b) DC Water is governed by the District of Columbia Water and Sewer Authority Board of Directors (the “Board”), which consists of 11 principal and 11 alternate members. Of those members, 6 are from the District of Columbia, 4 are from Maryland – 2 from Montgomery County and 2 from Prince George’s County – and one member represents Fairfax County, Virginia. The District’s members are appointed by the Mayor and confirmed by the Council.

(c) Mr. Gibbs has served with distinction as an alternate member representing the District of Columbia on the Board since 2006. Reverend Doctor Kendrick Curry was confirmed to serve on the Board on July 14, 2015, which inadvertently replaced Mr. Gibbs, for the remainder of a term to end September 12, 2018.

(d) In order to ensure that both of these qualified individuals, Reverend Doctor Curry and Mr. Gibbs, can serve on the Board and that the District is fully represented regarding a number of critical health, safety, and environmental issues, it is necessary to confirm the reappointment of Mr. Gibbs, replacing Brenda Richardson, for a term to end September 12, 2019.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the District of Columbia Water and Sewer Authority Board of Directors Howard Gibbs Confirmation Emergency Resolution of 2015 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-222

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To confirm, on an emergency basis, the reappointment of Mr. Howard Gibbs to the District of Columbia Water and Sewer Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Water and Sewer Authority Board of Directors Howard Gibbs Confirmation Emergency Resolution of 2015”.

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

Mr. Howard Gibbs
741 Third Street, S.W.
Washington, D.C. 20024
(Ward 6)

as an alternate member of the Board of Directors of the District of Columbia Water and Sewer Authority, in accordance with section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.04), replacing Brenda Richardson, for a term to end September 12, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-223

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with respect to the need to approve Contract No. CW22673 with Pearson VUE to provide professional-licensing services, and to authorize payment for the goods and services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CW22673 Approval and Payment Authorization Emergency Declaration Resolution of 2015".

Sec. 2. (a) There exists a need to approve Contract No. CW22673 with Pearson VUE to provide professional-licensing services and to authorize payment for the goods and services received and to be received under the contract.

(b) On July 2, 2013, the Office of Contracting and Procurement ("OCP"), on behalf of the Department of Consumer and Regulatory Affairs, awarded Contract No. CW22673 (the "Contract") to Pearson VUE in an amount of \$650,000.00 for the period from July 2, 2013 through December 31, 2013. Actual expenditures under the Contract during this period totaled \$961,790.00.

(c) By Modification No. 1 dated December 31, 2013, OCP extended the term of the Contract from January 1, 2014 through March 31, 2014 and increased the estimated amount of the Contract by \$200,000. Actual expenditures under the Contract during this extension period totaled \$723,532.00.

(d) By Modification No.2 dated March 31, 2014, OCP extended the term of the Contract from April 1, 2014 through September 30, 2014 and increased the estimated amount of the Contract by \$650,000. Actual expenditures under the Contract during this extension period totaled \$1,578,025.00.

(e) Modification No. 3 was an administrative change only.

(f) By Modification No. 4, OCP increased the estimated amount of the Contract by \$915,005.00.

(g) By Modification No. 5, OCP extended the term of the Contract from October 1, 2014 through December 31, 2014 and increased the estimated amount of the Contract by \$1,170,000.00. Actual expenditures under the Contract during this extension period totaled \$470,705.00.

ENROLLED ORIGINAL

(h) By Modification No. 6, OCP extended the term of the Contract from January 1, 2015 through September 30, 2015 and increased the estimated amount of the Contract by \$1,885,000.00, for a total estimated amount of \$5,619,052.00 for the period from July 2, 2013 through September 30, 2015.

(i) Approval of the Contract and authorization of payment is necessary to allow the continuation of these vital services. Without this approval, Pearson VUE cannot be paid for goods and services provided in excess of \$1 million during each 12-month period of the Contract.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. CW22673 Approval and Payment Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-224

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare the existence of an emergency with respect to the need to adjust certain allocations requested in the Fiscal Year 2015 Budget Request Act of 2014 pursuant to the Omnibus Appropriations Act, 2009; to authorize that available Fiscal Year 2015 funds be retained as fund balance and carried over into Fiscal Year 2016; and to adjust certain allocations requested in the Fiscal Year 2016 Budget Request Act of 2015 pursuant to the Omnibus Appropriations Act, 2009.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fiscal Year 2015 and Fiscal Year 2016 Revised Budget Request Adjustment Emergency Declaration Resolution of 2015”.

Sec. 2. (a) On June 30, 2015, the Office of the Chief Financial Officer released a quarterly revised revenue estimate that showed a \$117.2 million increase in certified revenues. This revenue increase was reduced by \$49 million to satisfy a required allocation for a Fire and Emergency Medical Services Department settlement, as required by section 7092(b)(1)(A) of the Fiscal Year 2016 Budget Support Act of 2015. This reduction leaves an unallocated revenue balance of \$68.2 million available for expenditure. Pursuant to the proposed Fiscal Year 2015 and Fiscal Year 2016 Revised Budget Request Adjustment Emergency Act of 2015, \$57.6 million of this \$68.2 million amount will go directly towards the repayment of Fiscal Year 2015 contingency cash, which was accessed in order to cover the cost of the Department of Healthcare Finance Medicaid disallowance. The remaining \$10.6 million will be retained as fund balance and carried over into Fiscal Year 2016 to cover various initiatives.

(b) The Office of Tax and Revenue recently received funds related to a settlement payment in the *District of Columbia v. Expedia, Inc. et. al.* (Nos. 14-CV-308, 14-CV-309) case in the amount of \$73,631,296.57. The Fiscal Year 2015 Budget Support Act of 2014 (Title IV, Subtitle P of D.C. Law 20-155) and Fiscal Year 2016 Budget Support Act of 2015 (Title VII, Subtitle B of D.C. Act 21-148, adopted on an emergency basis in D.C. Act 21-127) specify how those funds are to be allocated: \$1.5 million to the Destination DC Marketing Fund; \$3.5 million to the IPW Fund for the travel industry conference; \$1.5 million to the Office of the Attorney General for the Litigation Support Fund; and the remainder to be deposited in the WMATA Momentum Fund. Pursuant to the proposed Fiscal Year 2015 and Fiscal Year 2016 Revised Budget Request Adjustment Emergency Act of 2015, \$17.7 million in funds that otherwise

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would have been deposited into the WMATA Momentum Fund will be carried over into Fiscal Year 2016 to cover various initiatives.

(c) Of the \$28.3 million to be carried over into Fiscal Year 2016 pursuant to the proposed Fiscal Year 2015 and Fiscal Year 2016 Revised Budget Request Adjustment Emergency Act of 2015, \$23.3 million will be spent on an urgently needed and comprehensive legislative, administrative, and budgetary agenda to address crime in the District.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2015 and Fiscal Year 2016 Revised Budget Request Adjustment Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-100

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To recognize and honor Howard Politzer, owner of Brookland True Value Hardware, for his 40-year commitment to community and economic development in the District of Columbia .

WHEREAS, Howard Politzer was born in Baltimore, Maryland on August 10, 1950, and in 1973 graduated from the University of Maryland, College Park;

WHEREAS, Howard Politzer, in 1975, opened Grand Paint & Hardware on Capitol Hill;

WHEREAS, Howard Politzer, in 1980, rented a commercial space on 12th and Monroe Streets, NE, to continue his hardware business;

WHEREAS, Howard Politzer, in September 1981, officially opened his well-known Ward 5 business, Brookland True Value Hardware Store, located at 12th and Monroe Streets, NE;

WHEREAS, The Washington D.C. Hall of Fame awarded Howard Politzer the 2007 Legacy Award recognizing his service to District residents;

WHEREAS, Washington City Paper named Brookland True Value Hardware the “Best Hardware Store” in 2008;

WHEREAS, Howard Politzer, in late 2015, will retire;

WHEREAS, Howard Politzer will serve as the Senior Advisor for Annie’s Ace Hardware-Brookland, located in Ward 5 at 3405 8th Street, NE; and

WHEREAS, Howard Politzer, is a loving husband, father of 3 children, and grandfather of 2 grandchildren.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors long -time small business owner Howard Politzer for 40 years of service to District residents, and for his commitment to community development as the owner of Brookland True Value Hardware.

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Sec. 2. This resolution may be cited as the “Howard Politzer Retirement Recognition Resolution of 2015”.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-101

N THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To recognize and honor the Washington Kastles and its owner Mark Ein as representatives of the District of Columbia’s finest living monument to professionalism, team work, caring, and community service.

WHEREAS, the Washington Kastles played the 2014 and 2015 seasons indoors at George Washington University’s Charles E. Smith Center;

WHEREAS, in 2015, a new attendance record was set at over 4,200 when an additional seating section was offered for sale to a sold-out match, and the additional seating section sold out in less than one day;

WHEREAS, Mark Ein, a long-time Washington, D.C. resident and business owner had the vision to create the Washington Kastles franchise and Kastles Stadium in the center of the city as well as the energy and the skills to bring it to reality in a first-class manner so that so many local citizens could benefit;

WHEREAS, the Washington Kastles demonstrate Mark Ein’s deep commitment to the city, its community, and numerous local charities over a long period of time;

WHEREAS, the 2015 Washington Kastles captured their fifth World Team Tennis (“WTT”) championship and stand alone with 5 consecutive WTT titles;

WHEREAS, the WTT championship team roster included Murphy Jensen, Head Coach, Martina Hingis, 2012 and 2013 Female MVP, Venus Williams Sam Querrey, Denis Kudla, Madison Brengle, Leander Paes, 2015 Finals MVP, Anastasia Rodionova, 2015 Female co-MVP, and Rajeev Ram; and

WHEREAS, through Kastle Community outreach efforts since the team’s inaugural 2008 season, Mark Ein and the franchise have provided cash and donated goods, including tickets, racquets, and merchandise, to local charities, youth groups, and children; and

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WHEREAS, among the many beneficiaries are The Boys and Girls Clubs, The Southeast Tennis and Learning Center, District of Columbia Public Schools, DC CAP, Big Brothers Big Sisters, and the Washington Tennis and Education Foundation.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia salutes the Washington Kastles and Mark Ein for their dedication, passion, and persevering spirit in advancing sporting excellence in Washington, D.C., and elevating our city to prominence in professional tennis, and declares September 4, 2015 as “Washington Kastles Day” in the District of Columbia.

Sec. 2. This resolution may be cited as the “Washington Kastles Recognition Resolution of 2015”.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-102

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To recognize Foundry United Methodist Church on the occasion of its Bicentennial Anniversary Celebration and declare September 13, 2015, as "Foundry United Methodist Church Day" in the District of Columbia;

WHEREAS, Foundry United Methodist Church (“Foundry”) was dedicated in the city of Washington, D.C. on September 10, 1815;

WHEREAS, Foundry was born out of the War of 1812 as a gift to the Methodist Episcopal Church from Henry Foxall, who was the cannon maker to the U.S. government in 1814;

WHEREAS, on August 24, 1814, the British forces marched on Washington, D.C. and burned the Capitol Building and the White House;

WHEREAS, on August 25, they continued by burning the building just to the west of the White House, and housing government offices, including the War Department and the State Department, and, it was believed, they intended to move on into Georgetown and destroy Mr. Henry Foxall's iron foundry;

WHEREAS, the British forces intentions were halted and in gratitude for his foundry being saved, Mr. Foxall pledged to build a chapel in the Federal City and constructed the building at 14th and G Streets, N.W.;

WHEREAS, Mr. Foxall was a lay Methodist preacher, and contributed to the founding of several churches in Washington and New Orleans;

WHEREAS, the name Foundry was agreed to by Mr. Foxall in honor of John Wesley's first church in England, known as "The Old Foundry;"

WHEREAS, Mr. Foxall deeded the church, which was then called the Foundry Chapel, to the church for \$1;

ENROLLED ORIGINAL

WHEREAS, Foundry has served Washington, D.C. and the surrounding area, from clerks to presidents, as well as Congressmen and diplomats, throughout its history.

WHEREAS, Foundry has a 1,400-member congregation, which comes from throughout the Washington, D.C. metropolitan area;

WHEREAS, Foundry has a strong Christian education program, an outstanding ministerial leadership, under the direction of Rev. Ginger Gaines-Cirelli, and a great choir, led by Stanley Thurston, Director of Music;

WHEREAS, there are many ministry teams working to end discrimination, combat HIV/AIDS, provide housing for the homeless, end hunger, welcome refugees, preserve the environment, teach English as a second language, fight for justice for all, and advocate for human rights and peace; and

WHEREAS, Foundry is moving into its third century looking forward to continued expansion in all of its worship, education, and service areas to meet the needs of an ever-changing congregation, city, and world.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Foundry United Methodist Church on the observance of its Bicentennial Anniversary Celebration and declares September 13, 2015, as "Foundry United Methodist Church Day" in the District of Columbia.

Sec. 2. This resolution may be cited as the "Foundry United Methodist Church Bicentennial Anniversary Celebration Recognition Resolution of 2015".

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-103

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To recognize and celebrate the Greater Washington Hispanic Chamber of Commerce in celebration of Hispanic Heritage.

WHEREAS, the Greater Washington Hispanic Chamber of Commerce (“GWHCC”) was founded in 1976 and is a 501(c)(6) nonprofit organization;

WHEREAS, GWHCC is a membership-driven organization that supports the economic development of the greater Washington, D.C. metropolitan area by facilitating the success of Latino and other minority-owned businesses;

WHEREAS, every year more than 1,500 businesses and organizations participate in GWHCC’s events, many of whom are GWHCC members;

WHEREAS, these members range from the Washington, D.C. region’s largest corporations to one-person companies and everything in between;

WHEREAS, members benefit through various services, including technical assistance, business ownership development, access to markets, and workforce development;

WHEREAS, the considerable increase in the Hispanic population over the past decades has signified an overall growth in its purchasing power and business ownership, corroborating the importance of maintaining a strong GWHCC; and

WHEREAS, GWHCC strives to support this development by empowering members, business leaders, and entrepreneurs through networking, advocacy, education, and annual gala platforms, which strengthen partnerships among commercial, nonprofit, and government institutions.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia commends the Greater Washington Hispanic Chamber of Commerce for its many contributions to the District of Columbia and her citizens and congratulates GWHCC as it celebrates Hispanic Heritage.

ENROLLED ORIGINAL

Sec. 2. This resolution may be cited as the “Greater Washington Hispanic Chamber of Commerce Recognition Resolution of 2015”.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-104

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To honor the Watergate Complex on the occasion of the 50th anniversary of its dedication, 1965-2015, and to declare October 27, 2015, as “Watergate Day” in the District of Columbia.

WHEREAS, on October 27, 1965, something special happened in Washington, D.C.: the city’s newest cooperative, Watergate East, opened its doors and the Watergate Complex was dedicated;

WHEREAS, on February 23, 1964, an Italian engineer and a Hungarian financier quietly invaded the sleepy Foggy Bottom neighborhood with the groundbreaking on the site of the abandoned Washington Gas Light plant for the future Watergate Complex;

WHEREAS, Watergate was the first to utilize the 1958 D.C. Zoning Code’s Planned Unit Development (“PUD”), whose purpose was to establish incentives for large-scale, mixed-use urban developments, curbing trends toward suburbanization by providing public amenities within large complexes;

WHEREAS, Watergate was the first and largest private-initiative PUD at the time in the history of Washington, D.C. and remains the oldest intact PUD in Washington, D.C.;

WHEREAS, between 1965 and 1971, the construction of the Watergate Complex transformed the Foggy Bottom neighborhood into one of the luxury addresses in the city;

WHEREAS, Watergate was the first large housing and commercial project to contract directly with a public utility (Washington Gas Light) in the Washington, D.C. area to furnish and operate the heating and cooling plant;

WHEREAS, Watergate embodies exceptional architectural significance as an outstanding and innovative example of the Modern Movement in Washington, D.C.;

WHEREAS, Watergate is the only representative example in the United States of the work of Italian Modernist and master architect Luigi Moretti;

ENROLLED ORIGINAL

WHEREAS, Watergate is one of the earliest green roof projects in Washington, D.C., designed by master landscaper Boris Timchenko, one of the top landscapers in Washington, D.C. in the mid-1960s;

WHEREAS, execution of the curvilinear design precipitated the use of a computer to efficiently calculate measurements of building elements, making Watergate one of the earliest known examples of computer-aided design in the country;

WHEREAS, the concrete polychrome sculptural frieze in the lobby of Watergate West was created by noted sculptor and muralist Pietro Lazzari; and

WHEREAS, Watergate recognizes and honors 11 staff employees who each have worked at the complex for over 20 years.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia is proud to honor the Watergate Complex, a true Washington institution, and declares October 27, 2015, as “Watergate Day” in the District of Columbia..

Sec. 2. This resolution may be cited as the “50th Anniversary of the Dedication of the Watergate Complex Recognition Resolution of 2015”.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-105

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare September 21-27, 2015, as “Adult Education and Family Literacy Week” in the District of Columbia.

WHEREAS, the week of September 21-27, 2015, is Adult Education and Family Literacy Week in the District of Columbia;

WHEREAS, literacy is integral to the quality of life and necessary to create productive workers, family members, and citizens of all ages;

WHEREAS, the need for a highly literate community continues to rapidly increase as the District of Columbia's economy grows increasingly knowledge-based and technology-driven;

WHEREAS, 24% of District of Columbia residents without a high school diploma are unemployed, which is 1½ times that of residents with an associate's degree and 6 times that of residents with a bachelor's degree;

WHEREAS, adults with at least some postsecondary education are more likely to find jobs that pay family-sustaining wages and are therefore better able to provide a stable home for themselves and their families;

WHEREAS, one of the most effective ways to improve the academic success of a child is to improve the educational level of their parent; and

WHEREAS, literacy skills impact every aspect of an adult's life, including the ability to read to their child and be involved in their education, earn a family-supporting wage, make informed health care decisions, and understand voting issues and other civic engagements.

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IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia hereby declares September 21-27, 2015, as “Adult Education and Family Literacy Week” in the District of Columbia and encourages District residents to learn more about the importance of literacy at all ages and become involved with adult learners and literacy programs in our community.

Sec. 2. This resolution may be cited as the "Adult Education and Family Literacy Week Recognition Resolution of 2015".

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-106

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To declare September 2015 as “African Immigrant Heritage Month” in the District of Columbia and to honor the contributions of District of Columbia residents of African immigrant heritage.

WHEREAS, the District of Columbia is home to approximately 16,000 African-born residents, which is the highest proportion of African-born residents of any major city in the United States;

WHEREAS, the District of Columbia has the unique privilege of hosting the embassies of all 54 countries on the African continent;

WHEREAS, African immigrants contribute greatly to the social fabric of our city in a variety of ways, including through the arts, music, education, and cuisine;

WHEREAS, African immigrant entrepreneurs help to build the vibrancy of our city’s economy from restaurants to grocery stores to salons;

WHEREAS, we celebrate the great diversity of our city, including our diverse immigrant communities;

WHEREAS, District of Columbia laws are responsive to the needs of our immigrant residents, including through the Language Access Act, which recognizes Amharic and French as languages spoken by a large number of residents, largely African immigrants;

WHEREAS, the District of Columbia is host to the 5th Annual National African Immigrant Legislative Week from September 25-30, 2015; and

WHEREAS, African Union day is September 9, and numerous governmental bodies, including the United States Congress, have recognized September as African Immigrant Heritage Month.

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

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contributions of its African immigrant residents, and declares September 2015 as “African Immigrant Heritage Month” in the District of Columbia.

Sec. 2. This resolution may be cited as the “African Immigrant Heritage Month Recognition Resolution of 2015”.

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

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

21-107

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To recognize and honor Demetrius Cutchin for his accomplishments at the 2015 Special Olympics World Games.

WHEREAS, Demetrius Cutchin was born in the District of Columbia on January 12, 1994, and is a resident of Ward 8;

WHEREAS, Demetrius Cutchin was a student in the District of Columbia Public Schools system, attending Kelly Miller Middle School and graduating from H.D. Woodson High School;

WHEREAS, Demetrius Cutchin began competing in Special Olympics events in 2006 and has participated in 9 different sports: golf, speed skating, bowling, track, unified track, basketball, volleyball, soccer, and unified soccer;

WHEREAS, Demetrius Cutchin previously competed with the District of Columbia delegation at the 2014 Special Olympics U.S. Games in Trenton, New Jersey, where he won 3 gold medals--in Shot Put, as a member of the 4x100 Relay, and in the 400 Meter Run;

WHEREAS, Demetrius Cutchin was one of 300 athletes, and the only delegate from the District of Columbia, selected to be a part of Team USA at the 2015 Special Olympics World Games in Los Angeles, California;

WHEREAS, during the 2015 World Games, Demetrius Cutchin was awarded a bronze medal for the 100 Meter Run and a fourth place ribbon for the 400 Meter Run; and

WHEREAS, Demetrius Cutchin and his team won the gold medal in the 4x400 Relay, with a time of 4 minutes and 33.6 seconds.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Demetrius Cutchin for his athletic accomplishments, which serve as an inspiration to all.

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Sec. 2. This resolution may be cited as the “Demetrius Cutchin Recognition Resolution of 2015”.

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

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A CEREMONIAL RESOLUTION

21-108

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To recognize and honor the Honorable Jimmy Carter, 39th President of the United States, as a dedicated friend of the District of Columbia and an advocate for its residents, on the occasion of his 91st birthday, October 1, 2015.

WHEREAS, the Honorable Jimmy Carter's candidacy for the country's highest office was supported by District residents by overwhelming margins in both 1976 and 1980;

WHEREAS, the Honorable Jimmy Carter brought a spirit of honesty and integrity to the office, beginning on Inauguration Day, January 20, 1977, when he and Mrs. Rosalynn Carter walked the Nation's Main Street, Pennsylvania Avenue, from the Capitol to the White House;

WHEREAS, the Honorable President Jimmy Carter and Mrs. Carter chose to have First Daughter Amy Carter attend District of Columbia public schools, joining our children first at Stevens Elementary School and then Hardy Middle School;

WHEREAS, the Honorable President Jimmy Carter supported the District of Columbia's right to full congressional voting representation in the U.S. House of Representatives and Senate;

WHEREAS, the Honorable President Jimmy Carter supported a Constitutional Amendment to end taxation without representation for the District of Columbia;

WHEREAS, the Honorable President Jimmy Carter and Mrs. Carter brought the Jimmy & Rosalynn Carter Work Project, an annual home-building blitz organized by Habitat for Humanity, to the District of Columbia in 1992 and again in 2010, and worked with volunteers renovating and building homes in our neighborhoods; and

WHEREAS, the Honorable Jimmy Carter, during his remarks at the 50th Anniversary of the Civil Rights March on Washington, expressed that he believed he knew how Dr. Martin Luther King, Jr. would have reacted to several injustices, including full citizenship rights denied to the people of the District of Columbia.

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IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council acknowledges and honors the Honorable Jimmy Carter for his friendship to the District of Columbia, his advocacy on behalf of District residents, and his continued commitment to justice and equality everywhere, on the occasion of his 91st birthday, on October 1, 2015.

Sec. 2. This resolution may be cited as the “The Honorable Jimmy Carter Recognition Resolution of 2015”.

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

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A CEREMONIAL RESOLUTION

21-109

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To recognize and honor Denise Rolark Barnes on being elected Chairman of the National Newspaper Publishers Association, her leadership of The Washington Informer Newspaper, and her accomplishments in the field of journalism.

WHEREAS, in 1964, The Washington Informer newspaper was founded by Dr. Calvin W. Rolark, a civic and political activist in the District of Columbia;

WHEREAS, Denise Rolark Barnes, daughter of Dr. Calvin Rolark and Ms. Vera Abbott, and stepdaughter of the late Honorable Wilhelmina Rolark, attended Hampton Institute and graduated from Howard University, where she received a Bachelor of Arts degree in journalism in 1976;

WHEREAS, after graduating from Howard University, Denise Rolark Barnes enrolled at the Howard University School of Law, where she served as editor of The Barrister, the law university’s student newspaper, before graduating in 1979;

WHEREAS, in 1979, Denise Rolark Barnes joined the staff of The Washington Informer and served as managing editor under the guidance of her father;

WHEREAS, in 1994, upon the passing of Dr. Calvin Rolark, Denise Rolark Barnes became publisher of The Washington Informer;

WHEREAS, in 2014, The Washington Informer celebrated 50 years of being the voice of the Black community;

WHEREAS, Denise Rolark Barnes has served as a member of the Board of Directors of the Maryland, Delaware, DC Press Association for 4 years;

WHEREAS, the National Newspaper Publishers Association (“NNPA”), founded 75 years ago, is a trade association of more than 200 African American-owned community newspapers from around the United States of America;

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WHEREAS, NNPA has served as the largest and most influential Black-owned media resource in America, delivering news, information, and commentary to over 20 million people each week since its inception;

WHEREAS, Denise Rolark Barnes has been an active member of NNPA, serving as a past 2nd Vice Chair, and most recently an At-Large member of the Board of Directors and as Region I President under the leadership of Cloves C. Campbell, Jr.;

WHEREAS, on June 16-20, 2015, the National Newspaper Publishers Association celebrated its 75th anniversary and uplifted the theme: Empowering a New Generation of Leadership;

WHEREAS, on June 19, 2015, Denise Rolark Barnes was elected Chairman of the National Newspaper Publishers Association by its membership.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes and honors Denise Rolark Barnes for her commitment to the field of journalism, and for her leadership in the Black Press for more than 30 years. We salute Denise Rolark Barnes as she takes the helm of NNPA, working to balance the news affecting Black communities here in the District of Columbia, and across the United States of America.

Sec. 2. This resolution may be cited as the “Denise Rolark Barnes Recognition Resolution of 2015”.

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

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A CEREMONIAL RESOLUTION

21-110

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To recognize David Nathaniel Tinsley, Jr. on the occasion of his retirement from the District of Columbia Fire Department.

WHEREAS, David Nathaniel Tinsley, Jr., also known as “Tinman” and “Big Dave,” was born in the District of Columbia on October 10, 1961, to the late Bertha Washington and David Tinsley, Sr. as the third of 10 children;

WHEREAS, David Nathaniel Tinsley, Jr. grew up in Northeast D.C. and primarily resided with his grandparents on 3rd Street, N.E.;

WHEREAS, David Nathaniel Tinsley, Jr. attended public and parochial schools before his graduation from Mackin High School;

WHEREAS, David Nathaniel Tinsley, Jr. was joined in Holy Matrimony to Lillie G. Sanders in June 1986 and from this union 2 children were born, David N. Tinsley, III and Lillie Grace Tinsley, Jr.;

WHEREAS, David Nathaniel Tinsley, Jr. accepted Jesus Christ as his personal Savior at an early age, was baptized, and became a member of Enon Baptist Church under the leadership of the late Reverend Arthur Shingler;

WHEREAS, David Nathaniel Tinsley, Jr. is now a Deacon at Peace Baptist Church, where he is an active and devoted member under the leadership of Reverend Dr. Michael T. Bell, and serves faithfully in several ministries, including The Senior Ministry, The Male Chorus as its President, as spiritual advisor for the Junior Usher board, and as a Bass player;

WHEREAS, David Nathaniel Tinsley, Jr. is also affiliated with 2 quartets; Men of Faith and the Gaston Brothers;

WHEREAS, David Nathaniel Tinsley, Jr. was involved with numerous community activities beyond his professional career, including service as a mentor for young males with incarnated fathers, participating in numerous District of Columbia Public Schools fire prevention

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safety orientations for the children and staff, youth mentorship in the public school system, ministering through song to senior and disabled patients in local nursing homes, hosting DNT Annual Charity races with the proceeds donated to needy District of Columbia resident children, and serving as a certified personal trainer through the American Council on Exercise and to his DNT fitness clients;

WHEREAS, David Nathaniel Tinsley, Jr. began his career with the District of Columbia Fire Department on April 4, 1989, when he was assigned to Truck 10;

WHEREAS, David Nathaniel Tinsley, Jr. proudly served his city and community as a Fire Fighter Technician and Form Unit Technician, and after 26 years of faithful service, retired from the District of Columbia Fire Department on September 5, 2015;

WHEREAS, David Nathaniel Tinsley, Jr. never considered his tenure as a fire fighter as a job, but rather as a privilege to be a “First Responder”;

WHEREAS, David Nathaniel Tinsley, Jr. is known as a “People Person,” and his friendships with his colleagues and the opportunity to provide resources and support to his hometown community provided him with a rewarding and fulfilling career that included highlights such as his service at the Pentagon on September 11, 2001, being a first responder to the White House when the President landed and the beginning of the “Tinsley Legacy of Fire Fighters” when his son, Sgt. David Tinsley, III, began his service to DCFD; and

WHEREAS, David Nathaniel Tinsley, Jr. is a source of inspiration and joy for his family and friends.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia recognizes David Nathaniel Tinsley, Jr. on the occasion of his retirement, and thanks him for his years of faithful service to the District of Columbia.

Sec. 2. This resolution may be cited as the “David Nathaniel Tinsley, Jr. Retirement Recognition Resolution of 2015”.

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

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A CEREMONIAL RESOLUTION

21-111

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2015

To celebrate the life of James Clinton Williams.

WHEREAS, James Clinton Williams was born February 20, 1925 in Wilson, North Carolina to the late John and Daisy Williams as the second youngest of 5 children, and spent most of his childhood in Baltimore, Maryland engaging in all sorts of youthful adventure and mischief;

WHEREAS, James Clinton Williams held a deep love of sports, specifically football and basketball, that continued throughout his life since his youth, as he enjoyed watching games on television as he sat in his favorite recliner chair;

WHEREAS, James Clinton Williams was drafted to serve in the United States Navy during World War II while attending Frederick Douglass High School, and at the war’s end, he returned home and to school, where he played on the football team until he graduated;

WHEREAS, James Clinton Williams’s first job was as a security guard for the federal government in the District of Columbia;

WHEREAS, James Clinton Williams later took a job painting rooms and signs in military homes at Fort McNair Military base, became a full-time employee based on the quality of his work, and remained there until he retired;

WHEREAS, James Clinton Williams had a passion for art and a skill he shared with the world through one of his internationally known designs, the well-known Toys ‘R’ Us logo that he created while working as a security guard at a toy store called Children’s Bargain Town in the District of Columbia;

WHEREAS, James Clinton Williams and 2 other artists were asked by the owner of Children’s Bargain Town to come up with a logo design for the store’s new name, “Toys Are Us,” with the opening of their second store;

WHEREAS, James Clinton Williams, while brainstorming ideas, wrote the name of the store to look as if a child had written it. Then, he asked his children to write the name of the store

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in their own handwriting and noticed that his daughter, Shelley, wrote the “r” backwards. He decided to drop the letters “a” and “e” and added 2 apostrophes, and the iconic Toys ‘R’ Us logo was born;

WHEREAS, James Clinton Williams measured himself as a husband, father, son, and brother, striving to be a model to his family, offering unconditional love in whatever ways it was needed—through sound advice, a helping hand, a playful point-of-view or simply his contagious humor, and embodying a loving and enduring spirit that will live on in their hearts forever;

WHEREAS, James Clinton Williams was preceded in death by his wife and son, Evelyn and Bruce Williams; his 3 siblings, Clovis, John, and Hattie; his grandson, Quincy Moody; and son-in-law, Allen Moody, Jr.;

WHEREAS, James Clinton Williams is survived by his 2 children, James Williams II and Shelley Williams-Moody; his sister, Hedy Brown; 5 grandchildren, India Dixon, Allene Bryant (Frank A. Bryant), Nicole Williams, Janelle Williams, and John Williams; 10 great-grandchildren; and a host of other relatives and friends;

WHEREAS, James Clinton Williams was affectionately known as “Granddaddy” to family and friends alike, had a humble spirit, an uncontainable curiosity about life, and a contagious sense of humor;

WHEREAS, James Clinton Williams lived his life with happiness, innovation, and compassion, believing that “Everything is beautiful in its own way,” as he sang repeatedly in his final days;

WHEREAS, James Clinton Williams was a resident of the Hillcrest community in Ward 7 for over 50 years; and

WHEREAS, James Clinton Williams passed on July 14, 2015.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council of the District of Columbia honors the creativity, life, and legacy of James Clinton Williams.

Sec. 2. This resolution may be cited as the “James Clinton Williams Recognition Resolution of 2015”.

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

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

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

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

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

- | | |
|---------|--|
| B21-411 | Bolling Air Force Base Military Housing Clarification Act of 2015

Intro. 9-30-15 by Councilmember Evans and referred to the Committee on Finance and Revenue |
| <hr/> | |
| B21-412 | Solar Energy Amendment Act of 2015

Intro. 9-22-15 by Councilmembers Silverman, Cheh, Nadeau, Allen, and Grosso, and Chairman Mendelson and referred to the Committee on Transportation and the Environment with comments from the Committee on Business, Consumer, and Regulatory Affairs |
| <hr/> | |
| B21-413 | Short-Term Online Rental Marketplace Rental Procedures and Safety Act of 2015

Intro. 9-22-15 by Councilmember Orange and referred to the Committee on Business, Consumer, and Regulatory Affairs |
| <hr/> | |
| B21-414 | Short-term Rental Regulation and Housing Protection Amendment Act of 2015

Intro. 9-22-15 by Councilmember Orange and referred to the Committee on Business, Consumer, and Regulatory Affairs with comments from the Committee of the Whole |
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- B21-415 Universal Paid Leave Act of 2015
- Intro. 10-6-15 by Councilmembers Grosso, Nadeau, McDuffie, Silverman, Allen, May, and Cheh and referred to the Committee of the Whole with comments from the Committee on Business, Consumer, and Regulatory Affairs the Committee on Finance and Revenue and the Committee on Judiciary
-
- B21-416 Health Impact Assessment Program Establishment Act of 2015
- Intro. 10-6-15 by Councilmember Grosso and referred to the Committee on Health and Human Services
-
- B21-417 First-time Homebuyer Tax Benefit Amendment Act of 2015
- Intro. 10-6-15 by Councilmembers Grosso, Bonds, and Evans and referred to the Committee on Finance and Revenue
-
- B21-418 District of Columbia Public Transit Vehicle Safety Amendment Act of 2015
- Intro. 10-6-15 by Councilmember Evans and referred to the Committee on Judiciary
-
- B21-419 Health Insurance Coverage for Autism and Other Special Needs Amendment Act of 2015
- Intro. 10-6-15 by Councilmembers Allen, Nadeau, Orange, Silverman, and Todd and referred to the Committee on Business, Consumer, and Regulatory Affairs with comments from the Committee on Health and Human Services
-
- B21-420 Residential Lease Amendment Act of 2015
- Intro. 10-6-15 by Councilmember Cheh and referred to the Committee on Housing and Community Development
-
- B21-421 Theodore "Ted" Williams Alley Designation Act of 2015
- Intro. 10-6-15 by Councilmember Nadeau and referred to the Committee of the Whole
-

B21-422 UDC DREAM Amendment Act of 2015
Intro. 10-6-15 by Chairman Mendelson and Councilmembers Grosso and Orange and referred to the Committee of the Whole

B21-424 Closing of a Portion of the Public Alley in Square 2882, S.O. 14-21729, Act of 2015
Intro. 10-2-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

B21-428 School Choice for Military Families Amendment Act of 2015
Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PROPOSED RESOLUTIONS

PR21-332 Sense of the Council Regarding Quick Payment Compliance Resolution of 2015
Intro. 9-22-15 by Nadeau, Orange, Silverman, and Grosso and re-referred 10-5-15 to the Committee of the Whole

PR21-355 District of Columbia Housing Authority Board of Commissioners Jose Ortiz Confirmation Resolution of 2015
Intro. 9-30-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-360 Director of the Department of Behavioral Health Tanya Royster Confirmation Resolution of 2015
Intro. 10-2-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services

PR21-361 Interagency Council on Homelessness Christina M. Respress Confirmation Resolution of 2015
Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR21-362 Interagency Council on Homelessness Elizabeth Schroeder Stribling
Confirmation Resolution of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-363 Interagency Council on Homelessness Michael Ferrell Confirmation Resolution
of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-364 Interagency Council on Homelessness Deborah Shore Confirmation Resolution
of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-365 Interagency Council on Homelessness Adam Rocap Confirmation Resolution
of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-366 Interagency Council on Homelessness Nechama Masliansky Confirmation
Resolution of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-367 Interagency Council on Homelessness Eric J. Sheptock Confirmation
Resolution of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-368 Interagency Council on Homelessness Donald L. Brooks Confirmation
Resolution of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-369 Interagency Council on Homelessness Albert Townsend Confirmation
Resolution of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-370 Interagency Council on Homelessness Margaret A. Hacskaylo Confirmation
Resolution of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-371 Interagency Council on Homelessness Margaret Riden Confirmation
Resolution of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

PR21-372 Interagency Council on Homelessness Jill Carmichael Confirmation Resolution
of 2015

Intro. 10-5-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

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

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

on the

B21-0039, “Military Installation Public Charter School Amendment Act of 2015” and

B21-0428, “School Choice for Military Families Amendment Act of 2015”

on

**Thursday, October 29, 2015
10:00 a.m., Hearing Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the scheduling of a public hearing of the Committee on Education on B21-0039, “Military Installation Public Charter School Amendment Act of 2016” and B21-0428, “School Choice for Military Families Amendment Act of 2015.” The hearing will be held at 10:00 a.m. on Thursday, October 29, 2015 in Hearing Room 123 of the John A. Wilson Building.

The stated purpose of B21-39 is to allow the Public Charter School Board (PCSB) to approve a preference for admission based on status as a dependent of an active member of the United States Armed Forces for a public charter school located near a military installation in D.C. The stated purpose of B21-428 is to allow a public charter school to offer lottery preference for children of active duty military personnel who live on a military base or installation in D.C.

Those who wish to testify are asked to telephone the Committee on Education, at (202) 724-8061, or email Jessica Giles, Committee Assistant, at jgiles@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, October 27. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on November 12, 2015.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

Bill 21-64, DC Community Impact Fund Act of 2015

on

**Tuesday, November 10, 2015
1:00 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on Bill 21-64, the "DC Community Impact Fund Act of 2015." The hearing will be held at 1:00 p.m. on Tuesday, November 10, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of Bill 21-64 is to authorize the establishment of a nonprofit fund to support District government social benefit programs. The fund would be financed through a one percent deduction from payments to private vendors under District government contracts, with the expectation that contract costs would be unaffected.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or to email Evan Cash, Committee Director, at ecash@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, November 6, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on November 6, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of Bill 21-64 can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday, November 24, 2015.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 21-134, Tip's Way Designation Act of 2015;
Bill 21-228, Fieldstone Lane Alley Designation Act of 2015;
Bill 21-229, Maverick Room Way Designation Act of 2015
Bill 21-341, Carry's Way Designation Act of 2015
Bill 21-342, Guethler's Court Designation Act of 2015
Bill 21-374, Emery Heights Community Center Designation Act of 2015
&
Bill 21-421, Theodore "Ted" Williams Alley Designation Act of 2015

on

Thursday, November 19, 2015
10:00 a.m., Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on Bill 21-134, the "Tip's Way Designation Act of 2015," Bill 21-228, the "Fieldstone Lane Alley Designation Act of 2015," Bill 21-229, the "Maverick Room Way Designation Act of 2015," Bill 21-341, the "Carry's Way Designation Act of 2015," Bill 21-342, the "Guethler's Court Designation Act of 2015," Bill 21-374, the "Emery Heights Community Center Designation Act of 2015," and Bill 21-421, the "Theodore 'Ted' Williams Alley Designation Act of 2015." The public hearing will be held Thursday, November 19, 2015, at 10:00 a.m. in Hearing Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The stated purpose of **Bill 21-134** is to symbolically designate the alleyway behind 7th Street, NE and 8th Street, NE, and between A Street, NE and East Capitol Street, NE, in Ward 6, as Tip's Way in acknowledgement of Tip Tipton's dedication to its improvement.

The stated purpose of **Bill 21-228** is to designate the public alley within square 2268 that runs parallel to the 4600 block of Broad Branch Road, NW, in Ward 3, as Fieldstone Lane.

The stated purpose of **Bill 21-229** is to symbolically designate the 2300 block of 4th Street, NE, between Rhode Island Avenue, NE, and Bryant Street, NE, in Ward 5, as Maverick Room Way.

The stated purpose of **Bill 21-341** is to symbolically designate the alley that runs north and south between D Street, SE, and E Street, SE, in Square 1042, in Ward 6, as Carry's Way in recognition of its historical relationship to the Carry Ice Cream Company, located on the same site in the early 1900s.

The stated purpose of **Bill 21-342** is to designate the alleyway that runs east and west between D Street, SE, and E Street, SE, in Square 1042, in Ward 6, as Guethler's Court in recognition of John E. Guethler, who owned and operated a brewery on the same square in the late 1800s.

The stated purpose of **Bill 21-374** is to designate the Emery Recreation Center, located at 5801 Georgia Avenue, NW, in Ward 4, as the Emery Heights Community Center.

The stated purpose of **Bill 21-421** is to designate the public alley in Square 2851, bounded by Irving Street, N.W., Columbia Road, N.W., 11th Street, N.W., and Sherman Avenue, N.W., in Ward 1, as Theodore "Ted" Williams Alley.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Gregory Matlesky, Legislative Aide, at gmatlesky@dccouncil.us and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Tuesday, November 17, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Tuesday, November 17, 2015, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of Bill 21-134, Bill 21-228, Bill 21-229, Bill 21-341, Bill 21-342, Bill 21-374, and Bill 21-421 can be obtained through the Legislative Services Division of the Secretary of the Council's office or at <http://dcclims1.dccouncil.us/lims>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Thursday, December 3, 2015.

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

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 21-334, Procurement Integrity, Transparency, and Accountability Amendment Act of 2015

Bill 21-397, Procurement Practices Reform Amendment Act of 2015

on

**Tuesday, November 10, 2015
1:30 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing of the Committee of the Whole on Bill 21-334, the “Procurement Integrity, Transparency, and Accountability Amendment Act of 2015” and Bill 21-397, the “Procurement Practices Reform Amendment Act of 2015.” The hearing will be held at 1:30 p.m., or immediately following the preceding hearing, on Tuesday, November 10, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of **Bill 21-334** is to amend the Procurement Practices Reform Act of 2010 to modify the procurement authority exemption for the Department of General Services; establish additional transparency in Council contract summaries; amend requirements for the solicitation and award of privatization contracts; establish restrictions on the performance of inherently governmental functions by contractors; establish an ombudsman for contracting and procurement; prohibit procurement lobbying; establish evaluation criteria related to contractor past performance; require a government cost estimate for construction projects; require payment bonds for service contracts; modify requirements for posting contract information on the Internet; require additional information on acquisition plans; and establish goals for strategic sourcing.

The stated purpose of **Bill 21-397** is to revise the criteria for review by the Council of multiyear contracts and contracts in excess of \$1 million; to revise the criteria for review by the Council of options which increase the value of a contract to over \$1 million; to amend the “clean hands” certification criteria; to establish rules for District employees to protect the integrity of the procurement process; and to clarify acquisition planning by District agencies.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or to email Evan Cash, Committee Director, at ecash@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, November 6, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on November 6, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. Copies of the bills can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Tuesday, November 24, 2015.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON EDUCATION
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

on the

B21-0361, “Youth Suicide Prevention and School Climate Survey Act of 2015” and

B21-0319, “Assessment on Children of Incarcerated Parents Act of 2015”

on

**Tuesday, October 27, 2015
2:00 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the scheduling of a public hearing of the Committee on Education on B21-361, “Youth Suicide Prevention and School Climate Survey Act of 2015” and B21-319, “Assessment on Children of Incarcerated Parents Act of 2015”. The hearing will be held at 2:00 p.m. on Tuesday, October 27, 2015 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of B21-361 is to require all school-based personnel of each local education agency to undergo at least two hours of suicide prevention, intervention, and postvention training each year. The bill also requires the Office of the State Superintendent of Education to develop and administer research-based school climate survey and publish certain reports on the results. The stated purpose of B21-319 is to require the Mayor to comprehensively assess children who have at least one parent that is incarcerated. The bill specifies that the assessment must: (1) evaluate the impact of parental incarceration on the child's academics; and (2) recommend policies to meet the needs of children who are struggling academically while a parent is incarcerated.

Those who wish to testify are asked to telephone the Committee on Education, at (202) 724-8061, or email Jessica Giles, Committee Assistant, at jgiles@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, October 23, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on November 10, 2015.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

Bill 21-422, UDC DREAM Amendment Act of 2015

on

**Tuesday, October 27, 2015
1:00 p.m., Council Chambers, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-422, the “UDC DREAM Amendment Act of 2015.” The hearing will be held at 1:00 p.m. on Tuesday, October 27, 2015 in Hearing Room 500, the Council Chambers, of the John A. Wilson Building.

The stated purpose of Bill 21-422 is to allow District residents, regardless of their federal immigration status, to pay in-state tuition rates and to receive local financial aid for attendance at any University of the District of Columbia school or campus provided that the resident meets certain graduation and District residency requirements.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Christina Setlow, Deputy Committee Director at csetlow@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, October 23, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on October 23, 2015 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of Bill 21-422 can be obtained on <http://lims.dccouncil.us>, or through the Legislative Services Division (Room 10) of the Secretary of the Council’s office.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on November 10, 2015.

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

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION
ANNOUNCES A PUBLIC HEARING**

on the

Early Learning and Early Care in the District of Columbia and

B21-0019, “Thurgood Marshall-Marion Barry Early Learning Academy Act of 2015”

on

**Saturday, November 14, 2015
10:00 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the scheduling of a public hearing of the Committee on Education on early learning and early care in the District of Columbia and B21-19, the “Thurgood Marshall-Marion Barry Early Learning Academy Act of 2015”. The hearing will be held at 10:00 a.m. on Saturday, November 14, 2015 in Hearing Room 412 of the John A. Wilson Building.

Accessibility to high-quality and affordable childcare is a growing concern for families in the District of Columbia, especially as the number of residents with young children continues to grow. The purpose of this hearing to discuss issues pertaining to early learning and early care of children in the District of Columbia, with an emphasis on child care development centers and homes. The stated purpose of B21-0019 is to establish an all-day, comprehensive, research-based early learning academy for three, four, and five year olds.

Those who wish to testify are asked to telephone the Committee on Education, at (202) 724-8061, or email Jessica Giles, Committee Assistant, at jgiles@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Thursday, November 12, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on November 30, 2015.

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

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES**

ANNOUNCES A PUBLIC HEARING ON

**PR 21-360, THE "DIRECTOR OF THE DEPARTMENT OF BEHAVIORAL HEALTH
TANYA ROYSTER CONFIRMATION RESOLUTION OF 2015"**

**THURSDAY, OCTOBER 29, 2015
11:00 A.M., ROOM 412, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing on PR 21-360, the "Director of the Department of Behavioral Health Tanya Royster Confirmation Resolution of 2015." The hearing will take place at 11:00 a.m. on Thursday, October 29 2015, in Room 412 of the John A. Wilson Building.

The purpose of Proposed Resolution 21-360 is to confirm the Mayoral appointment of Tanya Royster as the Director of the Department of Behavioral Health.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, October 27, 2015. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Wednesday, November 10, 2015.

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

REVISED

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE ON

The District's Snow Removal Operations Plan for Winter 2015-2016

Monday, October 26, 2015
at 11:00 a.m.
in Room 500 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, October 26, 2015, Councilmember Mary M. Cheh, Chairperson of the Committee on the Transportation and the Environment, will hold a public oversight roundtable on the District's Snow Removal Operations Plan for Winter 2015-2016. The roundtable will begin at 11:00 a.m. in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

The Department of Public Works has the primary responsibility for the District's snow removal operations. Efficient operations require the participation and coordination of many government agencies and hundreds of employees. The roundtable will examine DPW's readiness for the coming snow season and the agency's ability to coordinate with other entities.

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

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

This notice has been revised to reflect that the date of the roundtable has changed from October 23, 2015 to October 26, 2015.

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

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

**Councilmember Vincent B. Orange, Sr., Chairperson
Committee on Business, Consumer, and Regulatory Affairs
Announces a Public Roundtable
on**

- **PR21-342, the “Alcoholic Beverage Control Board Nicholas S. Alberti Confirmation Resolution of 2015”**
- **PR21-345, the “Alcoholic Beverage Control Board Mike Silverstein Confirmation Resolution of 2015”**

**Monday, October 26, 2015, 3:00 P.M.
JOHN A. WILSON BUILDING, ROOM 412
1350 PENNSYLVANIA AVENUE, N.W.
Washington, DC 20004**

Councilmember Vincent B. Orange, Sr. announces the scheduling of a public roundtable by the Committee on Business, Consumer, and Regulatory Affairs on PR21-342, the “Alcoholic Beverage Control Board Nicholas S. Alberti Confirmation Resolution of 2015” and PR21-345, the “Alcoholic Beverage Control Board Mike Silverstein Confirmation Resolution of 2015”. The public roundtable is scheduled for Monday, October 26, 2015 at 3:00 p.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, DC 20004.

Individuals and representatives of organizations who wish to testify at the public roundtable are asked to contact Ms. Faye Caldwell, Special Assistant to the Committee on Business, Consumer, and Regulatory Affairs, at (202) 727-6683, or via e-mail at fcaldwell@dccouncil.us and furnish their name, address, telephone number, e-mail address and organizational affiliation, if any, by the close of business Friday, October 23, 2015. Each witness is requested to bring 20 copies of his/her written testimony. Representatives of organizations and government agencies will be limited to 5 minutes in order to permit each witness an opportunity to be heard. Individual witnesses will be limited to 3 minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. The official record will remain open until close of business Monday, November 9, 2015. Copies of written statements should be submitted to the Committee on Business, Consumer, and Regulatory Affairs, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B21-225, Extension of Time to Dispose of Sixth and E Street, S.W. Temporary Amendment Act of 2015, **B21-406**, Early Learning Quality Improvement Network Temporary Act of 2015, **B21-408**, Extension of Time to Dispose of the Strand Theater Temporary Amendment Act of 2015, **B21-410**, Grocery Store Restrictive Covenant Prohibition Temporary Act of 2015, **B21-426**, Emergency Medical Services Contract Authority Temporary Amendment Act of 2015, **B21-432**, Truancy Referral Temporary Amendment Act of 2015, **B21-434**, Wage Theft Prevention Correction and Clarification Temporary Amendment Act of 2015, **B21-436**, Ward 5 Paint Spray Booth Conditional Moratorium Temporary Amendment Act of 2015, **B21-438**, Gas Station Advisory Board Temporary Amendment Act of 2015, and **B21-440**, N Street Village, Inc. Tax and TOPA Exemption Clarification Temporary Amendment Act of 2015 were adopted on first reading on October 6, 2015. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on November 3, 2015.

COUNCIL OF THE DISTRICT OF COLUMBIA**EXCEPTED SERVICE APPOINTMENTS AS OF SEPTEMBER 30, 2015****NOTICE OF EXCEPTED SERVICE EMPLOYEES**

D.C. Code § 1-609.03(c) requires that a list of all new appointees to Excepted Service positions established under the provisions of § 1-609.03(a) be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
Austin, Keenan	Chief of Staff	8	Excepted Service - Reg Appt
Halasa, Lena	Research Analyst	5	Excepted Service - Reg Appt
Quarles II, Brian	Research Analyst	5	Excepted Service - Reg Appt
McKenzie, Natasha	Legislative Aide	1	Excepted Service - Reg Appt

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION****

Posting Date: **October 9, 2015
Petition Date: **November 23, 2015
Hearing Date: **December 7, 2015

License No.: ABRA-025796
Licensee: Chinatown Garden, Inc.
Trade Name: Chinatown Garden
License Class: Retailer’s Class “C” Restaurant
Address: 618 H Street, N.W.
Contact: Hank Chao: (202) 737-8887

WARD 2 ANC 2C SMD 2C01

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Change of Hours of operation and alcoholic beverage sales and consumption.

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

Sunday through Thursday 10:20 am - 11 pm, Friday & Saturday 10:20 am – 12 am

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

Sunday through Thursday 10:20 am - 2 am, Friday & Saturday 10:20 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND****

Posting Date: **September 25, 2015
Petition Date: **November 9, 2015
Hearing Date: **November 23, 2015

License No.: ABRA-025796
Licensee: Chinatown Garden, Inc.
Trade Name: Chinatown Garden
License Class: Retailer’s Class “C” Restaurant
Address: 618 H Street, N.W.
Contact: Hank Chao: (202) 737-8887

WARD 2 ANC 2C SMD 2C01

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Change of Hours of operation and alcoholic beverage sales and consumption.

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

Sunday through Thursday 10:20 am - 11 pm, Friday & Saturday 10:20 am – 12 am

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

Sunday through Thursday 10:20 am - 2 am, Friday & Saturday 10:20 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

**Posting Date: October 9, 2015
**Petition Date: November 23, 2015
**Hearing Date: December 7, 2015
**Protest Date: February 3, 2016

License No.: ABRA-098368
Licensee: Southeast Restaurant Group, LLC
Trade Name: DCity Smokehouse
License Class: Retailer's Class "C" Tavern
Address: 1700 2nd Street, N.W.
Contact: M. Hines: 202-733-1919

WARD 5 ANC 5E SMD 5E06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on **February 3, 2015 at 1:30 pm.

NATURE OF OPERATION

Tavern with eat-in dining and alcohol. Total occupancy load of 83. Sidewalk Café with seating for 48. Entertainment Endorsement.

HOURS OF OPERATION

Sunday through Thursday 10am-1am, Friday and Saturday 10am-2am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 11am-12am, Friday and Saturday 11am-1am

HOURS OF LIVE ENTERTAINMENT

Friday through Sunday 5pm-9pm, Monday through Thursday 5pm-8pm

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

Sunday through Thursday 11am-10pm, Friday and Saturday 11am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

**Posting Date: April 24, 2015
**Petition Date: June 8, 2015
**Roll Call Hearing Date: June 22, 2015
**Protest Hearing Date: August 12, 2015

License No.: ABRA-098368
Licensee: Southeast Restaurant Group, LLC
Trade Name: DCity Smokehouse
License Class: Retailer's Class "C" Tavern
Address: 1700 2nd Street, N.W.
Contact: M. Hines: 202-733-1919

WARD 5

ANC 5E

SMD 5E06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on **August 12, 2015 at 1:30 pm.

NATURE OF OPERATION

Tavern with eat-in dining and alcohol. Total occupancy load of 83. Sidewalk Café with seating for 48. Entertainment Endorsement.

HOURS OF OPERATION

Sunday through Thursday 10am-1am, Friday and Saturday 10am-2am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 11am-12am, Friday and Saturday 11am-1am

HOURS OF LIVE ENTERTAINMENT

Friday through Sunday 5pm-9pm, Monday through Thursday 5pm-8pm

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

Sunday through Thursday 11am-10pm, Friday and Saturday 11am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Hearing Date: December 7, 2015
Protest Date: February 3, 2016

License No.: ABRA- 100547
Licensee: ShopHouse, LLC
Trade Name: ShopHouse Southeast Asian Kitchen
License Class: Retailer’s Class “D” Restaurant
Address: 2805 M Street, N.W.
Contact: Stephen J. O’Brien Esq.: (202) 625-7700

WARD 2 ANC 2E SMD 2E06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for February 3, 2016 at 1:30 pm.

NATURE OF OPERATION

A Southeast Asian restaurant with 38 seats and a Total Occupancy Load of 49.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 11 am – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Hearing Date: December 7, 2015
Protest Hearing Date: February 3, 2016

License No.: ABRA-100585
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #2749
License Class: Retailer's Class "D" Restaurant
Address: 443 7th Street, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 2 ANC 2C SMD 2C03

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for February 3, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 34. Total Occupancy Load: 34. Total number of sidewalk cafe seats: 8.

HOURS OF OPERATION FOR PREMISES

Sunday through Saturday 5am – 11pm

HOURS OF OPERATION FOR SIDEWALK CAFE

Saturday & Sunday 7am – 11pm, Monday through Friday 7am – 10pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE

Saturday & Sunday 12pm- 11pm Monday through Friday 2pm – 11pm

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

Saturday & Sunday 12pm- 11pm, Monday through Friday 2pm – 10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Hearing Date: December 7, 2015
Protest Hearing Date: February 3, 2016

License No.: ABRA-100551
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #712
License Class: Retailer's Class "D" Restaurant
Address: 1700 Connecticut Avenue, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 2 ANC 2B SMD 2B01

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for February 3, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 28. Total Occupancy Load: 28. Total number of sidewalk cafe seats: 43.

HOURS OF OPERATION FOR PREMISES AND SIDEWALK CAFE

Sunday through Saturday 5am – 11pm

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

Saturday & Sunday 12pm- 11pm, Monday through Friday 2 pm – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Hearing Date: December 7, 2015
Protest Hearing Date: February 3, 2016

License No.: ABRA- 100544
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #715
License Class: Retailer’s Class “D” Restaurant
Address: 5500 Connecticut Avenue, N.W.
Contact: Stephen O’Brien: (202) 625-7700

WARD 3 ANC 3G SMD 3G06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for February 3, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 32. Total Occupancy Load: 40. Total number of sidewalk cafe seats: 32.

HOURS OF OPERATION FOR PREMISES AND SIDEWALK CAFE

Sunday through Saturday 5am – 11pm

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

Saturday & Sunday 12pm- 11pm, Monday through Friday 2 pm – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Hearing Date: December 7, 2015
Protest Hearing Date: February 3, 2016

License No.: ABRA-100546
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #722
License Class: Retailer's Class "D" Restaurant
Address: 1810 Wisconsin Avenue, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 2 ANC 2E SMD 2E02

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for February 3, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 49. Total Occupancy Load: 49. Total number of summer garden seats: 33.

HOURS OF OPERATION FOR PREMISES AND SUMMER GARDEN

Sunday through Saturday 5am – 11pm

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

Saturday & Sunday 12pm- 11pm, Monday through Friday 2 pm – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Hearing Date: December 7, 2015
Protest Hearing Date: February 3, 2016

License No.: ABRA-100574
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #725
License Class: Retailer's Class "D" Restaurant
Address: 1301 Connecticut Avenue, N.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 2 ANC 2B SMD 2B07

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for February 3, 2016 at 4:30 pm.

NATURE OF OPERATION

A restaurant serving savory small plates and desserts meant for sharing, in addition to its coffee and breakfast offerings served all day, and offering wine & beer selections to its guest in a relaxing and comfortable environment. Total number of seats: 42. Total Occupancy Load: 42. Total number of sidewalk cafe seats: 18.

HOURS OF OPERATION FOR PREMISES

Sunday through Saturday 5am – 11pm

HOURS OF OPERATION FOR SIDEWALK CAFE

Sunday through Thursday 7am – 10pm, Friday & Saturday 7am – 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE

Saturday & Sunday 12pm- 11pm Monday through Friday 2pm – 11pm

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

Sunday 12pm- 10pm, Monday through Thursday 2pm – 10pm, Friday 2pm – 11pm, Saturday 12pm – 11pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Roll Call Hearing Date: December 7, 2015
Protest Hearing Date: February 3, 2016
License No.: ABRA-100573
Licensee: Passenger II, LLC
Trade Name: The Passenger
License Class: Retailer's Class "C" Tavern
Address: 1539 7th Street, N.W.
Contact: Andrew Kline: 202-686-7600

WARD 6

ANC 6E

SMD 6E02

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for February 3, 2016 at 1:30.

NATURE OF OPERATION

Restaurant serving bar food (burgers, hotdogs, etc.) Occasional entertainment may include DJ or live music. Cover Charge, no dancing, no nude performances. Number of seats: 175. Total Occupancy Load: 175. Sidewalk Café with seating for 10 and Summer Garden with seating for 75.

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

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

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

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

HOURS OF LIVE ENTERTAINMENT

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**** CORRECTION**

**Posting Date: October 9, 2015
**Petition Date: November 23, 2015
**Hearing Date: December 7, 2015

License No.: ABRA-097558
Licensee: Gobind, LLC
Trade Name: Toscana Cafe
License Class: Retail Class "DR"
Address: 601 2nd Street, N.E.
Contact: Maninder Sethi: (202) 525-2693

WARD 6 ANC 6C SMD 6C04

Notice is hereby given that this licensee has applied for a substantial change to his license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 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.

LICENSEE REQUESTS THE FOLLOWING SUBSTANTIAL CHANGE TO ITS NATURE OF OPERATION:

Request a Class Change from Class DR license to Class CR license.

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

Sunday through Saturday 11 am – 12 am

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

Sunday through Thursday 11 am – 11 pm, Friday & Saturday 11 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

**Posting Date: September 18, 2015

**Petition Date: November 2, 2015

**Hearing Date: November 16, 2015

License No.: ABRA-097558
Licensee: Gobind, LLC
Trade Name: Toscana Cafe
License Class: Retail Class "DR"
Address: 601 2nd Street, N.E.
Contact: Maninder Sethi: (202) 525-2693

WARD 6

ANC 6C

SMD 6C04

Notice is hereby given that this licensee has applied for a substantial change to his license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 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.

LICENSEE REQUESTS THE FOLLOWING SUBSTANTIAL CHANGE TO ITS NATURE OF OPERATION:

Request a Class Change from Class DR license to Class CR license.

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

Sunday through Saturday 11 am – 12 am

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

Sunday through Thursday 11 am – 11 pm, Friday & Saturday 11 am – 12 am

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

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Hearing Date: December 7, 2015
Protest Hearing Date: February 3, 2016

License No.: ABRA-099834
Licensee: Elmira, LLC
Trade Name: Upstate Tavern
License Class: Retailer's Class "C" Tavern
Address: 4610-4612 14th Street, N.W.
Contact: C. Webb: 202-277-7461

WARD 4

ANC 4C

SMD 4C03

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm on February 3, 2016.

NATURE OF OPERATION

Full-service tavern serving cocktails, soup, craft beers, braised pork.
Sidewalk Café Seating 36 patrons. Total Occupancy Load of 85, with seating for 78.
Entertainment Endorsement.

HOURS OF OPERATION FOR PREMISES

Sunday: 10am-2am, Monday through Thursday: 11am-1am, Friday: 11am-3am, Saturday: 10am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION PREMISES

Sunday: 10am-1:45am, Monday through Thursday: 11am-1am, Friday: 11am-2:45am
Saturday: 10am-2:45am

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday: 6pm-10pm, Friday & Saturday: 6pm-11pm

HOURS OF OPERATION FOR SIDEWALK CAFÉ

Sunday: 10am-10pm, Monday through Thursday: 11am- 10pm, Friday: 11am-12am, Saturday: 10am-12am.

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ

Sunday: 10am-9:45pm, Monday-Thursday: 11am-10pm, Friday: 11am-11:45pm, Saturday: 10am-11:45pm

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

Posting Date: October 9, 2015
Petition Date: November 23, 2015
Roll Call Hearing Date: December 7, 2015
Protest Hearing Date: February 3, 2016

License No.: ABRA-100498
Licensee: Paradise Veloce, LLC
Trade Name: Veloce
License Class: Retailer's Class "D" Restaurant
Address: 1828 L Street, N.W.
Contact: Michael Fonseca: 202-625-7700

WARD 2

ANC 2B

SMD 2B06

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for February 3, 2016 at 1:30.

NATURE OF OPERATION

New fast casual restaurant serving a variety of Neapolitan style brick oven pizzas and related specialty items for breakfast, lunch, and dinner. Number of inside seats is 19 with a Total Occupancy Load of 35. Sidewalk Café with seating for 16. No entertainment.

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

Sunday through Saturday 8am -2am

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

Sunday through Thursday 8am-11pm, Friday and Saturday 8am-12am

HISTORIC PRESERVATION REVIEW BOARD**NOTICE OF PUBLIC HEARING**

The D.C. Historic Preservation Review Board will hold a public hearing to consider applications to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the properties to the National Register of Historic Places:

Case No. 13-22: The Scheele-Brown Farmhouse
2207 Foxhall Road NW
Square 1341, Lot 855
Affected Advisory Neighborhood Commission: 3D

Case No. 15-19: The Lexington Apartments
1114 F Street NE
Square 983, Lot 855
Affected Advisory Neighborhood Commission: 6A

Case No. 15-20: Lunch Room and Oyster Shucking Shed
1100 Maine Avenue SE
Square 473, Part of Lot 846
Affected Advisory Neighborhood Commission: 6D

Case No. 15-26: Kalorama Park (amendment)
1875 Columbia Road NW
Square 2550, Lot 818
Affected Advisory Neighborhood Commission: 1C

The hearing will take place at **9:00 a.m. on Thursday, November 19, 2015**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street, SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

For each property, a copy of the historic landmark application is currently on file and available for inspection by the public at the Historic Preservation Office. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates the property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District or Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State

Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at 202-442-8847.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

NOTICE OF COMMUNITY ENGAGEMENT EVENTS
INFORMAL FORUM: Wednesday, October 28, 2015 at 6:30 pm
PUBLIC HEARING: Wednesday, November 4, 2015 at 6:30 pm

**“2016-2020 FIVE YEAR CONSOLIDATED PLAN
FOR THE DISTRICT OF COLUMBIA”**

The DC Department of Housing and Community Development (DHCD) is charged with developing a Consolidated Plan (“Plan”), a document that lays out a vision for how the Agency intends to spend four federal resources. The document is updated every five years and submitted to the U.S. Department of Housing and Urban Development. This is an exciting time for DHCD as we are currently undergoing this process for Fiscal Years 2016-2020.

For DHCD, this Plan will serve as map for our work ahead, promoting the administration’s comprehensive vision of an affordable, livable, and growing DC. Community engagement is a vital component in this process and will serve as the basis for our policy goals and decision-making. These two community engagement events, along with two public hearings held in August, will help paint a picture about the affordable housing and community development needs in DC.

The four federal resources included in the Plan are:

- the **Community Development Block Grant (CDBG) program**, which funds local activities that revitalize neighborhoods, promote economic development, and improve community facilities, infrastructure and services in low-moderate income communities. CDBG funds are the District’s most flexible federal resource, and can be used for both housing projects and non-housing community development activities;
- the **HOME Investment Partnerships (HOME) program**, which supports building, buying, and/or rehabilitating affordable housing for rent, homeownership, or providing direct rental assistance to low-income residents;
- the **Emergency Solutions Grant (ESG) program**, which provides funding for programs and services supporting homeless individuals and families; and
- the **Housing Opportunities for Persons with AIDS (HOPWA) program**, which makes grants to the District and nonprofit organizations for projects that benefit low-income persons living with HIV/AIDS and their families.

The previous Five Year Consolidated Plan: October 1, 2010 to September 30, 2015 document is available for review on the Department’s website www.dhcd.dc.gov, and in at the Department’s office at 1800 Martin Luther King, Jr. Avenue, Southeast, Washington, DC 20020 in the Housing Resource Center, First Floor. Additionally, copies will be available the following community-based organizations:

AARP Legal Counsel for the Elderly 601 E Street, NW (202) 434-2120	Central American Resource Center 1460 Columbia Rd, NW, #C1 (202) 328-9799	Greater Washington Urban League, Inc. 2901 14 th Street, NW (202) 265-8200	Housing Counseling Services, Inc. 2410 17 th Street, NW, Suite 100 (202) 667-7006
Latino Economic Development Center 641 S Street, NW (202) 588-5102	Lydia's House 4101 Martin Luther King, Jr., Avenue, SW (202) 373-1050	Manna, Inc. 828 Evarts Street, NE (202) 832-1845	Manna, Inc. 828 Evarts Street, NE (202) 832-1845
MiCasa 6230 3 rd Street, NW (202) 722-7423	University Legal Services 220 I St, NE, Ste 130 (202) 547-4747	University Legal Services 3939 Benning Road, NE (202) 650-5631	University Legal Services 1800 MLK Jr. Ave., SE (202) 889-2196

The Department has scheduled two community engagement events:

- (1) **An informal forum** to learn about existing programs and express affordable housing and community development needs about specific program areas. This event will be held on Wednesday, October 28, 2015 at 6:30 p.m. in the large meeting room at Shaw Library at 1630 7th St, NW.
- (2) **A public hearing** to formally testify about affordable housing and community development needs. This event will be held on Wednesday, November 4th at 6:30 pm, at the Greater Washington Urban League at 2901 14th Street, NW.

Residents who would like to present oral testimony at the public hearing are encouraged to register in advance either by e-mail at dhcd.events@dc.gov or by calling (202) 442-7203. Please provide your name, address, telephone number, and organization affiliation, if any.

If you wish to provide written comment for the record, please do so by mail or email by close of business Wednesday, November 18, 2015. Written statements should be mailed to: Polly Donaldson, Director, DHCD, Attention: Five Year Consolidated Plan Comments, 1800 Martin Luther King, Jr. Avenue, Southeast, Washington, DC 20020. Emailed comments should be submitted to dhcd.events@dc.gov with a subject line, "Five Year Consolidated Plan comments."

Telecommunications Device for the Deaf (TDD) relay service is available by calling (800) 201-7165. A sign language interpreter will be provided upon request by calling (202) 442-7251 five days prior to the event date. Residents who require language interpretation should specify which language (Spanish, Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French). Interpretation services will be provided to pre-registered persons only. Deadline for requesting services of an interpreter is five days prior to the event date. Bilingual staff will provide services on an availability basis to walk-ins without registration.

If you need additional information, contact Booker Roary, Jr. at booker.roary@dc.gov or by phone at (202) 442-7203.

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

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of DC Preparatory Public Charter School’s request to amend its charter by 1) increasing its enrollment ceiling and 2) replicating its middle grades education program to operate the newly proposed Anacostia Middle School beginning in school year 2016-2017. A public hearing regarding this item will be held on November 16, 2015 at 6:30 p.m.; a vote will be held on December 14, 2015 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted on or before November 16, 2015. For questions, please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpcsb.org.

Submitting Public Comment:

1. Submit a comment by one of the following actions:
 - (a) E-mail: public.comment@dcpcsb.org
 - (b) Postal mail: Attn: Public Comment, DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - (c) Hand Delivery/Courier*: Same as postal address above
 - (d) Phone: 202-328-2660

2. Sign up to testify in-person at the public hearing on November 16, 2015, by emailing a request to public.comment@dcpcsb.org by no later than 4 p.m. on Thursday, November 12, 2015.

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

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of LAYC Career Academy Public Charter School’s request to amend its goals and student academic achievement expectations. A public hearing regarding this item will be held on October 26, 2015 at 6:30 p.m.; pending no public comment, a vote will also be held on October 26, 2015 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted on or before October 26, 2015. For questions, please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpcsb.org.

Submitting Public Comment:

1. Submit a comment by one of the following actions:
 - (a) E-mail: public.comment@dcpcsb.org
 - (b) Postal mail: Attn: Public Comment, DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - (c) Hand Delivery/Courier*: Same as postal address above
 - (d) Phone: 202-328-2660

2. Sign up to testify in-person at the public hearing on October 26, 2015 by emailing a request to public.comment@dcpcsb.org by no later than 4 p.m. on Thursday, October 24, 2015.

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

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of Washington Global Public Charter School’s request to amend its charter by increasing its enrollment ceiling beginning in school year 2016-2017. A public hearing regarding this item will be held on November 16, 2015 at 6:30 p.m.; a vote will be held on December 14, 2015 at 6:30 p.m. To submit public comments, you may do so by one of the actions below. All comments must be submitted on or before November 16, 2015. For questions, please contact Laterica (Teri) Quinn, Equity and Fidelity Specialist, at 202-328-2660 or lquinn@dcpcsb.org.

Submitting Public Comment:

1. Submit a comment by one of the following actions:
 - (a) E-mail: public.comment@dcpcsb.org
 - (b) Postal mail: Attn: Public Comment, DC Public Charter School Board, 3333 14th ST. NW., Suite 210, Washington, DC 20010
 - (c) Hand Delivery/Courier*: Same as postal address above
 - (d) Phone: 202-328-2660

2. Sign up to testify in-person at the public hearing on September 21st, by emailing a request to public.comment@dcpcsb.org by no later than 4 p.m. on Thursday, September 17th.

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

TIME AND PLACE: **Thursday, December 17, 2015, @ 6:30 p.m.**
Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 13-14A (JAIR LYNCH Development Partners - Second-Stage PUD for McMillan Reservoir Slow Sand Filtration Site Redevelopment, Parcel 2)

THIS CASE IS OF INTEREST TO ANCs 5E and 1B

On June 8, 2015, the Office of Zoning received an application from JAIR LYNCH Development Partners, on behalf of Vision McMillan Partners and the District of Columbia through the Office of the Deputy Mayor for Planning and Economic Development, the owner of the property described below (collectively, the “Applicant”), for review and approval of a second-stage planned unit development (“PUD”) for Parcel 2 of the McMillan Reservoir Slow Sand Filtration Site redevelopment project. The Office of Planning provided its report on July 17, 2015, and the case was set down for hearing on July 27, 2015. The Applicant provided its prehearing statement on September 18, 2015.

The property that is the subject of this application is known as Parcel 2 (“Parcel 2” or “Subject Property”) of the planned redevelopment of the former McMillan Reservoir Slow Sand Filtration Site located at 2501 First Street, N.W. (the “PUD Site”). The PUD Site contains approximately 1,075,356 square feet (24.69 acres), and is bounded by Michigan Avenue, N.W. to the north, Channing Street, N.W. to the south, North Capitol; Street, N.W. to the east, and First Street, N.W. to the west. Parcel 2 is located along the western edge of the PUD Site bounded by First Street to the west, with North Service Court and Half Street, both private streets, to the north and east, respectively. The Subject Property encompasses approximately 66,654 square feet of land area, including easements and the area of Three Quarter Street, also a private street, which bisects the Subject Property from north to south.

Pursuant to Z.C. Order No. 13-14, which became final and effective on April 17, 2015, the Zoning Commission approved a consolidated PUD, first-stage PUD, and a related map amendment that zoned the PUD Site from “unzoned” to C-3-C/CR. The Subject Property is part of the approved first-stage PUD and is zoned CR.

Parcel 2 will be improved with an approximately 83-foot, seven-story building consisting of approximately 236 dwelling units and 241,216 square feet of gross floor area. At the ground-level, the building will contain approximately 18,772 square feet of retail and service uses, with the remaining 222,444 square feet of the building devoted to residential use. The building will have a FAR of 3.62 (an effective FAR of 5.01 when the private streets are excluded from the calculation), a maximum lot occupancy of 61% (an effective lot occupancy of 84% when the private streets are excluded from the calculation), and provide a total of 222 below-grade parking spaces (67 retail and 155 residential) and 87 bike parking spaces (8 retail and 79 residential).

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

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

How to participate as a party.

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

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

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

If an affected Advisory Neighborhood Commission (ANC), pursuant to 11 DCMR 3012.5, intends to participate at the hearing, the ANC shall also submit the information cited in § 3012.5 (a) through (i). The written report of the ANC shall be filed no later than seven (7) days before the date of the hearing.

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

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

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

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

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

FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311. ANTHONY J. HOOD, ROBERT MILLER, MARCIE I. COHEN, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING**Engine Idling Exception for Warming Buses**

The Director of the Department of Energy and Environment (“the Department” or “DOEE”), pursuant to the authority set forth in Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984, as amended, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06 (2013 Repl.)); Section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4) (2013 Repl.)); Mayor's Order 98-44, dated April 10, 1998; Mayor's Order 2006-61, dated June 14, 2006; and Mayor's Order 2015-191, dated July 23, 2015, hereby gives notice of the adoption of amendments to Section 900 (Engine Idling) of Chapter 9 (Air Quality – Motor Vehicular Pollutants, Lead, Odors, and Nuisance Pollutants) of Title 20 (Environment) of the District of Columbia Municipal Regulations (“DCMR”).

The Department is amending the District's regulation controlling engine idling (20 DCMR § 900.1) to add an exception for warming buses deployed by the District of Columbia Homeland Security and Emergency Management Agency (HSEMA) in the event of a “Cold Emergency Alert.” Currently, Subsection 900.1 prohibits any vehicle from idling its engine for more than three (3) minutes while the vehicle is parked, stopped, or standing. The regulation provides exceptions for private passenger vehicles, vehicles that are operating power takeoff equipment, and to allow idling for up to five (5) minutes when the temperatures are below thirty-two degrees Fahrenheit (32°F). When the District issues a “Cold Emergency Alert,” typically because forecasted temperatures are below fifteen degrees Fahrenheit (15°F), HSEMA deploys warming buses around the District to provide shelter to the District's vulnerable population and protect them from the frigid cold and bracing wind. The Department is adding a narrow exception to the engine idling restrictions so that these warming buses can idle in excess of the five (5) minute restriction during extreme cold temperatures and weather conditions in order to protect vulnerable individuals from cold-related death and injury.

Although the District is in nonattainment for ozone (O₃) and fine particulate matter (PM_{2.5}), the Department does not expect this exception to have a significant negative impact on air quality. The warming buses will only be deployed when temperatures are extremely cold, conditions that are not conducive to the formation of ozone. The Department has also specified that priority should be given to clean fuel vehicles or, if those are not available, newer model year vehicles, in order to minimize vehicle emissions. The Department has also specified that the buses should be located at least fifty feet (50 ft.) from residential buildings, in order to reduce concerns about odors.

These amendments were enacted as an emergency rulemaking on February 7, 2014, and an emergency and proposed rulemaking was published in the *D.C. Register* on February 14, 2014 at 61 DCR 1323. The thirty (30) day comment period expired on March 17, 2014, and no comments were submitted. Therefore, the Department is finalizing this rule as proposed, with the exception of three non-substantive clarifications.

This rulemaking was submitted to the Council of the District of Columbia (Council) for a review period of forty-five (45) days. The Proposed Resolution of Approval for the Notice of Final Rulemaking was introduced in the Council on June 5, 2014, and was deemed passively approved on October 23, 2014.

The rules were adopted as final on September 15, 2015 and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 9, AIR QUALITY - MOTOR VEHICULAR POLLUTANTS, LEAD, ODORS, AND NUISANCE POLLUTANTS, of Title 20 DCMR, ENVIRONMENT, is amended as follows:

Section 900, ENGINE IDLING, Subsection 900.1, is amended to read as follows:

900.1 No person owning, operating, or having control over the engine of a gasoline or diesel-powered motor vehicle on public or private space, including the engine of public vehicles for hire, buses with a seating capacity of twelve (12) or more persons, and school buses or any vehicle transporting students, shall allow that engine to idle for more than three (3) minutes while the motor vehicle is parked, stopped, or standing, including for the purpose of operating air conditioning equipment in those vehicles, except as follows:

- (a) To operate private passenger vehicles;
- (b) To operate power takeoff equipment, including dumping, cement mixers, refrigeration systems, content delivery, winches, or shredders;
- (c) To idle the engine for no more than five (5) minutes to operate heating equipment when the ambient air temperature is thirty-two degrees Fahrenheit (32° F) or below; or
- (d) To operate warming buses during a Cold Emergency Alert, provided that:
 - (1) Warming buses are located a minimum of fifty feet (50 ft.) away from residential buildings; and
 - (2) In order to minimize air pollution, motor vehicles shall be selected for use as warming buses as follows:
 - (i) If available, vehicles that meet the needs for warming buses and use clean fuel, such as Compressed Natural Gas (CNG), shall be selected; and
 - (ii) If vehicles meeting the criteria in subparagraph (i) are not available, the newest available model year vehicles that meet the needs for warming buses shall be used.

Section 999, DEFINITIONS AND ABBREVIATIONS, Subsection 999.1, is amended as follows:

By adding the definition of “warming bus” to read as follows:

Warming bus – any motor vehicle deployed by the Homeland Security and Emergency Management Agency (HSEMA) during a Cold Emergency Alert to provide vulnerable individuals with shelter from cold weather conditions.

By adding the definition of “Cold Emergency Alert” to read as follows:

Cold Emergency Alert – issued pursuant to the District of Columbia Cold Emergency Plan when the temperature falls, or is forecasted to fall, to fifteen degrees Fahrenheit (15°F) or below for a twelve (12) hour period, or fifteen degrees Fahrenheit (15°F) including wind chill and one or more of the following conditions exists:

- (a) Steady precipitation for sixty (60) consecutive minutes;
- (b) Ice storms and/or freezing rain;
- (c) Snow accumulation of three inches (3 in.) or more;
- (d) Sustained winds of more than ten to fifteen miles per hour (10-15 mph);
- (e) A wind chill below zero degrees Fahrenheit (0°F); or
- (f) Other meteorological conditions or threats as determined by HSEMA.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Boards of Pharmacy and Medicine (the “Boards”) jointly, pursuant to the authority set forth under Section 2(b)(2) of the Collaborative Care Expansion Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-0185; 59 DCR 9454, (August 10, 2012)) (the “Act”), hereby gives notice of their intent to adopt the following new Chapter 100, entitled “Collaborative Practice Agreements Between Physicians and Pharmacists” of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The adoption of Chapter 100, which had until now been reserved, is necessary to implement the Act, which permits physicians and pharmacists licensed in the District of Columbia to enter into collaborative practice agreements.

The Boards give notice of their intent to adopt these rules as final, in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended by adding a new Chapter 100 to read as follows:

**CHAPTER 100 COLLABORATIVE PRACTICE AGREEMENTS BETWEEN
PHYSICIANS AND PHARMACISTS**

10000	General Provisions
10001	Requirements for Participation in a Collaborative Practice Agreement
10002	Use of a Collaborative Practice Agreement and Required Content
10003	Signed Authorization
10004	Informed Patient Consent and Withdrawal of Participation
10005	Termination or Alteration of the Collaborative Practice Agreement
10006	Approval of Protocols Outside the Standard of Care
10007	Recordkeeping
10008	Disapproval and Revocation of Collaborative Practice Agreements
10099	Definitions

10000 GENERAL PROVISIONS

- 10000.1 Participation in a collaborative practice agreement shall be voluntary, and no licensed physician, pharmacist or institution shall be required to participate.
- 10000.2 Neither a pharmacist nor physician shall provide economic incentives to the other for the purpose of entering into a collaborative practice agreement.
- 10000.3 A physician shall not be employed by any pharmacist or pharmacy for the sole purpose of collaborative practice.

- 10000.4 Patient entry into a collaborative practice arrangement shall be initiated by an authorizing protocol that includes coverage of the patient(s), or a written referral from the licensed physician to the pharmacist for a specific patient.
- 10000.5 When patient entry is initiated by the pharmacist, the pharmacist shall:
- (a) Instruct the patient to follow up with the authorizing physician within the time period established in the collaborative practice agreement;
 - (b) Notify the authorizing physician of the encounter in writing within twenty-four (24) hours or one (1) business day; and
 - (c) Obtain a referral from the authorizing physician before providing further collaborative practice services to the patient.
- 10000.6 A pharmacist who is a party to a collaborative practice agreement shall utilize an area for in person, telephonic or other approved electronic consultations relating to the management of drug therapy that ensures the confidentiality of the patient information being discussed.
- 10000.7 Nothing in these regulations shall be construed or interpreted to allow a pharmacist to accept delegation of a physician's authority outside of or beyond the scope of the pharmacist's practice.

10001 REQUIREMENTS FOR PARTICIPATION IN A COLLABORATIVE PRACTICE AGREEMENT

- 10001.1 A pharmacist shall only participate in a collaborative practice agreement in accordance with this chapter.
- 10001.2 A licensed physician shall have a valid patient-physician relationship with a patient that he or she refers to a pharmacist for participation in a collaborative practice agreement under this chapter.
- 10001.3 For purposes of this chapter, an internet based or telephone consultation or questionnaire evaluation is not adequate to establish a valid patient-physician relationship unless and except as otherwise specifically permitted by District law.
- 10001.4 The licensed physician and pharmacist who are parties to a collaborative practice agreement shall hold an active license in good standing in the District of Columbia.
- 10001.5 The Boards may deny approval of a physician or pharmacist to participate in a collaborative practice agreement if the physician or pharmacist has:

- (a) A final order by the governing Board disciplining the physician or pharmacist's license for a practice issue within the five (5) years immediately preceding the formation of the agreement; or
- (b) Limitations placed on the physician or pharmacist's license by the governing board.

10001.6 The collaborative practice agreement shall be within the scope of the licensed physician's current practice.

10001.7 To be eligible to participate in a collaborative practice agreement, a pharmacist:

- (a) Shall possess relevant advanced training as indicated by one of the following:
 - (1) Certification as a specialist by:
 - (i) The Board of Pharmaceutical Specialties;
 - (ii) The Commission for Certification in Geriatric Pharmacy; or
 - (iii) Another credentialing body approved by the Board of Pharmacy; or
 - (2) Successful completion of:
 - (i) A residency accredited by the American Society of Health-Systems Pharmacists, a body approved by the Board of Pharmacy or offered by a body accredited by the Accreditation Council for Pharmacy Education; or
 - (ii) A certificate program approved by the Board of Pharmacy; and
- (b) Shall have successfully completed:
 - (1) A minimum of three (3) years of relevant clinical experience, if the pharmacist holds an academic degree of Doctor of Pharmacy; or
 - (2) A minimum of five (5) years of relevant clinical experience, if the pharmacist holds an academic degree of Bachelor of Science in Pharmacy; and
- (c) Shall have documented training related to the area of practice covered by the collaborative practice agreement.

10002 USE OF COLLABORATIVE PRACTICE AGREEMENTS AND REQUIRED CONTENT

- 10002.1 The management of drug therapy pursuant to a collaborative practice agreement shall be initiated by an authorizing protocol that includes coverage of the patient(s) or a written referral from the licensed physician to the pharmacist for a specific patient.
- 10002.2 When a patient encounter is initiated through an authorizing protocol, the pharmacist shall notify the authorizing physician in writing within twenty-four (24) hours or one (1) business day.
- 10002.3 The authority granted by the physician to the pharmacist must be within the scope of the physician's practice.
- 10002.4 The collaborative practice agreement may allow the pharmacist, within the pharmacist's scope of practice, to conduct activities approved by the physician pursuant to the agreement and within the authority established by the law and regulations.
- 10002.5 The collaborative practice agreement shall not prohibit the pharmacist from providing other pharmaceutical services that are within the pharmacist's scope of practice.
- 10002.6 A collaborative practice agreement shall be based upon treatment protocols that are generally accepted as the clinical standard of care within the medical and pharmacy professions, or approved by the Boards of Medicine and Pharmacy in accordance with §10006 of this chapter, and shall include:
- (a) Identification of the physicians(s) and pharmacist(s) who are parties to the agreement;
 - (b) The location(s) where the pharmacist(s) and physician(s) may provide services under the collaborative practice agreement;
 - (c) The name, address, and telephone number of the person(s) who are to receive correspondence from the Boards related to the collaborative practice agreement;
 - (d) A detailed description of the disease state or condition, drugs or drug categories, drug therapies, devices, and any necessary incidental tests, authorized by the physician, and the activities allowed in each case;
 - (e) A detailed description of the methods, procedures, decision criteria, and plan the pharmacist is to follow when conducting allowed activities;

- (f) A detailed description of the activities and procedures that the pharmacist is to follow, including documentation of decisions made, and a plan or appropriate mechanism for communication, feedback, and reporting to the physician activities and results concerning specific decisions made;
- (g) The conditions under which the pharmacist may initiate, modify, or discontinue a drug therapy;
- (h) Directions concerning the monitoring of a drug therapy, including the conditions that would warrant a modification to the dose, dosage regime, or dosage form of the drug therapy;
- (i) The frequency and the manner in which the pharmacist conducts the management of drug therapy;
- (j) A method for the physician to monitor compliance with the agreement and clinical outcomes and to intercede where necessary;
- (k) A description of the continuous quality improvement efforts used to evaluate effectiveness of patient care and ensure positive patient outcomes;
- (l) A provision that allows the physician to override a collaborative practice decision made by the pharmacist whenever he or she deems it necessary or appropriate;
- (m) A provision that allows either party to cancel the collaborative practice agreement by written notification;
- (n) An effective date; and
- (o) The signatures of all collaborating pharmacists and physicians who are party to the collaborative practice agreement, as well as dates of signing.

10002.7 In addition to the requirements set forth in the collaborative practice agreement, documentation of each intervention, including changes in dose, duration or frequency of medication prescribed, shall be recorded in the pharmacist's prescription record, patient profile, a separate log book, or in some other appropriate system.

10002.8 Documentation of allowed activities must be kept as part of the patient's permanent record and be readily available to other health care professionals providing care to that patient and who are authorized to receive it. Documentation of allowed activities shall be considered protected health information.

- 10002.9 Oral communications between the physician and pharmacist shall be summarized in the documentation maintained by the pharmacist and forwarded to the physician.
- 10002.10 Unless an alternative time period is stated in the collaborative practice agreement, the pharmacist shall inform the physician within forty-eight (48) hours if the pharmacist modifies the drug dose or agent.
- 10002.11 Unless an alternative time period is stated in the collaborative practice agreement, the pharmacist shall inform the physician within twenty-four (24) hours if the pharmacist detects an abnormal result from an assessment activity.
- 10002.12 Amendments to a collaborative practice agreement must be documented, signed, and dated, and for collaborative practice agreements containing approved protocols outside the generally accepted clinical standard of care, the amendments must be approved by the Boards before they are implemented.
- 10002.13 At a minimum, the collaborative practice agreement shall have a documented review and, if necessary, be revised every year.

10003 SIGNED AUTHORIZATION

- 10003.1 The signatories to a collaborative practice agreement shall be a District of Columbia licensed physician involved directly in patient care and a District of Columbia licensed pharmacist involved directly in patient care.
- 10003.2 The physician may designate alternate physicians, and the pharmacist may designate alternate pharmacists, provided that the alternates meet the educational, licensure, and training requirements of this Chapter, and are involved directly in patient care at a single, physical location where patients receive services. Nothing in this Section shall be construed as prohibiting the practice of telemedicine if it is otherwise permitted by District law.

10004 INFORMED PATIENT CONSENT AND WITHDRAWAL OF PARTICIPATION

- 10004.1 Documented informed consent from the patient shall be obtained by the physician who authorizes the patient to participate in the collaborative practice agreement or by the pharmacist who is also a party to the collaborative practice agreement.
- 10004.2 For purposes of this section, documented informed consent shall mean either written consent signed by a patient, or its electronic equivalent, maintained in a patient's record.
- 10004.3 The patient may decline to participate or withdraw from participation at any time.

- 10004.4 Prior to obtaining a patient's consent to participate in a collaborative practice agreement, the physician or pharmacist, or both, shall inform a patient:
- (a) Of the procedures that will be utilized for drug therapy management under the collaborative practice agreement, and such discussion shall be documented in the patient record;
 - (b) That the patient may decline to participate or withdraw from participating in the drug therapy management at any time; and
 - (c) That neither the physician nor the pharmacist has been coerced, given economic incentives, excluding normal reimbursement for services rendered, or involuntarily required to participate.

10005 TERMINATION OR ALTERATION OF THE COLLABORATIVE PRACTICE AGREEMENT

- 10005.1 The collaborative practice agreement may be terminated at any time upon written notice by the pharmacist, physician, or the patient. Notice of termination shall be provided to all parties to the collaborative practice agreement and the patient within fourteen (14) days of termination.
- 10005.2 A physician may override the collaborative practice agreement whenever he or she deems such action necessary or appropriate for a specific patient.
- 10005.3 If either the physician or the pharmacist who is a party to the collaborative practice agreement has a change of practice location, employer, or ownership, that person shall notify the other party and all patients who are participants in the collaborative practice agreement.

10006 APPROVAL OF PROTOCOLS OUTSIDE THE STANDARD OF CARE

- 10006.1 If a physician and a pharmacist intend to manage or treat a condition or disease state for which there is not a protocol that is generally accepted as the clinical standard of care, the physician and pharmacist shall apply for approval. The Boards shall receive and review the proposed treatment protocol and jointly approve or disapprove.
- 10006.2 Any procedure outside generally accepted clinical practice shall be approved by the Boards, and any changes to a protocol for procedures outside the generally accepted clinical practice shall be approved by the Boards before they are implemented.
- 10006.3 Application and approval are not needed for treatment of conditions for which there is a generally accepted clinical standard of care, but for which the physician

wants to increase the monitoring and oversight of the condition over what the protocol recommends.

10006.4 In order to apply for approval of a protocol outside the generally accepted clinical standard of care, the physician and the pharmacist shall jointly submit:

- (a) An application on the required form and the required fee;
- (b) A copy of the proposed protocol; and
- (c) Supporting documentation that the protocol is safe and effective for the particular condition or disease state for which the physician and the pharmacist intend to manage or treat through a collaborative practice agreement.

10006.5 To apply for approval to make changes to an approved protocol outside of the generally accepted clinical standard of care, the physician and the pharmacist shall jointly submit:

- (a) An application on the required form and the required fee;
- (b) A copy of the proposed changes to the protocol; and
- (c) Supporting documentation that the change(s) to the protocol is safe and effective for the particular condition or disease state for which the physician and the pharmacist intend to manage or treat through a collaborative practice agreement.

10007 RECORDKEEPING

10007.1 Signatories to a collaborative practice agreement shall keep a copy of the agreement on file at their primary places of practice.

10007.2 The referral of a patient from the physician authorizing the implementation of drug therapy management pursuant to the collaborative practice agreement shall be noted in the patient's medical record and kept on file by the pharmacist.

10007.3 The patient's documented informed consent shall be retained by the parties to the collaborative practice agreement.

10007.4 A copy of the collaborative practice agreement, any amendments to the agreement, and the subsequent termination of any such agreement, if applicable, shall be available as follows:

- (a) At the practice site of any physician who is a party to the collaborative practice agreement;

- (b) At the practice site of any pharmacist who is a party to the collaborative practice agreement;
 - (c) At the institution or facility where a collaborative practice agreement is in place;
 - (d) Upon request, to any patient who is being managed under the collaborative practice agreement; and
 - (e) Upon request, to representatives of the Boards of Pharmacy and Medicine.
- 10007.5 Documentation of activities performed under a collaborative practice agreement or the physician's specific instructions shall be maintained in such a manner that it is accessible to the:
- (a) Physician;
 - (b) Pharmacist; and
 - (c) The Boards of Pharmacy and Medicine upon request.
- 10007.6 Documentation may be maintained in written or electronic form.
- 10007.7 A pharmacist or physician who is a party to the collaborative practice agreement shall have access to the records of the patient who is the recipient of the management of drug therapy.
- 10007.8 A patient's records related to the management of drug therapy under a collaborative practice agreement may be maintained in a computerized recordkeeping system which meets all requirements for Federal and State certified electronic health care records.
- 10007.9 The handling of all patient records by the pharmacist providing the management of drug therapy must comply with the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).
- 10007.10 The Boards may conduct random audits to ensure compliance with the provisions of the Act and this chapter.
- 10008 DISAPPROVAL AND REVOCATION OF COLLABORATIVE PRACTICE AGREEMENTS**
- 10008.1 The Board of Pharmacy and the Board of Medicine may disapprove or revoke a collaborative practice agreement if the Boards find:

- (a) Inadequate training, experience, or education of the physician(s) or Pharmacist(s) to implement the protocol or protocols specified in the physician-pharmacist agreement;
- (b) The collaborative practice agreement fails to comply with the requirements of this chapter or the Act;
- (c) The collaborative practice agreement is intended to manage or treat a condition or disease state for which there is not a protocol that is generally accepted as the clinical standard of care, or which is not approved by the Boards; or
- (d) Either party to the agreement has been formally disciplined by any health professional licensing board in any jurisdiction, or is otherwise no longer licensed in good standing in the District of Columbia.

10099 DEFINITIONS

10099.1 As used in this Chapter, the following terms have the meanings ascribed:

Act- the Collaborative Care Expansion Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-0185; 60 DCR 7591 (May 31, 2013)).

Collaborative practice agreement- a voluntary written agreement between a licensed pharmacist and a licensed physician that has been approved by the Board of Pharmacy and the Board of Medicine, or between a licensed pharmacist and another health practitioner with independent prescriptive authority licensed by a District health occupation board, that defines the scope of practice between the licensed pharmacist and licensed physician, or other health practitioner, for the initiation, modification, or discontinuation of a drug therapy regimen.

Physician- a person holding a degree in medicine (MD) or osteopathy (DO).

Standard of Care- the course of action that other prudent and well-trained health professionals in the same field of practice would customarily take under the same or similar circumstances.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Administrative Assistant, at Angli.Black@dc.gov, (202) 442-5977.

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 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14))(2012 Repl.), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt the following amendments to Chapter 56 (Nursing Schools and Programs) 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*.

In Sections 5600, 5601, 5602, 5603, 5605, 5606, 5607, and 5608, the proposed amendments clarify and update the requirements for the approval and maintenance of nursing education programs, and the procedures for withdrawal of approval of programs. Section 5610 addresses the new consensus model for advanced practice nursing education. Section 5611 is amended to address the issue of nursing program that provide distance education.

Chapter 56, NURSING SCHOOLS AND PROGRAMS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended to read as follows:

Amend the title for Section 5600, ACCREDITATION OF NURSING PROGRAMS, to read as follows:

5600 APPROVAL OF NURSING PROGRAMS

Subsections 5600.1 through 5600.3 are amended to read as follows:

- 5600.1 Pre-licensure or advanced practice nursing programs shall not operate in the District of Columbia without approval by the Board of Nursing (Board). This chapter sets forth the requirements and standards that a nursing education program in the District must meet to obtain approval by the Board, and the standards and procedures by which the Board shall approve, deny, or withdraw approval from a program.
- 5600.2 The approval status of a nursing education program in the District may be initial, full, or conditional. The nursing education program shall publicize the approval status of the program to its students and shall display its approval certificate conspicuously.
- 5600.3 Chapter 40 (General Rules), Chapter 41 (Administrative Procedures), Chapter 54 (Registered Nursing), Chapter 55 (Practical Nursing), Chapter 57 (Certified Registered Nurse-Anesthetists), Chapter 58 (Nurse-Midwives), Chapter 59 (Nurse-Practitioners), and Chapter 60 (Clinical Nurse Specialist) of this title supplement this chapter.

Amend the title for Section 5601, INITIAL ACCREDITATION, to read as follows:

5601 INITIAL APPROVAL

Subsections 5601.1 through 5601.4 are amended to read as follows:

5601.1 A person or entity seeking initial approval of a nursing education program shall submit to the Board the following information:

- (a) A statement of intent to establish a pre-licensure nursing education program or advanced practice nursing education program, including name of owners and organization;
- (b) A proposal which includes the following information:
 - (1) Documentation of the present and future need for the program and the need for entry-level nurses in the District, including identification of potential students and employment opportunities for graduates;
 - (2) The rationale for establishment of the program;
 - (3) The potential impact on other nursing education programs in the area (*e.g.* clinical placements, faculty, and students);
 - (4) The organizational structure of the educational institution documenting the relationship of the program within the institution;
 - (5) The licensure status of the controlling educational institution including accreditation status by regional or national accrediting organizations recognized by the U.S. Department of Education;
 - (6) The purpose, mission, and level of the program;
 - (7) The availability of qualified administrators and faculty pursuant to the qualifications established under this chapter;
 - (8) Hiring procedures for ensuring administrators and faculty will meet the requirements of this chapter;
 - (9) Budgeted faculty positions;
 - (10) The source and description of adequate clinical resources for the anticipated student population and program level along with an attached Board of Nursing clinical verification form;

- (11) Documentation of the campus lab space and equipment, and an indication of the maximum number of students permitted in the lab in one session;
 - (12) Documentation of adequate academic facility and staff to support the program;
 - (13) Evidence of financial resources adequate for the planning, implementation, and continuation of the program;
 - (14) The anticipated student population;
 - (15) The tentative time schedule for planning and initiating the program;
 - (16) Admission criteria and procedures;
 - (17) Graduation criteria and procedures;
 - (18) A curriculum plan including framework, program objectives, and list of all courses; and
 - (19) A systematic plan for evaluation of the program.
- (c) Submit a non-refundable application fee of ten thousand dollars (\$10,000).

5601.2 If the Board approves the proposal, the Board shall request the following information from the applicant:

- (a) A curriculum vita for the appointed nurse administrator and program coordinator for programs as applicable;
- (b) A curriculum vita for each faculty member who meets the regulatory requirements and the intent of the program;
- (c) A curriculum plan including conceptual framework, program objectives, list of courses, syllabus for each nursing course which includes a course description, course or clinical objectives, prerequisites, course outline, and grading criteria; and
- (d) A Student Handbook that includes nursing student policies for admission, progression, retention and graduation.

5601.3 The Board shall conduct a site visit or if applicable, a joint site visit conducted by the Board and the District of Columbia Higher Education Licensure Commission.

5601.4 The Board shall grant initial approval to a newly established program upon receipt of evidence that the standards and requirements of this chapter are being met.

Subsections 5601.5 through 5601.8 are repealed.

Amend the title for Section 5602, DENIAL OF INITIAL ACCREDITATION, to read as follows:

5602 DENIAL OF INITIAL APPROVAL

Subsection 5602.1 is amended to read as follows:

- 5602.1 The Board may deny initial approval for any of the following reasons:
- (a) Failure to hire a nurse administrator who meets the qualifications of this chapter;
 - (b) Failure to hire faculty who meet the qualifications of this chapter;
 - (c) Facility’s learning environment does not meet the educational needs of students or accommodate the specified number of students;
 - (d) Identified clinical facilities or simulation laboratory are inadequate to meet the requirements of this chapter or program’s clinical objectives;
 - (e) Incongruence among program’s framework, objectives, courses, and course objectives;
 - (f) Noncompliance with Nursing Education Standards of Practice; and
 - (g) Noncompliance with any of the regulations in this chapter.

Subsections 5602.2 and 5602.3 are repealed.

Amend the title for Section 5603, FULL ACCREDITATION OF BASIC PRELICENSURE PROGRAMS, to read as follows:

5603 FULL APPROVAL

Subsections 5603.1 through 5603.8 are amended to read as follows:

5603.1 The Board may grant full approval to a program after initial approval provided that the program has done the following:

- (a) Submitted proof that the percentage of the program's National Council Licensure Examination (NCLEX) pass rate is at least eighty percent (80%) for first time test takers. The percentage pass rate shall be based on the cumulative results of the first two (2) quarters following graduation of the first class;
- (b) Submitted a self-evaluation report by the Nursing Administrator, following the graduation of the first classing, indicating compliance with the provisions of this chapter;
- (c) Submitted proof that the program has received accreditation from a U.S. Department of Education recognized national nursing accrediting organization;
- (d) Submitted proof that the controlling educational institution has regional or national U.S. Department of Education accreditation;
- (e) Submitted proof that the program has demonstrated continued ability to meet the standards and requirements of this chapter; and
- (f) Demonstrated compliance with the requirements of this chapter during the site visit.

5603.2 In order to maintain full approval a program shall demonstrate the following:

- (a) The annual pass rate for first time test takers on the licensure or certification examination is not less than eighty percent (80%);
- (b) The annual program reports that meet requirements of this chapter; and
- (c) The accreditation status that verifies the program meets requirements of this chapter.

5603.4 An announced or unannounced on-site visit shall be conducted to verify that the program meets requirements of this chapter.

5603.5 The first year that the licensure pass rate for first time test takers in a program is less than eighty percent (80%), but at least seventy five percent (75%), the Board shall send written notice to the program that the program has failed to meet the requirements and standards of this chapter.

5603.6 The Board or its designee may perform an announced or unannounced on-site visit to the facility and provide a report to the Board.

5603.7 The program's nurse administrator shall submit a corrective plan of action to the Board within sixty (60) calendar days from receipt of the Board's written notice.

5603.8 The Board shall maintain a list of approved programs. The list shall be maintained up to date on the Department's Internet website. The list shall also be compiled and published annually and available to the public upon request.

Subsections 5603.9 through 5603.12 are repealed.

Section 5604 is repealed.

Amend the title for Section 5605, CONDITIONAL ACCREDITATION, to read as follows:

5605 CONDITIONAL APPROVAL

Subsections 5605.1 through 5605.8 are amended to read as follows:

- 5605.1 The Board may place a program with initial approval on conditional approval status for any of the following:
- (a) The percentage of the program's first time NCLEX test takers passing the examination is less than eighty percent (80%) as determined by the cumulative results of the first two (2) quarters following graduation of the first class.
 - (b) The program has not received accreditation from a U.S. Department of Education recognized national nursing accrediting organization;
 - (c) The controlling educational institution does not have regional or national U.S. Department of Education accreditation;
 - (d) The program failed to demonstrate continued ability to meet the standards and requirements of this chapter; or
 - (e) The program failed to demonstrate compliance with the requirements of this chapter during the site visit.
- 5605.2 The Board may place a nursing program on conditional approval status if it has failed to maintain the requirements and standards of this chapter.
- 5605.3 Conditional approval status denotes that certain conditions must be met within a designated time period for the program to be granted full approval.
- 5605.4 A Bachelor of Science in Nursing (BSN) or Advanced Practice that has been granted conditional approval shall be allotted a maximum of four (4) years to correct deficiencies for the purpose of being granted full approval.

- 5605.5 An Associate Degree (AD) program that has been granted conditional approval shall be allotted a maximum of three (3) years to correct deficiencies for the purpose of being granted full approval.
- 5605.6 A Practical Nurse (PN) program that has been granted conditional approval shall be allotted a maximum of two (2) years to correct deficiencies for the purpose of being granted full approval.
- 5605.7 Under conditional approval status, the program may continue to operate while correcting the identified deficiencies and working toward meeting the conditions for full approval.
- 5605.8 The first year that the annual licensure or certification pass rate for first time test takers is less than seventy five percent (75%):
- (a) The Board will send written notice to the program of the following:
 - (1) The program has failed to meet the requirements and standards of this chapter;
 - (2) The program will be placed on conditional approval status for an allotted time pursuant to § 5605.3; and
 - (3) The Board or its designee may perform an announced or unannounced on-site visit to the facility and provide a report to the Board.
 - (b) The program's nurse administrator shall submit to the Board, within sixty (60) calendar days from receipt of the Board's written notice, the following:
 - (1) A report analyzing aspects of the education program, identifying areas believed to be contributing to the unacceptable performance; and
 - (2) An action plan to correct the deficiencies, to be approved by the Board.

Subsections 5605.9 through 5605.13 are added to read as follows:

- 5605.9 The second successive year that the pass rate for a program's first time licensure or certification test takers is less than eighty percent (80%) the Board shall send written notice to the program of the following:
- (a) The program has failed to meet the requirements and standards of this chapter;

- (1) The program will continue on conditional approval status for an allotted time pursuant to § 5605.3;
- (2) The Board or its designee will perform an announced or unannounced on-site visit to the facility and provide a report to the Board; and

(b) Limitations may be placed on admittance of students.

5605.10 The program’s nurse administrator shall submit to the Board, within ninety (90) calendar days or the time period specified by the board from receipt of the Board’s written notice, the following:

- (a) Proof that the program has obtained the services of an external consultant, to be approved by the Board;
- (b) A report that is based on the findings of the consultant, which analyzes all aspects of the education program and identifies areas that contributed to the unacceptable performance; and
- (c) An action plan to correct the deficiencies, to be approved by the Board.

5605.11 After the Board determines that a program is out of compliance with the requirements and standards of this chapter, the Board may, in its discretion, prohibit a program that has conditional approval status from admitting new students until the program has been restored to full approval status. The program shall be given ninety (90) days’ notice.

5605.12 Students who graduate from conditionally accredited programs shall be eligible to take the NCLEX in the District of Columbia and upon passing the examination licensed in the District of Columbia.

5605.13 If the program fails to meet the specified conditions within the designated time period, the Board may withdraw approval and the program shall be removed from the Board’s list of approved programs.

Amend the title for Section 5606, WITHDRAWAL OF ACCREDITATION OR REDUCTION TO CONDITIONAL STATUS, to read as follows:

5606 WITHDRAWAL OF APPROVAL FOLLOWING CONDITIONAL APPROVAL STATUS

Subsections 5606.1 through 5606.15 are amended to read as follows:

- 5606.1 The Board may withdraw approval of the program at its discretion, for any of the following reasons:
- (a) The Board has determined that a program has been unable to meet or maintain the requirements and standards of this chapter;
 - (b) The nursing education program has failed to correct the deficiencies identified by the Board within the allotted time period;
 - (c) Failure to hire a nurse administrator who meets the qualifications of this chapter;
 - (d) Failure to hire faculty who meet the qualifications of this chapter;
 - (e) Noncompliance with the program's stated philosophy, program design, objectives, outcomes, or policies;
 - (f) Failure to implement the approved curriculum;
 - (g) Failure to maintain the required licensure or certification pass rate for first-time test takers;
 - (h) Failure to obtain and maintain accreditation by a Board recognized nursing accrediting organization;
 - (i) Failure to submit records and reports to the Board in a timely manner;
 - (j) Noncompliance with any of the regulations in this chapter; or
 - (k) Other activities or situations, as determined by the Board, that indicate a program is not meeting the legal requirements and standards of this chapter.
- 5606.2 Before the Board withdraws approval of a program, the Board shall Issue a Notice of Intended Action to the program notifying the program that the Board intends to withdraw approval of the program and the reasons for the action.
- 5606.3 Before the Board withdraws approval of a program, the program has a right to a hearing.
- 5606.4 The Board shall send notice to the Higher Education Licensing Commission of the Board's intention to withdraw approval.
- 5606.5 The program shall provide its current student population and applicants with immediate notice of the Board's intended action, which shall include mailings and public postings on the premises and on their website.

- 5606.6 If requested by the Board or by students, the program shall provide its current student population with information and assistance for transferring to another nursing education program.
- 5606.7 After the Board has withdrawn approval of a program, the Board shall provide notice of the withdrawal to the District of Columbia Higher Education Licensure Commission.
- 5606.8 The effective date of the withdrawal of approval shall be the date the Board publishes on its website the final decision which shall notify the public of the withdrawal of approval. The Board may, at its discretion, postpone the effective date of the withdrawal of approval until the end of a current semester, when it determines such to be in the best interests of the program's graduating class or students.
- 5606.9 If the program appeals the Board's decision to the District of Columbia Court of Appeals, the effective date of the withdrawal of approval shall not be stayed pending appeal, but may be changed pursuant to an order of the Court of Appeals.
- 5606.10 The Board may designate persons to conduct an unannounced visit to the facility to ensure that the educational institution has not continued to operate the nursing education program or admit students after the effective date of the approved withdrawal.
- 5606.11 Within thirty (30) days after receipt of notice that approval has been withdrawn, the nurse administrator or school administrator shall submit to the Board a written plan for termination of the program. The plan shall include:
- (a) A plan for the current students that include completion of the program and transfer of students to other approved programs within a time frame established by the Board; and
 - (b) A plan outlining the arrangements made for storage and retrieval of the permanent records of the students, graduates, and faculty.
- 5606.12 Students enrolled in a program and graduating from the program prior to, or up to, the effective date of the withdrawal of approval shall be permitted to take the licensure examination in the District of Columbia; and upon passing and completion of other licensure requirements shall be licensed in the District of Columbia.
- 5606.13 The educational institution of a nursing program whose approval was withdrawn may apply to the Board for initial approval of a new program pursuant to § 5601 and shall disclose the name of the program under which it previously operated.

5606.14 A program aggrieved by a final decision of the Board may appeal the decision to the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act, D.C. Official Code §§ 2-501 *et seq.*

Subsections 5606.16 through 5606.19 are repealed.

Amend the title for Section 5607, PRACTICAL NURSING EDUCATION PROGRAMS, to read as follows:

5607 EDUCATION ADMINISTRATION

Subsections 5607.1 through 5607.10 are amended to read as follows:

5607.1 Program approval status shall be reviewed annually.

- (a) Each program shall apply for renewal of approval not less than sixty (60) days prior to the date of expiration by submitting the following to the Board:
 - (1) A written annual report on forms provided by the Board; and
 - (2) The required renewal fee.
- (b) The Board shall determine the approval status annually for each nursing program.
- (c) The notice of Board approval status shall be posted and visible to students.

5607.2 A program shall notify the Board within sixty (60) days of making any of the following:

- (a) A change in the approved nurse administrator or program coordinator. The program shall submit proof that the new nurse administrator or coordinator meets the requirements of this chapter;
- (b) A change in the length of the program;
- (c) A change in the program's national accreditation status; or
- (d) A change in the accreditation status of the controlling institution.

5607.3 Programs shall notify the Board of scheduled accreditation site visits and arrange for joint site visit with nursing accrediting organization upon the Board's request.

5607.4 Programs shall submit copies to the Board within thirty (30) days of receipt or submission of the following:

- (a) Evidence of current accreditation status;
- (b) Accreditation reports; and
- (c) Notifications and reports sent to and from the accreditation organization.

5607.5 Programs shall provide students access to policies and services.

5607.6 Programs shall make the following available to students:

- (a) A written statement of students' rights and responsibilities including admission, progression, graduation, and licensing requirements;
- (b) A written policy on grievance procedures and a mechanism for resolution;
- (c) Guidance and advisement counseling services; and
- (d) Academic counseling for students who are failing.

5607.7 An educational institution shall determine whether a student possesses spoken and written competency in English, prior to a student beginning the nursing program. If a student is unable to successfully demonstrate spoken and written competency in English, or is later identified by an instructor as deficient in English, the program shall:

- (a) Offer, or assist the student in entering, an English as a Second Language program; and
- (b) Require the student to complete the English as a Second Language program either simultaneously, with the nursing program, or prior to entering the nursing program, as appropriate, based on the level of the student's competency in English.

5607.8 Programs shall have admission standards to ensure that students possess the educational skills and competency to successfully complete the nursing education program at that level, prior to a student beginning the nursing program.

5607.9 Pre-licensure programs that require passing an exit examination as a requirement for completion of final course in program or for graduation shall:

- (a) Select exit examinations that have established reliability and validity, or have been normed;
- (b) Inform students in writing upon admission to the program of the requirement and the required passing score;

- (c) Have administered standardized examination throughout the program;
- (d) Provide remediation for students who are unable to pass standardized examinations that prevent progression;
- (e) Perform analysis and correlations of students' performance on course standardized examination with students' performance in courses; and
- (f) Develop a remediation program for the student who has satisfactorily progressed in the program but is unable to pass the standardized exit examination and unable to complete the final course or graduate from the program. The plan shall be in writing and placed in student's file.

5607.10 If a program decides to close, ninety (90) days before closing the nurse administrator or coordinator shall:

- (a) Notify the Board of its intent;
- (b) Provide the date and reason for closing;
- (c) Submit to the Board its plan for the disposition of the records of the students and graduates;
- (d) Provide to the Board the name and position title of the individual to be responsible for the records, and the name and address of the agency in which the records will be located; and
- (e) Provide evidence to the Board that the program's current students have been given timely notice of the program's intent, and provided assistance for transferring to another nursing program.

Subsections 5607.11 through 5607.25 are repealed.

Amend the title for Section 5608, ASSOCIATE DEGREE NURSING EDUCATION PROGRAMS, to read as follows:

5608 PRELICENSURE NURSING EDUCATION STANDARDS

Subsections 5608.1 through 5608.24 are amended to read as follows:

5608.1 Administration and organization of the nursing education program shall be consistent with the laws governing the practice of nursing.

- 5608.2 The nursing education program shall be a part of an educational institution that has accreditation by a regional accrediting agency recognized by the U.S. Department of Education by 2020.
- 5608.3 Upon eligibility for accreditation, the nursing education program shall pursue accreditation and shall provide evidence of current accreditation from a national nursing accrediting agency recognized by the U.S. Department of Education within twenty four (24) months of eligibility.
- 5608.4 The nursing educational program shall be within a credit bearing educational institution.
- 5608.5 All nursing education programs shall meet the following standards:
- (a) The purpose and outcomes of the nursing program shall be consistent with accepted standards of nursing practice appropriate for graduates of the type of nursing program offered;
 - (b) The input of stakeholders shall be considered in developing, revising, and evaluating the purpose and outcomes of the program;
 - (c) The nursing program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement;
 - (d) The curriculum shall provide diverse didactic and clinical learning experiences consistent with program outcomes;
 - (e) Faculty and students shall participate in program planning, implementation, evaluation and continuous improvement;
 - (f) The nursing program administrator shall be a professionally and academically qualified registered nurse with institutional authority and administrative responsibility for the program;
 - (g) Professionally, academically, and clinically qualified nurse faculty shall be sufficient in number and expertise to accomplish program outcomes and quality improvement;
 - (h) The fiscal, human, physical, clinical, and technical learning resources shall be adequate to support program processes, security and outcomes;
 - (i) Program information communicated by the nursing program shall be accurate, complete, consistent and readily available; and

- (j) There shall be sufficient number of qualified faculty to meet the outcomes and purposes of the nursing education program.

5608.6 Administrator qualifications for programs leading to the Licensed Practical Nurse (LPN) shall include:

- (a) A current, active District of Columbia Registered Nurse (RN) license that is not encumbered;
- (b) Minimum of a graduate degree in nursing;
- (c) Minimum of five (5) years of progressive experience in teaching and knowledge of learning principles for adult education, including nursing curriculum development, program administration and evaluation; and
- (d) A current knowledge of nursing practice at the practical nurse or associate degree registered nurse level.

5608.7 Administrator qualifications for programs leading to the RN include:

- (a) An active, unencumbered District of Columbia RN license;
- (b) A doctoral degree in nursing, or a graduate degree in nursing and a doctoral degree;
- (c) Minimum of five (5) years of progressive experience in nursing education, teaching and knowledge of learning principles for adult education, including nursing curriculum development, administration, and evaluation; and
- (d) A current knowledge of nursing practice at the registered nursing level.

5608.8 Faculty qualifications for programs leading to the Licensed Practical Nurse shall include:

- (a) An active, unencumbered District of Columbia RN license;
- (b) Being academically and experientially qualified with a minimum of a graduate degree in nursing, or a bachelor's degree in nursing with a graduate degree.
- (c) Knowledge of teaching and learning principles for adult education, including nursing curriculum development and course evaluation; and
- (d) A minimum of two (2) years of patient care experience.

- 5608.9 Pursuant to § 5608.8, fifty percent (50%) of full-time and part-time faculty shall have a graduate degree in nursing.
- 5608.10 Faculty qualifications for programs leading to the RN degree shall include:
- (a) An active, unencumbered District of Columbia RN license; and
 - (b) Academic qualifications which include a minimum of a graduate degree in nursing;
 - (c) Knowledge of teaching and learning principles for adult education, including nursing curriculum development and course evaluation; and
 - (d) A minimum of two (2) years of patient care experience.
- 5608.11 Clinical competency shall be verified by the educational institution's faculty prior to the use of clinical preceptors.
- 5608.12 The criteria for selecting a preceptor shall be in writing and shall include the following:
- (a) The method of selecting clinical preceptors;
 - (b) The orientation of clinical preceptors;
 - (c) The objectives or outcomes of the preceptorship; and
 - (d) A system for monitoring and evaluating the student's learning experiences.
- 5608.13 Clinical preceptors shall have education at or above the level of the program.
- 5608.14 Clinical preceptors in District of Columbia health facilities shall have an unencumbered, active District of Columbia nursing licenses.
- 5608.15 Curriculum of the nursing education program shall enable the student to develop the nursing knowledge, skills and abilities necessary for the level, scope and standards of competent nursing practice expected at the level of licensure.
- 5608.16 Curriculum shall be revised as necessary to maintain a program that reflects advances in health care and its delivery.
- 5608.17 The curriculum, as defined by the nursing education unit, professional and practice standards, shall include:

- (a) Experiences that promote the development and subsequent demonstration of evidence-based clinical judgment, skill in clinical management, and the professional commitment to collaborate in continuously improving the quality and safety of the healthcare system for patients;
- (b) Evidence-based learning experiences and methods of instruction, including distance education methods, consistent with the written curriculum plan;
- (c) Coursework including, but not limited to:
 - (1) Content in the biological, physical, social and behavioral sciences to provide a foundation for safe and effective nursing practice;
 - (2) Content regarding professional responsibilities, legal and ethical issues, history and trends in nursing and health care; and
 - (3) Content in the prevention of illness and the promotion, restoration and maintenance of health, and end of life care in patients across the lifespan and from diverse cultural, ethnic, social and economic backgrounds.

5608.18 Patient care experiences occur in a variety of clinical settings and shall include:

- (a) Integrating patient safety principles throughout the didactic and clinical experiences;
- (b) Implementing evidence-based practice and patient values, including skills to identify and apply best practices to nursing care;
- (c) Collaborating with inter-professional teams through open communication, mutual respect, and shared decision-making;
- (d) Participation in quality improvement processes and monitoring patient care outcomes; and
- (e) Using information technology to communicate, mitigate error, and support decision making.

5608.19 Faculty supervised clinical practice shall include:

- (a) Development of skills in direct patient care;
- (b) Making clinical judgments;
- (c) Care and management of individuals and groups across the lifespan;

- (d) Measurement of students' competencies that focus on demonstration of care management and decision making skills when providing care;
- (e) When appropriate to the level of education, the delegation and supervision of other health care providers;
- (f) All student clinical experiences including those with preceptors;
- (g) A minimum of six hundred fifty (650) clinical hours for programs leading to the registered nurse degree; and
- (h) A minimum of six hundred (600) clinical hours for programs leading to the practical nurse degree.

5608.20 Programs leading to the practical nurse degree shall include clinical experiences in the following areas:

- (a) Medical nursing;
- (b) Psychiatric and mental health nursing;
- (c) Pediatric nursing;
- (d) Community or home care; and
- (e) Long-term care.

5608.21 Programs leading to the registered nurse degree shall include clinical experiences in the following areas:

- (a) Foundations;
- (b) Medical nursing;
- (c) Surgical nursing;
- (d) Maternal and newborn health;
- (e) Pediatric nursing;
- (f) Psychiatric and mental health nursing;
- (g) Community health;
- (h) Acute care; and
- (i) Long-term services.

- 5608.22 Campus laboratory experiences shall provide attainment of psychomotor skills and clinical decision making in the care of patients.
- 5608.23 The ratio of credit hours to laboratory hours shall not exceed one to three (1:3).
- 5608.24 Clinical simulations may replace a maximum of thirty percent (30%) of actual clinical experiences with the following requirements:
- (a) The use of high fidelity computerized mannequins;
 - (b) Debriefing, using education theory;
 - (c) Conducted by faculty with training in clinical simulations; and
 - (d) The use of clinical simulations in the areas of maternal-newborn, medical-surgical, critical care, and pediatrics, and psychiatric mental health.

Subsection 5608.25 is repealed.

Section 5609 is repealed.

Amend the title for Section 5610, ADVANCED PRACTICE NURSING EDUCATION PROGRAMS, to read as follows:

5610 ADVANCED PRACTICE REGISTERED NURSING EDUCATION STANDARDS

Subsections 5610.1 through 5610.10 are amended to read as follows:

- 5610.1 This section shall apply to advanced practice nursing education programs that prepare students for practice as nurse-anesthetists, nurse-midwives, nurse-practitioners, or clinical nurse specialists.
- 5610.2 An advanced practice registered nursing education program shall operate within, or be affiliated with an accredited college or university that is authorized to award graduate degrees or post-graduate certificates.
- 5610.3 To be eligible for approval, the advanced practice program shall be at the graduate or post-graduate level and have pre-accreditation or accreditation status.
- 5610.4 A college or university desiring initial approval of an advanced practice nursing education program shall submit a proposal to the Board as set forth in § 5601.1(b) to establish an advanced practice nursing education program that prepares students for practice as nurse-anesthetists, nurse-midwives, nurse-practitioners, or clinical nurse specialists.

- 5610.5 The nursing education program coordinator shall:
- (a) Be academically and experientially qualified in the role of the program offered;
 - (b) Have a minimum of two (2) years of clinical experience as an advanced practice nurse;
 - (c) Have a District of Columbia advanced practice registered nurse license in good standing;
 - (d) Have a minimum of a doctoral degree in nursing and a current certification in the role and a population of the program; and
 - (e) Have educational preparation and experience, in teaching and curriculum development or program administration at the graduate level.
- 5610.6 The faculty shall:
- (a) Be registered nurses licensed and in good standing in the District of Columbia;
 - (b) Have a minimum of a master's degree in nursing; and
 - (c) Meet the following additional qualification when teaching courses with associated clinical:
 - (1) Be academically and experientially qualified in the role and population of the program offered;
 - (2) Have a minimum of two (2) years of clinical experience as an advanced practice nurse; and
 - (3) Have a District of Columbia advanced practice registered nurse (APRN) license in good standing.
- 5610.7 Preceptors, when used for clinical in the District of Columbia, shall:
- (a) Hold an active license to practice as an APRN or physician that is not encumbered and practices in a comparable practice focus; and
 - (b) Function as a supervisor and teacher and evaluates the individual's performance in the clinical setting.
- 5610.8 The program of study shall:

- (a) Be comprehensive and prepare the graduate with the core competencies for one (1) of the four (4) APRN roles and at least one of the six (6) foci;
- (b) Prepare the graduate to assume responsibility and accountability for health promotion and maintenance, as well as the assessment, diagnosis, and management of patient problems, including the use and prescription of pharmacologic and non-pharmacologic interventions;
- (c) Include a minimum of three (3) separate core graduate-level courses in the following:
 - (1) Advanced physiology/pathophysiology, including general principles that apply across the lifespan;
 - (2) Advanced health assessment, which includes assessment of all human systems, advanced assessment techniques, concepts and approaches; and
 - (3) Advanced pharmacology, which includes pharmacodynamics, pharmacokinetics, and pharmacotherapeutics of all broad categories of agents.
- (d) Include a minimum of five hundred (500) hours of supervised direct care clinical, with a minimum of fifty (50) minutes constituting one (1) hour.

5610.9 A certification program preparing an APRN specialty practice shall:

- (a) Build upon and in addition to, the education and practice of the APRN role and population focus;
- (b) Not prepare beyond the scope of practice of the role or population;
- (c) Address a subset of the population-focus; and
- (d) Be accredited by the nursing education accreditation organization.

5610.10 APRN students shall be currently licensed to practice as a registered nurse in the District of Columbia prior to participation in clinical practice as a student.

Subsections 5610.11 through 5610.26 are repealed.

Amend the title for Section 5611, PROGRAM CHANGES REQUIRING BOARD NOTIFICATION, to read as follows:

5611 DISTANCE NURSING EDUCATION

Subsection 5611.1 is amended to read as follows:

5611.1 Distance learning pre-licensure or advanced practice programs offered by approved District of Columbia nursing programs must be approved by the Board of Nursing.

Add new Subsections 5611.2 through 5611.8 to read as follows:

5611.2 The distance learning program shall meet the same standards as the campus program.

5611.3 The campus nursing programs shall have full approval by the Board.

5611.4 Faculty supervising clinical experiences in other locations shall obtain licenses in those states, if required.

5611.5 Faculty teaching didactic classes online in the distance learning program shall obtain licensure in the District of Columbia.

5611.6 Programs desiring to seek approval for student nurse clinical placement in the District of Columbia shall meet the following standards:

- (a) Provide evidence of full approval by the Board of Nursing in the state in which the institution is located; and
- (b) Provide evidence of current accreditation by a national nursing accrediting agency recognized by the U.S. Department of Education.

5611.7 Faculty supervising preceptor guided clinical experiences in pre-licensure nursing programs shall meet the qualifications stated in §§ 5608.8 and 5608.10 of this chapter.

5611.8 On-site supervision of preceptors used in clinical experiences with pre-licensure students shall occur a minimum of two (2) times within a semester.

5611.9 Registered nurse students completing clinical experiences in the District of Columbia for advanced practice registered nursing programs must possess an active unencumbered license in the District of Columbia.

Section 5612 is repealed.

Section 5613 is repealed.

Section 5699, DEFINITIONS, is amended as follows:

Subsection 5699.1 is amended to read as follows:

5699.1 As used in this chapter, the following terms have the meanings ascribed:

Accreditation: recognition by national organizations or by a federal education agency that the nursing program has attained a standard of performance.

Act: Health Occupation Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*).

Advanced practice program: a post-baccalaureate nursing education program at the master’s degree or doctoral degree level, whose purpose is to prepare students for practice as nurse-anesthetists, nurse-midwives, nurse-practitioners, or clinical nurse specialists.

Advanced practice registered nurse: a registered nurse who has completed an advanced practice nursing education program and has been licensed by the Board to practice as a nurse-anesthetist, nurse-midwife, nurse-practitioner, or clinical nurse specialist.

Annual Pass Rate: NCLEX pass rates for first-time test takers are calculated using the NCSBN, Pearson VUE reports from October 1 to September 30 for a one year period.

Approval: Board approval to operate a basic nursing program or advanced practice nursing education program in the District of Columbia that is granted only after specified requirements, standards, and conditions have been met.

Board: the Board of Nursing, established by § 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)).

Clinical: faculty planned and guided learning activities designed to assist students in meeting course objectives and to apply nursing knowledge and skills in the direct care of patients, including clinical conferences and planned learning activities in acute care facilities, and other community resources.

Clinical agency: an agency which provides the facilities for clinical learning experiences in nursing, with the faculty or the clinical instructor of the program responsible for the planning, implementing, and evaluating of the experiences.

Clinical preceptor: an individual meeting the requirements of this chapter that is an employee of a clinical agency who works with a nursing student in a clinical setting to facilitate student learning in a manner specified in a

signed written agreement between the agency and the educational institution.

Clinical preceptorship: an organized system of clinical experiences which allows a nursing student to be paired with a clinical preceptor for the purpose of attaining specific learning objectives.

Clinical simulations: advanced laboratory experiences for students that mimic actual clinical experiences. They include the use of medium or high fidelity mannequins, and scenarios or case studies and reflection to enhance learning.

Conditional approval: the approval status that is granted, for a time period specified by the Board, to a nursing program to correct deficiencies when the nursing program has failed to meet or maintain the requirements and standards of this chapter.

Controlling institution: a college, university, public agency, or institution is responsible for the administration and operation of a nursing program in the District.

District of Columbia Education Licensure Commission: the District of Columbia Government agency that licenses postsecondary educational institutions and their agents for the purpose of ensuring authenticity and legitimacy of educational institutions, serving as the state approving agency for veterans educational benefits, providing standards and criteria, and administering rules and regulation, including rules of procedure for the Education Licensure Commission, for the purpose of ensuring adequate public notice of each meeting of the Education Licensure Commission.

Exit Examination: a standardized test taken by a student to determine proficiency in nursing knowledge prior to graduation.

Full approval: the approval status that is granted to a program after the graduation of its first class and after the Board has determined that the requirements and standards of this chapter have been met.

Initial approval: the approval status that is granted to a newly established nursing program that has not graduated its first class.

NCLEX: National Council of State Boards of Nursing Licensure Examination.

Nurse Administrator: the person with the responsibility and authority for the administration and instructional activities of nursing education program (*e.g.* Dean, Chairperson, Director)

Nursing process: the problem solving techniques of assessment, planning, implementing, and evaluating a plan of care that requires technical and scientific knowledge, judgment, and decision-making skills.

Nursing Program: any education program leading to a certificate, associate degree, or baccalaureate degree in nursing.

Practical nurse: a person licensed to practice practical nursing pursuant to Chapter 55 of this title.

Prelicensure program: a nursing education program at the certificate, associate degree, or baccalaureate degree level, whose purpose is to prepare students for practice as practical or registered nurses.

Program Coordinator: Faculty member responsible for planning, implementing and evaluating advanced practice nursing program.

Registered nurse: a person licensed to practice registered nursing pursuant to Chapter 54 of this title.

Withdrawal of Approval: Board revocation of the approval to operate a nursing education program or advanced practice nursing education program within the District.

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., 5th Floor, Washington, D.C., 20002. In addition comments may be sent to 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

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-903.01 (2014 Repl.)), Section 4902 of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731 (2012 Repl.)), Section 15 of the District of Columbia Drug Manufacture and Distribution Licensure Act of 1990, effective June 13, 1990 (D.C. Law 8-137; D.C. Official Code § 48-714(a) (2014 Repl.)), and Mayor’s Order 98-88, dated May 29, 1998, hereby gives notice of its intent to amend Chapter 4 (Drug Manufacture and Distribution) of Title 22-B (Public Health and Medicine) of the District of Columbia Municipal Regulations (DCMR).

The purpose of these amendments is to ensure that out-of-state drug manufacturers, distributors, repackagers and wholesalers that conduct distribution activities within the District of Columbia are required to maintain a registered agent in the District.

The Department gives notice of its intent to adopt these rules as final, in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

Chapter 4, DRUG MANUFACTURE AND DISTRIBUTION, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:

Section 404, APPLICATION FOR OUT-OF-STATE REGISTRATION, is amended as follows:

Subsection 404.3 is repealed.

Subsection 404.4 is amended to read as follows:

- 404.4 An applicant for an out-of-state registration shall submit the following:
- (a) A completed application on the required form provided by the Director;
 - (b) The required registration fee;
 - (c) A certificate of good standing in the state where the principal place of business is located;
 - (d) A copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agent of the state in which the principal place of business is located;
 - (e) Proof of current approval by the United States Food and Drug Administration for registration of producers of drugs and medical devices;

- (f) Proof of current registration with the United States Drug Enforcement Administration for controlled substances, where applicable;
- (g) The name and address of the Applicant's designated registered agent in the District of Columbia;
- (h) Proof of registration, and of good standing status, in the District of Columbia as a foreign filing entity as defined by Title 29 of the District of Columbia Official Code, if applicable; and
- (i) Proof of "Clean Hands" as defined by the District of Columbia Tax and Revenue.

Section 405, RENEWAL OF REGISTRATION FOR OUT-OF-STATE DRUG MANUFACTURERS, DISTRIBUTORS, REPACKAGERS AND WHOLESALERS, is amended as follows:

Subsection 405.3 is amended to read as follows:

405.3 An applicant for renewal of an out- of -state registration shall submit the following:

- (a) A completed renewal application on the required form provided by the Director;
- (b) The required renewal fee;
- (c) A certificate of good standing in the state where the principal place of business is located;
- (d) A copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agent of the state in which the principal place of business is located;
- (e) Proof of current approval by the United States Food and Drug Administration for registration of producers of drugs and medical devices;
- (f) Proof of current registration with the United States Drug Enforcement Administration for controlled substances, where applicable;
- (g) The name and address of the Applicant's designated registered agent in the District of Columbia;
- (h) Proof of registration, and of good standing status, in the District of Columbia as a foreign filing entity as defined by Title 29 of the District of

Columbia Official Code, if applicable; and

- (i) Proof of “Clean Hands” as defined by the District of Columbia Tax and Revenue.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Administrative Assistant, at Angli.Black@dc.gov, (202) 442-5977.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF EMERGENCY RULEMAKING

The Director of the District Department of Transportation (DDOT), pursuant to the authority set forth in Sections 5(3)(A) (providing for a safe transportation system), 6(b) (transferring to the Department the traffic management function previously delegated to the Department of Public Works (DPW) under Section III (H) of Reorganization Plan No. 4 of 1983), and 7 (making Director of DDOT the successor to transportation related authority delegated to the Director of DPW) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(a)(3)(A), 50-921.05(b) and 50-921.06 (2014 Repl.)), and Mayor's Order 77-127, dated August 3, 1977, hereby gives notice of the intent to amend Chapter 22 (Moving Violations) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (18 CMR).

The emergency rulemaking will allow U-turns at the signalized intersections located at Pennsylvania Avenue, NW, and 15th Street, NW, going westbound.

This emergency rulemaking supersedes a previous emergency rulemaking dated August 7, 2015 that allowed U-turns at the signalized intersections located at Pennsylvania Avenue, NW, and 13th Street, NW, going eastbound, Pennsylvania Avenue, NW, and 13th ½ Street, NW, going westbound, and Pennsylvania Avenue, NW, and 15th Street, NW, going westbound. That rulemaking was not published in the *D.C. Register*.

This emergency rulemaking is necessitated by the immediate need to address the threat to the public welfare posed by vehicles making U-turns at signalized intersections. While the practice is currently prohibited, DDOT officials have identified specific intersections where, frequently, vehicles make U-turns anyway. Short of around-the-clock enforcement, vehicles will continue to make U-turns at these intersections. After studying those intersections, DDOT officials have concluded that it would be safer to permit U-turns in some locations in a limited and controlled manner than continue to prohibit the practice. The emergency rulemaking will create a safer alternative for vehicles, bicycles and pedestrians by allowing U-turns at these intersections in the District. By publishing these rules as emergency, DDOT and the Metropolitan Police Department will – through signage and enforcement of the new U-turns – be able to immediately ensure safer travel.

This emergency rule was adopted on September 4, 2015, and became effective immediately. This emergency rule will remain in effect until January 2, 2016, one hundred twenty (120) days from the date it became effective, unless earlier superseded by a notice of final rulemaking.

Chapter 22, MOVING VIOLATIONS, of Title 18 DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Section 2203, TURNING AT INTERSECTIONS, is amended as follows:

Subsection 2203.1 is amended by striking the phrase, “buttons, markers, or signs” and inserting the phrase, “signs, signals or markings” in its place.

Subsection 2203.2 is amended by striking the phrase, “buttons, markers, or signs” and inserting the phrase, “signs, signals or markings” in its place.

Section 2204, **TURNING REQUIREMENTS AND RESTRICTIONS**, is amended as follows:

Subsection 2204.7 is amended to read as follows:

2204.7 No vehicle shall make a U-turn so as to proceed in the opposite direction at any intersection controlled by traffic lights or police officers, or on a crosswalk adjacent to such an intersection, provided that U-turns are allowed at the intersection of Westbound at Pennsylvania Avenue, NW and 15th Street, NW.

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

**NOTICE OF PUBLIC HEARINGS
CALENDAR**

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

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

Protest Hearing (Status) 9:30 AM
Case # 15-PRO-00080; CS Bond ST AB-S Holdings, LLC, t/a The Savoy
Suites Hotel, 2505 Wisconsin Ave NW, License #90804, Retailer CH
ANC 3C

**Substantial Change (Request an additional Summer Garden and
Entertainment Endorsement for the Summer Garden, Expand the Seating
inside the Restaurant)**

Protest Hearing (Status) 9:30 AM
Case # 15-PRO-00081; MST Enterprises, Inc., t/a Churreria Madrid Restaurant
2505 Champlain Street NW, License #60806, Retailer CR, ANC 1C

**Substantial Change (Entertainment Endorsement to allow DJ, Karaoke and
Live Band)**

Protest Hearing (Status) 9:30 AM
Case # 15-PRO-00077; District Distilling Company, Inc., t/a District Distilling
Company, 1414-1418 U Street NW, License #98271, Retailer CT, ANC 2B

Application for a New License

Protest Hearing (Status) 9:30 AM
Case # 15-PRO-00079; DC Four Lessee, LLC, t/a Hotel Helix, 1430 Rhode
Island Ave NW, License #79243, Retailer CH, ANC 2F

Substantial Change (Rooftop Summer Garden)

Board's Calendar

October 14, 2015

Protest Hearing (Status) 9:30 AM

Case # 15-PRO-00078; Renaissance Centro M Street, LLC, t/a Hyatt Place Washington DC Georgetown, 2121 M Street NW, License #99352, Retailer CH ANC 2A

Application for a New License

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00284; Ultimo, LLC, t/a Divino Grill (Formerly-Ultimo Lounge), 1633 17th Street NW, License #93308, Retailer CR, ANC 2B

No ABC Manager on Duty, Failed to Post Pregnancy Sign, Failed to Post Legal Drinking Age Sign

Show Cause Hearing (Status) 9:30 AM

Case # 15-CC-00053; RiRa Georgetown, LLC, t/a RiRa Irish Pub, 3123-3125 M Street NW, License #92168, Retailer CR, ANC 2E

Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age

Show Cause Hearing (Status) 9:30 AM

Case # 15-CMP-00414; Yetenbi, Inc., t/a Noble Lounge (Formerly-Yetenbi Restaurant), 1915 9th Street NW, License #85258, Retailer CT, ANC 1B

No ABC Manager on Duty, Substantial Change without Boards Approval (Increase in Occupancy)

Show Cause Hearing (Status) 9:30 AM

Case # 15-251-00053; Makambo, Corp, t/a Awash, 2218 18th Street NW License #20102, Retailer CR, ANC 1C

Operating after Hours, No ABC Manager on Duty

Show Cause Hearing* 11:00 AM

Case # 15-CMP-00217; Brentwood Liquors, t/a Brentwood Liquors, 1319 Rhode Island Ave NE, License #60622, Retailer A, ANC 5C

Sold Go-Cups

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Fact Finding Hearing* 1:30 PM

POW, LLC, t/a Show Bar; 1210 H Street NE, License #76233, Retailer CT AMC 6A

Request to Extend Safekeeping

Board's Calendar

October 14, 2015

Protest Hearing*

2:00 PM

Case # 15-PRO-00023; Naomi's Ladder, LLC, t/a Touche, 1123 H Street NE

License #96779, Retailer CT, ANC 6A

Application to Renew the License

Protest Hearing*

2:00 PM

Case # 15-PRO-00038; Yoef, Inc., t/a Stanton Liquors, 1044 Bladensburg Road

NE, License #71601, Retailer A, ANC 5D

Application to Renew the License

Protest Hearing*

4:30 PM

Case # 15-PRO-00027; I Before E, LLC, t/a Trinity, 1606 7th Street NW,

License #98042, Retailer CT, ANC 6E

Application for a New License

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

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

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

On October 14, 2015 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#15-AUD-00051 Bandolero, 3241 M ST NW Retailer C Restaurant, License#: ABRA-075631

2. Case#15-CC-00059 Safeway, 2845 ALABAMA AVE SE Retailer B Retail - Grocery, License#: ABRA-060504

3. Case#15-251-00157 Madam's Organ, 2461 18TH ST NW Retailer C Tavern, License#: ABRA-025273

4. Case#15-AUD-00061 Churreria Madrid Restaurant, 2505 CHAMPLAIN ST NW Retailer C Restaurant, License#:ABRA-060806

5. Case#15-AUD-00058 Madrid Restaurant (formerly Odeon Café), 1714 CONNECTICUT AVE NW Retailer C Tavern, License#: ABRA-005811

6. Case#15-251-00159 Buffalo Billiards Corporation, 1330 19TH ST NW Retailer C Tavern, License#: ABRA-020480

7. Case#15-AUD-00052 Tackle Box, 3245 M ST NW Retailer C Restaurant, License#: ABRA-084952

8. Case#15-251-00158 Sign of the Whale, 1825 M ST NW Retailer C Tavern, License#: ABRA-085120

9. Case#15-CMP-00517 Hotel Monaco & Poste Restaurant, 700 F ST NW Retailer C Hotel, License#: ABRA-085256

10. Case#15-AUD-00054 Fuel Pizza & Wings, 600 F ST NW Retailer C Restaurant, License#: ABRA-088727

11. Case#15-CC-00110 Echostage, 2135 QUEENS CHAPEL RD NE Retailer C Nightclub, License#: ABRA-090250

12. Case#15-CMP-00503 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

13. Case#15-CMP-00512 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

14. Case#15-CMP-00521 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

15. Case#15-CMP-00529 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

16. Case#15-CMP-00576 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

17. Case#15-CMP-00577 DACHA BEER GARDEN, 1600 7TH ST NW Retailer D Tavern, License#: ABRA-092773

18. Case#15-CMP-00248 Sip, 1812 Hamlin ST NE Retailer C Tavern, License#: ABRA-095164

19. Case#15-CC-00094 Sip, 1812 Hamlin ST NE Retailer C Tavern, License#: ABRA-095164

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

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

1. Review Application for Class Change from Retailer B to Retailer A. ANC 7F. SMD 7F02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Texas Grocery Store*, 4350 Texas Avenue SE, Retailer B, License No. 094776.

2. Review Application for Class Change from Retailer CR to Retailer CT. ANC 2B. SMD 2B07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *The Manor*, 1327 Connecticut Avenue NW, Retailer CR, License No. 099536.

3. Review Application for Class Change from Retailer DR to Retailer DT. ANC 2B. SMD 2B09. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Amsterdam Falafelshop*, 1830 14th Street NW, Retailer DR, License No. 093449.

4. Review Request for Change of Hours. *Current Hours of Operation, Alcoholic Beverage Sales and Consumption, and Live Entertainment*: Sunday-Thursday 11am to 2am, Friday and Saturday 11am to 3am. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption*: Sunday-Thursday 9am to 2am, Friday and Saturday 9am to 3am. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Laughing Man*, 1310 G Street NW, Retailer CT, License No. 079786.

5. Review Request for Change of Hours. *Current Hours of Operation*: Monday-Saturday 8am to 9pm. *Current Hours of Alcoholic Beverage Sales and Consumption*: Monday-Saturday 9am to 9pm. *Proposed Hours of Operation*: Sunday-Saturday 7am to 12am. *Proposed Hours of Alcoholic Beverage Sales and Consumption*: Sunday-Saturday 8am to 12am. ANC 7D. SMD 7D06. No outstanding fines/citations. No outstanding violations. No pending enforcement

matters. No Settlement Agreement. *Benning Heights Market*, 547 42nd Street NE, Retailer B Grocery, License No. 099470.

***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.**

CESAR CHAVEZ PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSAL****Comprehensive Psychological and Related Services for Special Education**

Submission Deadline: 5pm Wednesday, October 7, 2015

The office is requesting proposals on the following:

Statement of work for:

Comprehensive Psychological and Related Services contract for 6th-12th grade LEA.

Background:

Cesar Chavez Public Charter schools for Public Policy, founded in 1999 includes a network of four schools located in the District of Columbia servicing students from grade 6-12. In 2015 Cesar Chavez became its own LEA for Special Education. The need for comprehensive services includes assessment, evaluation, ABA support, and all potential related services.

Statement of Responsibilities:

- Provide timely and compliant assessments and evaluation including but not limited to:
 - Psychological-Educational
 - Speech and Language
 - Occupational Therapy
 - Physical Therapy
- Deliver related service hours using research based best practice and supportive techniques for students in the areas of:
 - Occupational Therapy
 - Physical Therapy
 - Speech and Language
 - Other related services as needed
- Demonstrate proficiency in the use of EasyIEP/SEDS for IEP compliance and related service tracking
- Participation in IEP and MDT meetings as necessary.

Offeror Requirements

Qualifications: Master's Degree and or OSSE/State Certification/Licensure in associated field.

Content of Proposal

The Offerors shall submit a written proposal to include the following:

- List of services provided
- Cost (per hourly service and evaluation)
- Concise summary of Offerors knowledge and experience with a similar school system (limited to 1 page.)

Submission Information

Faxed proposals or phone calls will NOT be accepted. Only electronic proposals will be accepted via email. Submissions shall be sent to: Ayana Malone, Director of Special Education and Student Services, ayana.malone@chavezschools.org by 5pm October 7, 2015. Email submissions shall be limited to attachments compatible with Microsoft Office Word and/or files with a .pfd file extension.

CHILD AND FAMILY SERVICES AGENCY
DISTRICT OF COLUMBIA CITIZENS REVIEW PANEL
NOTICE OF PUBLIC MEETING

The District of Columbia Citizen Review Panel will be holding a planning retreat on September 30, 2015 from 5:00 pm to 8:00 pm. The meeting will be held in Martin Luther King Jr. Memorial Library. Below is the agenda for this retreat.

September 30, 2015 Meeting of the DC Citizen Review Panel

Time: 5:00 to 8:00 PM

Day: Wednesday, September 30, 2015

Place: Martin Luther King Jr. Memorial Library, 901 G St NW, Washington, DC 20001, Room A-9

PROPOSED AGENDA

5:00 PM	Welcome/Introductions: <i>Damon King, Chairperson</i>
5:30 PM	Review and Approve Minutes from June 2, 2015
5:35 PM	Review and Approve Proposed Agenda
5:50 PM	Treasurer's Report: <i>Rick Bardach</i>
6:20 PM	Chairperson's Report: <i>Damon King</i>
6:50 PM	Proposed Invited Guest: TBD
7:20 PM	CRP Task Force on Youth Aging Out of Foster Care: <i>Rick Bardach</i>
7:35 PM	Facilitator Report: <i>Joyce N. Thomas</i>
7:50 PM	New Business
8:00 PM	Adjournment

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

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

October 2015

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Cynthia Briggs	Board of Accountancy	2	8:30 am-12:00pm
Patrice Richardson	Board of Appraisers	28	8:30 am-4:00 pm
Patrice Richardson	Board Architects and Interior Designers	23	8:30 am-1:00 pm
Cynthia Briggs	Board of Barber and Cosmetology	No Meeting	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	20	7:00-pm-8:30 pm
Kevin Cyrus	Board of Funeral Directors	1	11:00am-1:00 pm
Avis Pearson	Board of Professional Engineering	22	9:00 am-1:30 pm
Leon Lewis	Real Estate Commission	13	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	20	1:00pm-3:30 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 4th 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.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Real Estate Appraisers
1100 4th Street SW, Room 300 B
Washington, DC 20024**

AGENDA

**October 28, 2015
10:00 A.M.**

1. Call to Order – 10:00 a.m.
2. Attendance (Start of Public Session) – 10:30 a.m.
3. Executive Session (Closed to the Public) – 10:00 – 10:30 a.m.
 - a) Application Review
 - b) Complaint and Legal Review
 - c) Legal Recommendations
 - d) Legal Counsel Report
4. Comments from the Public
5. Minutes – Draft, September 16, 2015
6. Recommendations
 - a) Applications for Licensure
 - b) Complaint(s)
 - c) Education Report
 - d) Budget Report
 - e) 2015 Calendar
 - f) Correspondence
7. Old Business
8. New Business

Next Scheduled Regular Meeting, November 18, 2015
1100 4th Street, SW, Room 300B, Washington, DC 20024

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS
FISCAL YEAR 2016 MONTHLY MEETING SCHEDULE

This notice outlines the schedule of the regular meetings of the Board for the Office of Employee Appeals. Portions of the meetings are held in open session, and the public is invited to attend. The meetings are held at 1100 4th Street, Suite 380E, NW, Washington, D.C. A copy of the draft agenda for each meeting will be posted on the agency's website and the lobby of the Office of Employee Appeals. For further information, please contact the front desk at 202.727.0004. This schedule is subject to change.

DATE	TIME	ROOM NUMBER
Tuesday, January 5, 2016	11:00 AM	Room 380 East
Tuesday, February 16, 2016	11:00 AM	Room 380 East
Tuesday, March 29, 2016	11:00 AM	Room 380 East
Tuesday, May 10, 2016	11:00 AM	Room 380 East
Tuesday, June 21, 2016	11:00 AM	Room 380 East
Tuesday, August 2, 2016	11:00 AM	Room 380 East
Tuesday, September 13, 2016	11:00 AM	Room 380 East

DISTRICT OF COLUMBIA OFFICE OF EMPLOYEE APPEALS**OCTOBER BOARD MEETING**

This notice outlines the schedule of the regular meetings of the Board for the Office of Employee Appeals. Portions of the meetings are held in open session, and the public is invited to attend. The September 8, 2015 Board meeting has been rescheduled and will be held on October 20, 2015. The meeting will be held at 1100 4th Street, Suite 380E, NW, Washington, D.C. A copy of the draft agenda for the meeting is posted on the agency's website and the lobby of the Office of Employee Appeals. For further information, please contact the front desk at 202.727.0004. This schedule is subject to change.

DATE	TIME	ROOM NUMBER
Tuesday, October 20, 2015	11:00 AM	Room 380 East

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE****AIR QUALITY TITLE V OPERATING PERMIT AND GENERAL PERMIT FOR DISTRICT OF COLUMBIA DEPARTMENT OF GENERAL SERVICES, DC GENERAL HEALTH CAMPUS AND DC JAIL**

Notice is hereby given that The District of Columbia Department of General Services has applied for a Title V air quality permit pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3) for operations at the DC General Health Campus and the DC Jail, located at 1900 Massachusetts Avenue SE, Washington DC. The contact person for the facility is Mr. Ricardo Eley, at (202) 438-6535.

The equipment at the facility to be covered by the permit consists of the following air pollution sources:

- Three (3) 47 MMBTU/hr natural gas fired Keeler boilers located at the boiler plant;
- Thirteen (13) diesel-fired emergency generator sets of various sizes;
- Underground fuel oil storage tanks (USTs) containing diesel fuel;
- Aboveground fuel oil storage tanks (ASTs) containing diesel fuel;
- Cooling towers that service chillers; and
- Miscellaneous small natural gas-fired fuel burning equipment (<5 MMBTU/hr heat input).

The facility has the potential to emit up to 1.14 tons per year (TPY) of oxides of sulfur (SO_x), 77.57 TPY of oxides of nitrogen (NO_x), 6.27 TPY of total particulate matter, 5.48 TPY of volatile organic compounds (VOC), and 63.12 TPY of carbon monoxide (CO). The major source threshold in the District of Columbia of NO_x is 25 TPY, therefore, with the potential to emit approximately 78 TPY of NO_x, the facility is classified as a major stationary source and, pursuant to 20 DCMR 300.1(a), the source is subject to Chapter 3 and must obtain an operating permit in accordance with that regulation and Title V of the federal Clean Air Act.

The Department of Energy and Environment (DOEE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft permit #022-R2 has been prepared.

The application, the draft permit, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the Department of Energy and Environment, 1200 First Street NE, 5th Floor, Washington DC 20002.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action. Hearing requests or comments should be

directed to Stephen S. Ours, DOEE Air Quality Division, 1200 First Street NE, 5th Floor, Washington DC 20002. Questions about this permitting action should be directed to John C. Nwoke at (202) 724-7778 or john.nwoke@dc.gov. No comments or hearing requests postmarked after November 9, 2015 will be accepted.

DEPARTMENT OF ENERGY AND ENVIRONMENT

FISCAL YEAR 2016

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 Department of Energy and Environment (DOEE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue Permit #5734-R1 to the District of Columbia Water and Sewer Authority (DC Water) to operate one (1) Burnham 8.31 MMBtu per hour natural gas-fired boiler, located at the Grit Chamber Building 2, 5000 Overlook Avenue, SW, Washington, DC. The contact person for the facility is Meena Gowda, Principal Counsel, at (202) 787-2628.

Boiler to be Permitted

Equipment Location	Address	Boiler Size	Boiler Model Number	Permit No.
Blue Plains WWTP- Grit Chamber Bldg 2	5000 Overlook Ave., SW Washington, DC	8.31 MMBtu/hr	Burnham 4FW99350GGP	5734-R1

The proposed emission limits are as follows:

- a. The boiler shall not emit pollutants in excess of those specified in the following table [20 DCMR 201]:

Pollutant	Short-Term Limit (Natural Gas) (lb/hr)
Carbon Monoxide (CO)	0.68
Oxides of Nitrogen (NO _x)	0.81
Total Particulate Matter (PM Total)*	0.06
Sulfur Dioxide (SO ₂)	0.005

*PM Total includes both filterable and condensable fractions.

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the boiler, 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. Particulate matter emissions from the boiler shall not be greater than 0.11 pounds per million BTU. [20 DCMR 600.1].
- 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]

- e. Emissions shall not exceed those achieved with the performance of annual combustion adjustments on the boiler. To show compliance with this condition, the Permittee shall, each calendar year, perform boiler combustion process adjustments with the following characteristics [20 DCMR 805.1(a)(4) and 20 DCMR 805.8(a) and (b)]:
 - 1. Inspection, adjustment, cleaning or replacement of fuel burning equipment, including the burners and moving parts necessary for proper operation as specified by the manufacturer;
 - 2. Inspection of the flame pattern or characteristics and adjustments necessary to minimize total emissions of NO_x and, to the extent practicable, minimize emissions of CO;
 - 3. Inspection of the air-to-fuel ratio control system and adjustments necessary to ensure proper calibration and operation as specified by the manufacturer; and
 - 4. Adjustments shall be made such that the maximum emission rate for any contaminant does not exceed the maximum allowable emission rate as set forth in this section.

The estimated maximum emissions from the boiler is as follows:

Pollutant	Maximum Annual Emissions Using Natural Gas Only (tons/yr)
Carbon Monoxide (CO)	3.00
Oxides of Nitrogen (NO _x)	3.57
Total Particulate Matter (PM Total)	0.27
Volatile Organic Compounds (VOCs)	0.20
Sulfur Dioxide (SO ₂)	0.021

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

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

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

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

No written comments or hearing requests postmarked after November 9, 2015 will be accepted.

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

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Marriage and Family Therapy (“Board”) hereby gives notice of its regular meeting schedule pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) (“Act”).

The Board’s regular meetings shall now be conducted on the first Tuesday of each quarter starting on November 3, 2015. The meetings will be held from 11:00 AM to 1:00 PM and will be open to the public from 11:00 AM until 12:00PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, D.C. Official Code § 2-574(b), the meetings will be closed from 12:00 PM until 1:00 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations. The schedule of the Board’s meetings during the next twelve-month period will be as follows:

November 3, 2015
February 2, 2015
May 3, 2015
August 2, 2015
November 1, 2015

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Massage Therapy (“Board”) hereby gives notice of a change in its regular meeting pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2001) (“Act”).

Due to schedule conflict, the Board’s regular meeting scheduled for Thursday, November 19, 2015, will be rescheduled to Thursday, November 12, 2015, from 1:30 PM to 3:30 PM. The meeting will be open to the public from 1:30 pm until 2:30 pm to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 2:30 pm until 3:30 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**NOTICE OF FUNDING AVAILABILITY**

Polly R. Donaldson, Director, DC Department of Housing and Community Development (DHCD), announces a Notice of Funding Availability (NOFA) which includes funding under the Community Development Block Grant (CDBG) program, and some local funds. This NOFA is being issued pursuant to the FY 2011-15 Consolidated Action Plan prepared for submission to the U.S. Department of Housing and Urban Development (HUD). **Small Business Technical Assistance will be funded under this NOFA.**

The Department will provide grant funding to qualified non-profit organizations for DHCD's Small Business Assistance Program to provide small business support services in targeted commercial areas of the District. The business support services provided through this program are intended to empower start-up and established businesses for the purpose of revitalizing low and moderate income communities. Applicants responding to this NOFA will have the opportunity to present their organizational capacity and experience. Applicants will be asked to provide a dedicated marketing and outreach plan for providing business support services. Applicants should propose high-impact, innovative methods of service delivery, and activities which collaborate with, and enhance, other revitalization efforts in the District.

The Request for Applications (RFA) associated with this NOFA will be released on September 25, 2015. The RFA package, including all application materials will be available in CD format and can be obtained at DHCD, 1800 Martin Luther King Jr. Avenue, S.E., Washington, D.C. 20020, 1st floor reception desk daily from 8:15 am until 4:45 pm. This material will also be available from the DHCD website, www.dhcd.dc.gov, no later than September 28, 2015.

Completed applications for Small Business Assistance (RCS) must be delivered on or before 4:00 p.m., Eastern Time, October 23, 2015, to DHCD, 1800 Martin Luther King Jr. Avenue, S.E., 1st floor reception desk, Washington, D.C., 20020.

No applications will be accepted after the submission deadline

Muriel E. Bowser, Mayor Government of the District of Columbia

Brian T. Kenner, Deputy Mayor for Planning and Economic Development

**Polly R. Donaldson, Director
Department of Housing and Community Development
1800 Martin Luther King Jr., Avenue SE, Washington, DC 20020
(202) 442-7200/www.dhcd.dc.gov**

OFFICE OF POLICE COMPLAINTS

NOTICE OF PUBLIC MEETING

POLICE COMPLAINTS BOARD MEETING

November 12, 2015

6:00 p.m.

1400 I St, Suite 700, Washington, DC, 20008

For additional information, contact Kimberly Ryan at 202-727-3838

AGENDA OF MEETING

- I. Call to Order
- II. Public Comment Period
- III. Approval of PCB Minutes
 - a. September 17, 2015
- IV. Agency Report
- V. Executive Session (if necessary)

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II. Background

A. October 31, 2007 Incident

On October 31, 2007, Officer McConnell was assigned to a hospital detail guarding a prisoner.¹ Officer McConnell at that time was a First District Shop Steward for FOP.² On October 31, FOP's First District Chief Shop Steward was on leave, thus making Officer McConnell the acting Chief Shop Steward.³ During the 6:00 a.m. roll call on October 31, Officer McConnell approached his sergeant and asked if he could attend FOP's monthly Executive Council meeting later that day at 10:00 a.m. in the Chief Shop Steward's stead. The sergeant told Officer McConnell to ask the ranking lieutenant, who then conferred with the First District's watch commander and the First District's commanding officer. The watch commander and commanding officer agreed that Officer McConnell could not be excused from duty to attend FOP's Executive Council meeting because Patrol Service Area 101, to which Officer McConnell was assigned, was short-staffed that day.⁴

B. December 6, 2007 Incident

On December 6, 2007, Officer Leach checked in for roll call at 6:00 a.m.⁵ At that time, Officer Leach was the Sixth District Chief Shop Steward for FOP. At about 9:00 a.m. on December 6, Officer Leach approached a sergeant and notified him that he wanted to attend a FOP contract negotiating team meeting that day at 10:00 a.m. The sergeant instructed Officer Leach to take his request to the Sixth District's watch commander.⁶ The watch commander stated that he could not authorize Officer Leach's request to attend the meeting because the Sixth District was too busy that day, the District was short of manpower, and there were a lot of calls coming in.⁷

C. Complaint and Report and Recommendation

On February 27, 2008, FOP filed the instant Unfair Labor Practice Complaint alleging that MPD violated D.C. Official Code § 1-617.04(a)(1)⁸ and § 1-617.06(a)(2)⁹ when it did not allow the officers to attend the union's October 31, 2007 and December 6, 2007 meetings.

The matter was assigned to a Hearing Examiner, and hearings were held on December 4, 2008, May 7, 2009, and September 15, 2009. On May 11, 2010, the Hearing Examiner issued his Report and Recommendation finding that (1) "MPD, as an employer, was entitled to

¹ Hearing Examiner's Report and Recommendation (hereinafter "R&R") at 6.

² *Id.*

³ *Id.*

⁴ *Id.* at 6-7.

⁵ *Id.* at 8.

⁶ *Id.*

⁷ *Id.* at 9.

⁸ D.C. Official Code § 1-617.04(a)(1): "(a) The District, its agents, and representatives are prohibited from: (1) Interfering with, restraining, or coercing any employee in the exercise of the rights guaranteed by this subchapter..."

⁹ D.C. Official Code § 1-617.06(a)(2): "(a) All employees shall have the right: ...(2) To form, join, or assist any labor organization or to refrain from such activity...."

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promulgate and implement ‘reasonable rules covering conduct of employees [during their working time]’;¹⁰ (2) “the collective bargaining agreement, in Article 8, Section 1,¹¹ ...prohibited Leach and McConnell from attending Union meetings ‘during employee working time’;¹² (3) neither of the two officers qualified for official time under Article 9, Section 4¹³ of the collective bargaining agreement;¹⁴ (4) “MPD introduced considerable testimony and evidence to show the manpower levels of, and the tactical demands on, its First and Sixth Districts during the days involved in this case”;¹⁵ (5) MPD did not take Officer McConnell’s October 31, 2007 request “lightly,” and conferred with three commanding officers in order to decide if he could be excused from his post that day;¹⁶ (6) on December 6, 2007, the Sixth District was understaffed, and there were a lot of 911 calls coming in;¹⁷ (7) MPD’s “refusals to grant time off from work to attend Union meetings were exercises of management rights granted by Article 4¹⁸ of the collective bargaining agreement and codified by statute in D.C. Code § 1-617.08”;¹⁹ and (8) the Department “acted out of concern for MPD’s ability to carry out its mission,” and was “not motivated by hostility toward the Union or the union activity of the two employees when it refused to excuse McConnell and Leach from their duties to attend Union meetings.”²⁰ Accordingly, the Hearing Examiner concluded that MPD did not commit unfair labor practices as alleged, and recommended that FOP’s Complaint be dismissed.²¹

¹⁰ (R&R at 11).

¹¹ Collective bargaining agreement, Article 8 – Union/Employee Responsibilities, Section 1: “Neither the Union nor any employee in the bargaining unit shall conduct Union business or carry on Union activities (soliciting members, distributing literature, attending Union meetings, etc.) during employee working time or on the Department’s premises, except as provided for in Article 11. Distribution of literature or other contacts pertaining to Union business will be conducted during non-work time of both the Union representatives and members being contacted. There is to be no interference by members in a non-duty status with the other employees’ performance of official duty during working hours.”

¹² R&R at 11.

¹³ Collective bargaining agreement, Article 9 – Rights of Employees/Union Representatives, Section 4: “The Employer shall provide union stewards, employees and union officials with official time in the manner hereinafter described to receive, investigate, prepare and present grievances to management. ... (4) The designated Union representatives shall be granted official time within their regularly scheduled working hours as needed to attend meetings of Boards provided for in this Agreement to which they are appointed and to attend conferences with management....”

¹⁴ R&R at 11.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Collective bargaining agreement, Article 4 – Management Rights: “The Department shall retain the sole right, authority, and complete discretion to maintain the order and efficiency of the public service entrusted to it, and to operate and manage the affairs of the Metropolitan Police Department in all aspects including, but not limited to, all rights and authority held by the Department prior to the signing of this Agreement. Such management rights shall not be subject to the negotiated grievance procedure or arbitration. The Union recognizes that the following rights, when exercised in accordance with applicable laws, rules and regulations, which in no way are wholly inclusive, belong to the Department: 1. To direct employees of the Department; 2. To determine the... number ... of employees assigned, the work project, tour of duty, [or the] methods and processes by which such work is performed....”

¹⁹ R&R at 12.

²⁰ *Id.*

²¹ *Id.* at 12-13.

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D. FOP's Exceptions to the Hearing Examiner's Report and Recommendation

On June 15, 2010, FOP filed two Exceptions to the Hearing Examiner's Report and Recommendation, each with numerous sub-arguments.²² First, FOP argued that "[t]he Hearing Examiner erred in his finding that neither McConnell nor Leach were entitled to Official Time, under the contract, to attend the meetings."²³ FOP asserted that (1) the Hearing Examiner's conclusion that Article 8, Section 1 of the collective bargaining agreement prohibited the officers from attending union meetings "during employee working time" is "untrue";²⁴ (2) MPD already conceded in its Post-Hearing Brief that the officers had the right to attend the meetings;²⁵ (3) Article 9, Section 4(4) of the collective bargaining agreement requires that "designated Union representatives shall be granted official time within their regularly scheduled working hours as needed to attend meetings of Boards provided for in this Agreement to which they are appointed...";²⁶ (4) the evidence shows that MPD did not dispute that Officers McConnell and Leach were "designated" by FOP to attend the respective meetings;²⁷ (5) the types of meetings in question are provided for in FOP's By-laws, which have been incorporated into the collective bargaining agreement by reference;²⁸ (6) FOP's then Chairman, Kristopher Baumann, testified that official time is routinely used for these types of meetings;²⁹ (7) there was no basis for the Hearing Examiner to conclude that the officers did not qualify for official time and that they did not have a right to be excused from work;³⁰ (8) the Hearing Examiner's application of the National Labor Relations Board's ("NLRB") balance between working time and management rights is irrelevant because the collective bargaining agreement allows official time to be used for these types of meetings;³¹ (9) the Hearing Examiner's reliance on *Payton Packing Company, Inc.*, 49 NLRB 828, 843 (1943) was misplaced because that case only applies to "undefined" union conduct, and using official time for these types of meetings was already "contemplated, negotiated, and agreed upon" by the parties in Article 9 of the collective bargaining agreement;³² and (10) the Hearing Examiner incorrectly reasoned that the officers needed to obtain MPD's "permission" to attend the meetings because it is well established between the parties that the officers only needed to "notify" MPD of their need to attend the meetings, not ask for permission.³³

FOP summarized its first exception, stating:

Given that Leach's right and McConnell's right to attend these union meetings is undeniable and safeguarded by the contract (to

²² (Exceptions at 7)

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 7-8.

²⁷ *Id.* at 8.

²⁸ *Id.* (citing Hearing Transcript at 28).

²⁹ *Id.* (citing Transcript at 25).

³⁰ *Id.* at 8-9.

³¹ *Id.* at 9.

³² *Id.*

³³ *Id.* (citing Transcript at 44, 121).

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include the ability to do so on official time), absent grave and dire circumstances to befall MPD if it were to allow union leaders to attend a meeting, it is illegal for MPD to deny their right to attend. See *Quantum Electric, Inc.*, 341 NLRB 1270, 1279 (2004) (stating, “[t]here is no question that attending a union meeting is protected activity under the Act. If that were the disciplined employees’ sole conduct herein, it would be a foregone conclusion that Respondent’s disciplinary notices and termination for the activity were unlawful”).³⁴

FOP’s second exception argued that “[t]he Hearing Examiner erred in his finding that management’s rights trump Leach and McConnell’s right to attend union meetings.”³⁵ Specifically, FOP asserted that (1) MPD’s witnesses at the hearing admitted that they refused to allow the officers to attend the respective meetings;³⁶ (2) those refusals constituted interferences with rights protected by D.C. Official Code § 1-617.04(a)(1) and § 1-617.06(a)(2) and PERB precedent;³⁷ (3) the Hearing Examiner, without any evidentiary or legal support, accepted MPD’s “elaborate manpower defense which included a right to deny union participation as a management right”;³⁸ (4) the Hearing Examiner incorrectly concluded that Article 4’s language that “[t]he Department shall retain the sole right, authority, and complete discretion to maintain the order and efficiency of the public service entrusted to it, and to operate and manage the affairs of the [MPD] in all aspects...” justified MPD’s denial of the officers’ rights to attend the meetings;³⁹ (5) the Hearing Examiner was inconsistent in what he said at the hearing and what he found in his Report and Recommendation;⁴⁰ (6) Article 4 has a provision that requires MPD to adhere to the District’s laws, which the Hearing Examiner ignored when he found that managements rights “trump the exercise of union activity” protected by D.C. Official Code § 1-617.04(a)(1), in violation of the NLRB’s holding in *Quantum Electric, supra*;⁴¹ and (7) the Hearing Examiner ignored “the great weight of evidence” that proved that there were no critical manpower shortages or designated crime emergencies on either October 31 or December 6, 2007, and that also proved the officers were not needed to maintain minimum staffing requirements.⁴²

FOP concluded its second exception, stating:

³⁴ *Id.* at 10.

³⁵ *Id.*

³⁶ *Id.* (citing Transcript at 146, 151-152, 328).

³⁷ *Id.* at 10-11 (citing *Am. Fed’n of Gov’t Emp., Local 2741 v. D.C. Dep’t of Parks and Recreation*, 50 D.C. Reg. 5049, Slip Op. No. 697 at n. 10, PERB Case No. 00-U-22 (2002) (finding that D.C. Official Code §§ 1-617.06(a)(2), (3), and (b) “protect employees in the exercise of their right to pursue a grievance”)).

³⁸ *Id.* at 11.

³⁹ *Id.*

⁴⁰ *Id.* (citing Transcript at 91 (in which the Hearing Examiner stated that MPD would be in “trouble” if it did not have a “good and sufficient reason” for refusing to allow the officers to attend the meetings)).

⁴¹ *Id.*

⁴² *Id.* at 12-13

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...[M]ost profoundly, [the Hearing Examiner's] endorsement of MPD's imaginary manpower shortage is frightening. Indeed, if this recommendation is accepted by the Board this would enable MPD (or any other agency) to prevent union business by simply asserting a "manpower shortage", even if it is illusory. Such a result cannot stand as it would erode decades of case law establishing that union members have the undisputed right to attend union meetings. To rule otherwise, would give MPD the keys to the kingdom on how to shut down the Union by preventing it from conducting union business. ...As such, it is self-evident that MPD's actions are illegal and the examiner's report and recommendation should be rejected by the Board.⁴³

E. MPD's Opposition to FOP's Exceptions

On July 19, 2010, MPD filed an Opposition to FOP's Exceptions, arguing that the Board should adopt the Hearing Examiner's Report and Recommendation because (1) FOP's exceptions are nothing more than disagreements with the Hearing Examiner's findings based on competing evidence and are therefore invalid;⁴⁴ (2) the Hearing Examiner's findings are all reasonable and supported by the record;⁴⁵ (3) the Hearing Examiner properly found that there is no inviolable right to attend union meetings during work hours;⁴⁶ and (4) the Hearing Examiner properly found that MPD's denial of the officers' requests to attend the meetings were not motivated by anti-union animus.⁴⁷ Alternatively, MPD argued that the Board should dismiss FOP's Complaint because FOP's allegations are purely contractual, and are therefore outside of PERB's jurisdiction.⁴⁸

The Hearing Examiner's Report and Recommendation, as well as FOP's Exceptions, are now before the Board for disposition.

III. Analysis

When a party files an unfair labor practice complaint, the Board conducts an investigation to determine, among other things, whether the allegations, if proven, could constitute a statutory violation of the Comprehensive Merit Personnel Act ("CMPA").⁴⁹ In the process of making this

⁴³ *Id.* at 14.

⁴⁴ (Opposition to Exceptions at 7-8) (citing *Fraternal Order of Police/Dep't of Corr. Labor Comm. v. D.C. Dep't of Corr.*, 52 D.C. Reg. 2496, Slip Op. No. 722 at p. 5, PERB Case Nos. 01-U-21, 01-U-28, & 01-U-32 (2003); and *Fraternal Order of Police/Dep't of Corr. Labor Comm. v. D.C. Dep't of Corr.*, 59 D.C. Reg. 3587, Slip Op. No. 888 at p. 6, PERB Case Nos. 03-U-15 & 04-U-03 (2009)).

⁴⁵ *Id.* at 8-16 (internal citations omitted).

⁴⁶ *Id.* at 16-17.

⁴⁷ *Id.* at 18.

⁴⁸ *Id.* at 18-20.

⁴⁹ See PERB Rule 520.8.

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determination, the Board distinguishes between obligations that are imposed by the CMPA and those that are imposed by the parties' collective bargaining agreement.⁵⁰ Generally, the CMPA empowers the Board to resolve statutory violations, but not contractual violations.⁵¹ Notwithstanding, if the record demonstrates that an allegation concerns a statutory violation of the CMPA, then even if it also concerns a violation of the parties' contract, the Board still has jurisdiction over the statutory matter and can grant relief accordingly if the allegation is proven.⁵²

However, if the Board must interpret the parties' collective bargaining agreement in order to determine whether there has been a violation of the CMPA, then the Board does not have jurisdiction over the allegations and will defer the matter to the parties' negotiated grievance and arbitration process.⁵³

Here, in order to reach his conclusion that MPD did not commit unfair labor practices when it kept Officers McConnell and Leach from attending the union's meetings, the Hearing Examiner relied heavily upon his interpretation of Articles 4, 8, and 9 of the parties' collective bargaining agreement.⁵⁴ While the Board opines that the Hearing Examiner's interpretation of those articles was not unreasonable, it was an interpretation nonetheless and therefore outside the scope of his and PERB's jurisdiction.⁵⁵ Accordingly, the Board rejects the Hearing Examiner's findings and conclusions.⁵⁶

Upon reviewing the record as a whole, the Board finds that it is not possible to determine whether MPD violated the statute when it denied the officers' requests to attend the union's meetings without first drawing certain conclusions about what the parties intended or did not intend in Articles 8 and 9 of their collective bargaining agreement, and about how they intended to balance those Articles with MPD's management right to direct work in Article 4 if the three

⁵⁰ See *Fraternal Order of Police/Metropolitan Police Dep't Labor Comm. v. D.C. Metropolitan Police Dep't*, 60 D.C. Reg. 2585, Slip Op. No. 1360 at p. 5-6, PERB Case No. 12-U-31 (2013), aff'd, *Fraternal Order of Police/Metropolitan Police Dep't Labor Comm. v. D.C. Pub. Emp. Relations Bd.*, Case No. 2013 CA 001289 P(MPA) (D.C. Super. Ct. Aug. 18, 2014).

⁵¹ *FOP v. MPD*, Slip Op. No. 1360 at p. 5-6, PERB Case No. 12-U-31; see also *Fraternal Order of Police/Metropolitan Police Dep't Labor Comm. v. D.C. Metropolitan Police Dep't and Cathy Lanier*, 59 D.C. Reg. 5427, Slip Op. No. 984 at p. 7, PERB Case No. 08-U-09 (2009).

⁵² *Fraternal Order of Police/Metropolitan Police Dep't Labor Comm. v. D.C. Metropolitan Police Dep't*, 60 D.C. Reg. 9212, Slip Op. No. 1391 at p. 22, PERB Case Nos. 09-U-52 and 09-U-53 (2013), aff'd, *D.C. Metropolitan Police Dep't v. D.C. Public Emp. Relations Bd. and Fraternal Order of Police/Metropolitan Police Dep't Labor Comm.*, Case No. 2013 CA 004572 P(MPA) (D.C. Super. Ct. Jun. 13, 2014).

⁵³ *FOP v. MPD*, Slip Op. No. 1360 at p. 5-6, PERB Case No. 12-U-31.

⁵⁴ See (R&R at 10-13).

⁵⁵ *FOP v. MPD*, Slip Op. No. 1360 at p. 5-6, PERB Case No. 12-U-31.

⁵⁶ As a result of the Board's rejection of the Hearing Examiner's Report and Recommendation, it is not necessary to address FOP's Exceptions. However, the Board does note that FOP's Exceptions and MPD's Opposition to those Exceptions also relied heavily on their respective interpretations of Articles 4, 8, and 9 to support their opposing positions regarding the Hearing Examiner's Report and Recommendation. The Board finds that such simply gives additional credence to the Board's ultimate conclusion in this Decision and Order that finding a statutory violation in this matter would require an interpretation of the parties' contract, which, as has been noted, is outside of the Board's jurisdiction to do.

Decision and Order
PERB Case No. 08-U-22
Page 8

Articles ever came into conflict, as they did in this case.⁵⁷ Indeed, the parties' contract does not even provide a basic definition of the term, "official time," nor is there any statutory definition of the phrase in the CMPA. Further, since both parties offered very different understandings of the above provisions in their respective pleadings, it is apparent that even they do not agree on what the Articles mean. For example, FOP argued that it has been holding these types of meetings for years without any objection by MPD, and that because the officers were attending the meetings in the steads of union officials who would have normally been allowed to attend had they been at work on the days in question, MPD had no right under the contract to prohibit their attendance at the meetings. MPD, on the other hand, argued that the contract expressly prohibited the officers from being able to attend the union's internal meetings during their working hours.⁵⁸

Therefore, since even the parties dispute what the key Articles in their contract mean, and since FOP's alleged statutory violations cannot be evaluated or decided until it is determined how those Articles should be interpreted,⁵⁹ the Board finds, under its case law, that it lacks jurisdiction over this case.⁶⁰ Accordingly, the Board dismisses FOP's Complaint, and defers the matter to the parties' grievance and arbitration process.⁶¹

⁵⁷ Reasonably, in cases where the meaning of a relevant provision in the parties' collective bargaining agreement is clear on its face and undisputed by the parties, then the Board can rely on that unambiguous and stipulated meaning to determine whether the alleged statutory violation occurred. But that is not the case here. As previously mentioned, the parties in this matter have presented contrasting interpretations of the relevant contractual provisions. Therefore, in order to determine whether FOP's statutory allegations have any merit, the Board would have to decide which of the parties' different interpretations is correct. As has been noted, PERB does not have the authority to do that. Therefore, as PERB case law directs, the Board must defer this matter to the parties' negotiated grievance and arbitration process. *See FOP v. MPD*, Slip Op. No. 1360 at p. 5, PERB Case No. 12-U-31.

⁵⁸ *See* (R&R at 10-13); *see also* (FOP's Post-Hearing Brief at 8); *and* (Exceptions at 7-8).

⁵⁹ For instance, if Article 8, Section 1 in the parties' agreement prohibits FOP from conducting internal union business or activities (such as "attending Union meetings, etc.") during employee working time with no applicable exception in Article 9, Section 4, then it cannot be reasonably concluded that MPD committed an unfair labor practice in violation of the statute when it simply adhered to and/or enforced what the parties had already agreed to in the contract. *See FOP v. MPD*, Slip Op. No. 1360 at p. 5, PERB Case No. 12-U-31 (holding that "the Board lacks jurisdiction over an allegation in which the very act or conduct that gives rise to the allegation, despite being alleged in the Complaint as a violation of statute, was envisioned and expressly authorized by the parties' in the contract."). If, however, the parties did not intend for the provision in Articles 8 and 9 to prohibit the officers from attending the types of union meetings that are at issue in this case, then it is possible that MPD did interfere with the officers' rights to attend the meetings in violation of the statute. Therefore, since the ultimate outcome of the statutory question in this matter depends on how the parties' contract is interpreted, the Board must defer resolution of FOP's allegations to the parties' negotiated grievance and arbitration process.

⁶⁰ *FOP v. MPD*, Slip Op. No. 1360 at p. 5-6, PERB Case No. 12-U-31.

⁶¹ *Id.*

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ORDER

IT IS HEREBY ORDERED THAT:

1. FOP's Complaint is Dismissed: and
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, and Members Keith Washington, Ann Hoffman, and Yvonne Dixon.

August 20, 2015

Washington, D.C.

CORRECTED CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 08-U-22, Op. No. 1534 was sent by US Mail to the following parties on this the 24th day of August, 2015.

Marc L. Wilhite, Esq.
Pressler & Senftle, P.C.
1432 K Street, N.W.
Twelfth Floor
Washington, D.C. 20005
MWilhite@presslerpc.com

Mark Viehmeyer, Esq.
Metropolitan Police Department
300 Indiana Avenue, N.W.
Room 4126
Washington, D.C. 20001
Mark.Viehmeyer@dc.gov

/s/ Sheryl Harrington
PERB

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA**NOTICE OF FINAL TARIFF****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**

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to section 34-802 of the District of Columbia Official Code and in accordance with section 2-505 of the District of Columbia Official Code,¹ of its final tariff action taken on September 28, 2015, in Order No. 17981, granting the Application² of Verizon Washington DC, Inc. (“Verizon DC”) requesting authority to amend the following tariff page:

**GENERAL REGULATIONS TARIFF P.S.C.-D.C.-NO. 201
Section 1A, 8th Revised Page 3**

2. Verizon DC identified the proposed tariff amendment as an update to its Universal Service Trust Fund 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. With the approval of this Application, the monthly per line surcharge is \$0.00 per non-Centrex line and \$0.00 per Centrex line. Verizon DC represented that this Application would decrease the surcharge \$0.29 for non-Centrex lines and \$0.036 for Centrex lines.³ In Order No. 17981, the Commission approved Verizon DC’s Application.

¹ D.C. Official Code § 2-505 (2001); D.C. Official Code § 34-802 (2001).

² *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.

³ Application at 2.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL TARIFF

GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C.**No. 3**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to section 34-802 of the District of Columbia Official Code and in accordance with section 2-505 of the District of Columbia Official Code, of its final action taken in the above-captioned proceeding.¹

2. On May 21, 2015, pursuant to D.C. Code § 10-1141.06,² Washington Gas Light Company ("WGL") filed a Surcharge Update to revise the Rights-of-Way ("ROW") Reconciliation Factor.³ The ROW Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. In the tariff filing, WGL sets forth the process used to recover from its customers the ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

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

3. According to its tariff, WGL's surcharge rate for the ROW Reconciliation Factor would become effective commencing with the June 2015 billing cycle.⁴ WGL's Surcharge Update shows that the ROW Current Factor is 0.0326. When the ROW Current Factor is combined with the ROW Reconciliation Factor of (0.0073) for the prior period, it yields a net factor of 0.0399.⁵ Based on our review of the Surcharge Update, the Commission finds that

¹ D.C. Code § 2-505 (2015) and D.C. Code § 34-802 (2015).

² D.C. Code § 10-1141.06 (2015), states that [e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement.

³ *GT00-2, In the Matter of Washington Gas Light Company's Rights-of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3*, Rights-of-Way Reconciliation Factor Surcharge Filing of Washington Gas Light Company ("Surcharge Update"), filed May 21, 2015.

⁴ *Id.* at 1.

⁵ *Id.* at 2.

WGL's calculations for the ROW Reconciliation Factor and the Surcharge Update comply with General Services Tariff, P.S.C. No. 3, Section 22, 3rd Revised Page No. 56.

4. A Notice of Proposed Tariff ("NOPT") regarding WGL's Surcharge Filing was published in the *D.C. Register* on July 31, 2015.⁶ In the NOPT, the Commission stated that WGL has a statutory right to implement its filed surcharges however, if the Commission discovers any inaccuracies in the calculation of the proposed surcharge rate, WGL could be subject to reconciliation of the surcharge. No comments were filed in response to the NOPT and the surcharge proposed by WGL complies with D.C. Code § 10-1141.06.

5. Consequently, the Commission voted to approve WGL's Surcharge Update for the Current Factor by official action taken at the September 22, 2015 Open Meeting.

⁶ 62 *D.C. Reg.* 10511-10512 (2015).

DISTRICT OF COLUMBIA RETIREMENT BOARD**NOTICE OF OPEN PUBLIC MEETING**

October 15, 2015
11:00 a.m.

900 7th Street, N.W.
2nd Floor, DCRB Boardroom
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, October 15, 2015, at 11:00 a.m. The meeting will be held at 900 7th Street, N.W., 2nd 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.

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. | Fiduciary Training | TBD |
| V. | Executive Director's Report | Mr. Stanchfield |
| VI. | Investment Committee Report | Ms. Blum |
| VII. | Operations Committee Report | Mr. Ross |
| VIII. | Benefits Committee Report | Mr. Smith |
| IX. | Legislative Committee Report | Mr. Blanchard |
| X. | Audit Committee Report | Mr. Hankins |
| XI. | Other Business | Chairman Bress |
| XII. | Adjournment | |

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA
RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after November 1, 2015.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on October 9, 2015. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

**D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public**

Effective: November 1, 2015

Page 2

Abdus-Salaam	Kena Denis	Traditions General Contracting 1322 L Street, SE	20003
Aguilar Bolanos	Milton A.	Eagle Bank Corporation 700 7th Street, NW	20001
Alfaro	Tina	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Allen	Lorez B.	District Contracting Group, Inc 1100 Vermont Avenue, NW, Suite 400	20005
Anderson	Denise	Marwood Group 1025 Connecticut Avenue, NW #610	20036
Asamere	Meron Girma	TD Bank, N.A. 1489 P Street, NW	20005
Attinger	Alison	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Balaban	Ryan	Sullivan & Cromwell, LLP 1700 New York Avenue, NW	20006
Ballard	Aylssa	Servcorp 1155 F Street, NW, Suite 1050	20004
Banks	Jasen	Wingfield and Ginsburg, PC 700 Fifth Street, NW, Suite 300	20001
Burrell	Yaiza E.	Capital Guardian Youth ChalleNGe Academy 2001 East Capital Street, SE	20003
Calmes	Beth A.	Robert Lehrman 1836 Columbia Road, NW	20009
Campos	Irene	JJ Prime Services LLC 1421 Kenilworth Avenue, NE, Suite C	20019
Carter	Alexandra C.	Capital One Bank 1800 M Street, NW	20036

**D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public**

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Cassella	Karyn A.	Self 1215 Girard Street, NW	20009
Chatman	Ola Renee	Gibson Dunn 1050 Connecticut Avenue, NW, Suite 300	20036
Chernova	Vera	FINCA International, Inc. 1201 15th Street, NW, 8th Room	20005
Chisholm	Pamela	Self 1128 10th Street, NW	20001
Covington	Phyllis	Self 5925 Ivory Walters Lane, SE	20019
Cunningham	Andrea	Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 1000 K Street, NW, Suite 1000	20006
Davis	Kandis D.	Old Dominion Settlements, Inc T/A Key Title 5225 Wisconsin Avenue, NW #550	20155
Davis	Lauren M.	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Davis	Nicole L.	Source Office Suites 1050 17th Street, NW, Suite #600	20036
Dorow	Brett Alan	Environmental Working Group (EWG) 1436 U Street, NW, Suite 100	20009
Downs	Mary A.	World Wildlife Fund, Inc 1250 24th Street, NW	20037
Dudkinski	Gaye McKay	NorthMarq Capital Finance 601 13th Street, NW, Suite 500 N	20005
Dysart	Jennifer	BEST Kids Mentoring Program 515 M Street, SE, Suite 215	20003
Edwards	Mark J.	PNC Bank 800 17th Street, NW	20006
Ewell	Deborah M.	Unity Health Care, Inc 1220 12th Street, SE, Suite 120	20003

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Fink	Elliot R.	American Bridge 21st Century 455 Massachusetts Avenue, NW	20001
Foyain	Carlos	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Frye	Pamela	Chaikin, Sherman, Cammarata & Siegel, PC 1232 17th Street, NW	20036
Funk	Stephanie	Self (Dual) 1616 16th Street, NW, Apartment 101	20009
Garrett	Maggie-Machre	Woodley & McGillivary LLP 1101 Vermont Avenue, NW	20005
Gayhardt	Daryl	Central Properties 1353 V Street, NW	20009
Gerhart	Dawn Street	ECDC@ HHS/ED Children's Center 330 C Street, SW	20201
Gilmore	Kia	Cooley, LLP 1299 Pennsylvania Avenue, NW	20004
Goldstein	Matthew	Planet Depos, LLC 1100 Connecticut Avenue, NW, Suite 950	20036
Gonzalez	Elizabeth	Atlantic Media/ Bradley Holdings 600 New Hampshire Avenue, NW	20037
Gordon	Lindsay	Settlement Ink, Inc. 1325 18th Street, NW, Unit 506	20036
Gras	Sara Y.	Office of the General Counsel- United States Department of Agriculture 1400 Independence Avenue, SW	20250
Griffin	Angela L.	United States Department of Housing and Urban Development (HUD) 451 Seventh Street, SW	20410

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Gruner	Amber	Housing Counseling Services 2410 17th Street, NW, Suite 100	20011
Guetzkow	Jason S.	BuckmanLegal, PLLC 4530 Wisconsin Avenue, NW, Suite 300	20016
Heath	Elaine B.	US Department of Energy EM-73 1000 Independence Avenue, SW	20585
Henderson	Angela N.	Joel Nelson Group 519 C Street, NE	20002
Hernandez Jimenez	Diana Beatriz	Relief International 1101 14th Street, NW, Suite 1100	20005
Hester	Maya	Heritage Reporting Corporation 1220 L Street, NW #206	20005
Hicks	Jeanarta Maria	Wells Fargo Bank, NA 1545 Alabama Avenue, SE	20032
Hicks	Lee CB	Whitman-Walker Health 1701 14th Street, NW	20009
Hillenbrand	Sarah Rose	National Real Estate Advisors 900 7th Street, NW, Suite 600	20001
Huber	William L.	BB&T Insurance Services, Inc, a Division of BB&T Bank 1909 K Street, NW, 1st Floor	20006
Hynes	Teresa	Potomac Investment Properties, Inc. 1666 K Street, NW, Suite 430	20006
Irwin	Tyler Cotrone	MacAndrews & Forbes Incorporated 900 7th Street, NW, Suite 970	20001
Isicson	Anita	Law Office of Anita Isicson 4616 Fessenden Street, NW	20016
John	Riley E.	Steptoe & Johnson LLP 1330 Connecticut Avenue, NW	20036
Jolly	Veronica Brown	Shearman & Sterling, LLP 801 Pennsylvania Avenue, NW, Suite 900	20004

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Jones	Corey G.	ULI - The Urban Land Institute 1025 Thomas Jefferson Street, NW, Suite 500W	20007
Jones	Gwendolyn	Federal Housing Finance Agency 400 7th Street, SW	20024
Juricic	Hannah Elizabeth	M Squared Real Estate, LLC 1407 T Street, NW, Suite 200	20009
Kibizova	Irina	Wells Fargo Bank, NA 5201 MacArthur Boulevard, NW	20016
King	Akilah A.	JM Zell Partners, LTD 2900 K Street, NW, Suite 525	20007
Kondal	Lavleen	Sidwell Friends School 3825 Wisconsin Avenue, NW	20016
Kurtz	Debra	Chaikin, Sherman, Cammarata & Siegel, PC 1232 17th Street, NW	20036
Lamas	Hector	Capital Guardian Youth ChalleNGe Academy 2001 East Capitol Street, SE	20003
Lane	Roderick	Bailey & Glaser LLP 1054 31st Street, NW, Suite 230	20007
LeBrane	J	Wells Fargo Bank, N.A. 1934 14th Street, NW	20009
Lipenschi	Mihaela Elena	TD Bank N.A. 1489 P Street, NW	20005
Marshall-Harper	Lynette	Telecommunications Development Corp 1919 13th Street, NW	20009
Mate	Erik	Rise Companies Corp 1519 Connecticut Avenue, NW, Suite 200	20036
Matta	Amar	TD Bank 4949 Wisconsin Avenue, NW	20016

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Mayfield	Idrea	Office of Bar Counsel 515 5th Street, NW, Building A, Room 117	20001
Meade	Celestine	Little Sisters of the Poor 4200 Harewood Road, NW	20017
Meza	Daniela	Sage Title Group 4201 Connecticut Avenue, NW, Suite 406	20008
Milan	Isabel M.	DIA 2100 Dupont Circle, NW, Suite 300	20036
Moore	Laurette	Department of General Services 2000 14th Street, NW	20009
Morgan	Diane	Creative Iron, LLC 7348 Georgia Avenue, NW	20012
Morgan	El'Lana	Huron Consulting Group 2020 K Street, NW, Suite 700	20006
Murdoch	Monica G.	Self (Dual) 901 F Street, NE	20002
Nelson	Olga B.	Department of Health and Human Services 200 Independence Avenue, SW, Room 714B	20201
Onley	Cheryl D.	Cooley LLP 1299 Pennsylvania Avenue, NW, Suite 700	20004
Paige	Asa	Transit Employees Federal Credit Union 2000 Bladensburg Road, NE	20018
Perry	Felice	Arent Fox LLP 1717 K Street, NW	20006
Pray	Ellen M.	PilieroMazza, PLLC 888 17th Street, NW, 11th Floor	20006
Price	Laureen Nicole	AFL-CIO Housing Investment Trust 2401 Pennsylvania Avenue, NW, Suite 200	20037

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Rabindranath	Roy	Christian Legal Aid of the District of Columbia, C/O Central Union Mission 65 Massachusetts Avenue, NW	20021
Redden	Miles	Public Defender Service for the District of Columbia 633 Indiana Avenue, NW	20004
Reed	Stan M.	Chicago Title Insurance Company 2000 M Street, NW, Suite 610	20036
Roberts-Cain	Nica	Children's National Health System 2233 Wisconsin Avenue, NW, Suite 317	20007
Rodriguez	Rosa E.	LMN Consulting LLC 1050 Connecticut Avenue, NW, 10th Floor	20036
Ross	Ryan J.	TD Bank 905 Rhode Island Avenue, NW	20018
Royal	Terry	Supreme Court of the United States 1 First Street, NE	20543
Schwartz	Vineta R.	Capital Guardian Youth Challenge Academy 2001 East Capitol Street, SE	20003
Scott	Joan Leslie	DTZ 2101 L Street, NW, Suite 700	20006
Scott	William J.	Baker Botts, LLP 1299 Pennsylvania Avenue, NW	20004
Shouman	Mohammad Mousa Mansour	The World Bank Group 1818 H Street, NW	20433
Siegel	Paula J.	Settlement Ink, Inc. 1325 18th Street, NW, Unit 506	20036
Smith III	William F.	Branch Banking & Trust BB&T 815 Connecticut Avenue, NW	20006
Speight	Ellen	TD Bank 901 7th Street, NW	20001

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Spriggs	Jada	Dupont Fabros Development 1212 New York Avenue NW, Suite 550	20005
St. Amant	Rosalind I.	Weisbrod Matteis & Copley PLLC 1200 New Hampshire Avenue, NW, Suite 600	20036
Stewart	Charo	Naval Historical Foundation 1306 Dahlgren Avenue, SE	20374
Sullivan	Molly	Democratic National Committee 430 South Capitol Street, SE	20003
Summers	Natalie E.	Department of Justice 950 Pennsylvania Avenue, NW	20530
Taylor	Vicki J.	Goldberg, Godles, Wiener & Wright LLP 1229 19th Street, NW	20036
Thomas	Ann	McGuireWoods Consulting 2001 K Street, NW, Suite 400	20006
Thompson	Gerald	Self (Dual) 2004 11th Street, NW	20001
Tirado	Alma Calcano	Transit Employees Federal Credit Union 2000 Bladensburg Road, NE	20018
Tolson	Renee	Stinson Leonard Street 1775 Pennsylvania Avenue, NW, Suite 800	20006
Toney	Patricia A.	Self 709 Florida Avenue, NE	20002
Tryon	Sharon L.	Mathematical Association of America 1529 18th Street, NW	20036
Turner	Alicia Huggins	Corporation for Public Broadcasting 401 9th Street, NW	20004
Turner	Trayce D.	Incorporated Research Institutions for Seismology 1200 New York Avenue, Suite 400	20005

**D.C. Office of the Secretary
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Tyler	Cheryl L.	Self (Dual) 410 O Street, SW, #107	20024
Vidi	Peter Robert	Associated Title Group, Inc. 1008 Pennsylvania Avenue, SE	20003
Wade	Gaylene E.	Phillips Lytle, LLP 800 17th Street, NW, Suite 450	20006
Ward	Pamela M.	Elizabeth Glaser Pediatrics AIDS Foundation 1140 Connecticut Avenue, NW, Suite 200	20036
Wegand	Rebecca D.	EIG Management Company, LLC 1700 Pennsylvania Avenue, NW, Suite 800	20006
Weiss	Cynthia Horowitz	Brennan Title Company 5100 Wisconsin Avenue, NW, Suite 515	20016
Weiss	Pamela J.	Capitol Hill Village 725 8th Street, SE, 2nd Floor	20003
Williams	Diane L.	E and G Group 4212 East Capitol Street, NE	20019
Willis	Tandra Y.	Self 4011 8th Street, NW	20011
Willoughby	Gregory Brian	Danaher Corporation 2200 Pennsylvania Avenue, NW, Suite 800W	20037
Wright	Crystal LaShaun	L.S. Caldwell & Associates, Inc. 5427 14th Street, NW	20011
Zanelotti	Joseph A.	Self 1437 Rhode Island Avenue, NW	20005

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY (NOFA)

DC CLEAN TEAM PROGRAM

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Clean Team Program** in the **Benning Road** service area (“the Program”). **The submission deadline is Friday, November 6, 2015 at 12:00 noon.**

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

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

DSLBD will **award** one grant of \$107,000 for the Benning Road Clean Team service areas with **boundaries** that comprise: Benning Road NE from Anacostia Avenue to Benning Road SE at B Street, SE; and East Capitol Street from 46th Street, SE to Texas Avenue.

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

Application Process: Interested applicants must complete an online application (RFA Part 2, see below) and submit it on or before **Friday, November 6, 2015 at 12:00 noon**. DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions and incomplete applications will not be forwarded to the review panel.**

The **Request for Application** (RFA) includes a detailed description of clean team services, service area boundaries, applicant eligibility requirements, and selection criteria. DSLBD will post the RFA on or before Friday, October 9, 2015 at www.dslbd.dc.gov (click on the *Our Programs* tab and then *Solicitations and Opportunities* on the left navigation column).

The **Application** comprises several online forms through which an Applicant must demonstrate its eligibility, capacity to provide proposed services and manage grant funds, and propose service delivery plan and budget. The online Application will be live **Friday, October 9, 2015**.

To access the online application forms, an organization must complete and submit an online **Expression of Interest** (Registration) form at <https://octo.quickbase.com/db/bjvqhvm87>. DSLBD will activate their online access within two business days and notify them via email.

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

Selection Process: DSLBD will select grant recipients through a competitive application process that will assess the Applicant's eligibility, experience, capacity, service delivery plan, and, budget. Applicants may apply for one or more service areas by submitting a separate application for each service area. DSLBD will determine grant award selection and notify all applicants of their status via email on or before December 4, 2015.

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

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

All applicants must attest to executing DSLBD grant agreement as issued (sample document will be provided in RFA Part 2, online application) and to **starting Clean Team services on December 30, 2015.**

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

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

NOTICE OF GENERAL COMMISSION MEETING

The District of Columbia Taxicab Commission will hold its regularly scheduled General Commission Meeting on Wednesday, October 14, 2015 at 10:00 am. The meeting will be held at our new office location: 2235 Shannon Place, SE, Washington, DC 20020, inside the Hearing Room, Suite 2032. Visitors to the building must show identification and pass through the metal detector. Allow ample time to find street parking or to use the pay-to-park lot adjacent to the building.

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

Members of the public are invited to participate in the Public Comment Period. You may present a statement to the Commission on any issue of concern; the Commission generally does not answer questions. Statements are limited to five (5) minutes for registered speakers. Time and agenda permitting, nonregistered speakers may be allowed 2 minutes to address the Commission. To register, please call 202-645-6002 no later than 3:30 p.m. on October 13, 2015. Registered speakers will be called first, in the order of registration. **Registered speakers must provide ten (10) printed copies of their typewritten statements to the Secretary to the Commission no later than the time they are called to the podium.**

DRAFT AGENDA

- I. Call to Order
- II. Commission Communication
- III. Commission Action Items
- IV. Government Communications and Presentations
- V. General Counsel's Report
- VI. Staff Reports
- VII. Public Comment Period
- VIII. Adjournment

THE NEXT STEP PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Construction Services-Interior Renovations**

The Next Step Public Charter School Solicits Proposals for Construction Services-Interior Renovations for the 2015-2016 school year (July 1, 2015 – June 30, 2016).

The Request for Proposals (RFP) specifications such as scope and responsibilities can be obtained on Friday, October 9, 2015 from Taunya Melvin via email listed below.

Bids must be received by Friday, October 30, 2015 by 2 pm at the email address listed below. Any bids not addressing all areas as outlined in the IFB (RFP) will not be considered.

SUBMITT BIDS electronically to: rfp@nextsteppcs.org

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, October 27, 2015 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to the DC Water’s website at www.dcwater.com.

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

DRAFT AGENDA

- | | | |
|-----------|---------------------|-------------------------|
| 1. | Call to Order | Committee Chairman |
| 2. | Monthly Updates | Chief Financial Officer |
| 3. | Committee Work plan | Chief Financial Officer |
| 4. | Other Business | Chief Financial Officer |
| 5. | Adjournment | Chief Financial Officer |

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

Application No. 18138-B of St. Paul's Episcopal Church, pursuant to 11 DCMR § 3104.1, for special exceptions from the child development center requirements under § 205, and the private school requirements under § 206, to allow the continued operation of a child development center and private school serving 120 children ages 2.5 through 12 years, including 18 regular staff members, in the R-3 and R-5-A Districts at premises 201 Allison Street, N.W. (Parcel 111, Lot 37).

HEARING DATE: September 29, 2015

DECISION DATE: September 29, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 37.)

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") 4D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. A letter in support of the application from the ANC 4D Chairman was filed in the record (Exhibit 39); however, because the letter did not meet the requirements for ANC reports set forth in 11 DCMR § 3115, the Board considered the letter but could not afford it great weight. The ANC representative did not appear and testify at the hearing.

The Office of Planning ("OP") submitted a report and testified at the hearing in support of the application, with conditions. (Exhibit 41.) The D.C. Department of Transportation submitted a report expressing no objection to the application. (Exhibit 40.) The Office of the State Superintendent of Education filed a letter recommending approval of the application. (Exhibit 35.) One letter was filed in the record from two neighbors in support of the application. (Exhibit 34.)

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 special exception relief under §§ 205 and 206. The only parties to the application were the Applicant and the ANC which expressed support for the application. 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.

BZA APPLICATION NO. 18138-B
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Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 205 and 206, that the requested relief can be granted, 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 § 3125.5, 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 FOLLOWING CONDITIONS:**

1. Enrollment shall be limited to 120 children, ages two and one-half to 12 years old.
2. Staff shall be limited to 18 persons.
3. Hours of operation shall be 8:00 a.m. to 6:00 p.m.
4. Access to the entrance of the subject property for the purposes of the private school and child development center shall be on Webster Street, and access to the exit from the subject property for these purposes shall be at Allison Street.

VOTE: **5-0-0** (Lloyd J. Jordan, Michael G. Turnbull, Marnique Y. Heath, Jeffrey L. Hinkle, and Frederick L. Hill to Approve).

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: October 1, 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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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 CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART

**BZA APPLICATION NO. 18138-B
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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. 19040 of District Properties.com Inc., pursuant to 11 DCMR § 3103.2, for variances from the lot area and width requirements under § 401, and the side yard requirements under § 405, to allow the construction of a new two-story, one-family dwelling on a vacant lot in the R-2 District at premises 6002 Clay Street, N.E. (Square 5266, Lot 11).

HEARING DATES: July 14, 2015, September 22, 2015 and September 29, 2015¹
DECISION DATE: September 22, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 18 and 25.)²

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 7C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. ANC 7C submitted a letter requesting postponement of the July 14, 2015 hearing. (Exhibit 24.) At the July 14, 2015 hearing, the Board granted the postponement until September 29, 2015 to give the Applicant an opportunity to correct posting deficiencies and to reach out to the ANC. ANC 7C requested a further postponement of the application (Exhibit 28) for the Board to consider at the second hearing. The Board denied the ANC’s postponement request at the September 22, 2015 hearing. Based on the record, the Board determined that the posting of the property meets the 15-day posting requirement. (See Exhibit 26.) Further, based on the Applicant’s representative’s testimony, the Board found that the Applicant attempted diligently to work with the ANC to resolve any issues with the proposed construction. (See Exhibit 31 – Applicant’s representative’s email communications with the ANC Chairman.) The ANC did not file a report in the application or appear at the September 22, 2015 hearing.

The Office of Planning (“OP”) submitted a report in support of the application. (Exhibit 23.)

¹ The application was postponed, at the request of the ANC, from the July 14, 2015 hearing to the September 29, 2015 hearing. The hearing date was rescheduled administratively to September 22, 2015 to allow Board Member May to participate on his scheduled hearing date.

² The Self-Certification form at Exhibit 18 requested special exception relief pursuant to 11 DCMR § 353.1. In Exhibit 25, the relief was revised to variance relief under §§ 401 and 405, as advertised.

BZA APPLICATION NO. 19040
PAGE NO. 2

The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 22.)

The adjacent neighbor at 6000 Clay Street, N.E. testified as a person in opposition to the application; however, the Board determined that her concerns were not matters properly before the Board.

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 §§ 401 and 405. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that in seeking variances from §§ 401 and 405, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT to the APPROVED PLANS AS SHOWN ON EXHIBIT 6.**

VOTE: **5-0-0** (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, Frederick L. Hill, and Peter G. May to Approve).

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: September 28, 2015

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

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE

BZA APPLICATION NO. 19040
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WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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

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

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

Application No. 19044 of Gerald West, as amended¹, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the open court requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, to construct a two-story rear addition, one-story side addition, and a basement entry in the DC/R-4 District at premises 1508 Caroline Street N.W. (Square 190, Lot 59).

HEARING DATE: September 22, 2015²

DECISION DATE: September 22, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6 (original) and 36 (revised).)

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") 2B and to owners of property located 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 report, dated September 11, 2015, indicating that at a duly noticed and regularly scheduled public meeting on September 9, 2015, at which a quorum was in attendance, the ANC voted 6-0-0 in support of the application based on the revised plans and with conditions. (Exhibit 34.)

The Office of Planning ("OP") submitted a timely report dated September 15, 2015, recommending approval of the application with conditions (Exhibit 33) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 27.) Nine letters from neighbors in support of the application were submitted to the record. (Exhibit 31B.)

¹ The Applicant amended the application by removing a request for side yard relief under § 405.8 and including one for nonconforming structure relief under § 2001.3. The Applicant submitted a revised self-certification form with the amended relief being requested together with a sun study and revised plans. (Exhibits 36-39.) The caption has been revised accordingly.

² Pursuant to 11 DCMR § 3118, the Applicant initially sought to have the application placed on an expedited review calendar. (Exhibit 2.) A timely Request for Party Status in Opposition was submitted (Exhibits 28-29) to the record with a request to hold a hearing on the application. (Exhibit 25.) Pursuant to 11 DCMR § 3118.6(b), the Board set the application for a public hearing.

BZA APPLICATION NO. 19044
PAGE NO. 2

An adjacent neighbor applied to be a party in opposition. (Exhibits 28-29.) As a preliminary matter to the public hearing, that applicant for party status in opposition withdrew her request, and the Board granted her and her witness additional time to testify. Ms. Nanay, the adjacent neighbor, and her tenant, June-wei Sum, testified in opposition, raising concerns about damage to trees on the property, as well as the proposed addition's effect on light, air, and privacy.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the open court requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, to construct a two-story rear addition, one-story side addition, and a basement entry in the DC/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.³ 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 the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, 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 § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 37 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall retain an arborist to ensure measures to maintain the life and health of existing trees located near the western property boundary (within the bounds of the adjacent western property owner).
2. Prior to a building permit being issued and any construction, the arborist's report shall be filed with the Zoning Administrator and presented to the adjacent neighbor.

³ The adjacent neighbor who applied to be a party in opposition withdrew that request at the hearing and testified as a person in opposition instead.

BZA APPLICATION NO. 19044
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VOTE: **5-0-0** (Lloyd J. Jordan, Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE.)

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: September 24, 2015

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

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

BZA APPLICATION NO. 19044

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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. 19051 of Richard Gbolahan, pursuant to 11 DCMR § 3103.2, for a variance from the lot area and width requirements under § 401, to allow the construction of a three-story, one-family dwelling in the R-4 District at premises 1609 Levis Street, N.E.. (Square 4074, Lot 804).

HEARING DATES: July 21, 2015¹ and September 22, 2015
DECISION DATE: September 22, 2015

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 5D and to owners of property 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 submitted a letter dated September 17, 2015, in support of the application. The ANC’s resolution indicated that at a duly noticed and scheduled public meeting on September 8, 2015, at which a quorum was in attendance, the ANC voted 6-0-0 in support of the application. (Exhibit 33.)

The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the application. (Exhibit 25.) The District Department of Transportation (“DDOT”) filed a report expressing no objection to the approval of the application. (Exhibit 23.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from the strict application of the lot area and width requirements under § 401, to allow the construction of a three-story, one family dwelling in the R-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.

¹ This case was continued from July 21, 2015, in order to allow the Applicant time to meet the posting requirements and reach out further to the ANC.

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Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from § 401, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. 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 6, AS AMENDED BY THE REVISED PLANS AT EXHIBITS 28-30.**

VOTE: 5-0-0 (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, Frederick L. Hill, and Peter G. May to APPROVE).

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: September 24, 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

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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. 19069 of Natalie Wanamaker Javier, pursuant to 11 DCMR § 3104.1, for a special exception from the accessory apartment requirements under § 202.10, by waiving the requirements of § 202.10(c) pursuant to § 202.10(i), to allow the conversion of an existing cellar to an accessory apartment in an existing one-family dwelling in the R-1-B District at premises 4005 Anacostia Avenue, N.E. (Square 5071, Lot 812).¹

HEARING DATE: September 29, 2015

DECISION DATE: September 29, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated May 15, 2015, from the Zoning Administrator, which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for the following:

“1. Special Exception from § 202.10(c) to allow conversion of an existing cellar to an Accessory Apartment in an existing one-story (SFD) in the R-1-B residence zone (§ 3104.1)”.

(Exhibit 4.)

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”) 7D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7D, which is automatically a party to this application. The ANC did not submit a report that met the requirements for it to be entitled to great weight. However, the Office of Planning report indicated that the ANC voted to support the application at its regularly scheduled meeting of September 8, 2015. (Exhibit 22.) A letter also was submitted by the Single Member District ANC commissioner, ANC 7D02, expressing the ANC’s support. (Exhibit 23.)

The Office of Planning (“OP”) submitted a timely report recommending approval of the application (Exhibit 22) and testified in support of the application at the hearing. The

¹ At the hearing the Board requested clarification in the relief being granted since the application and the Zoning Administrator’s referral letter both cited 11 DCMR § 202.10(c) but the relief was advertised only as § 202.10. Subsection 202.10 provides that an accessory apartment may be added to an existing one-family detached dwelling if approved as a special exception by the Board and if it meets the requirements of paragraph (a) through (h) of that subsection. Further, § 202.10(i) provides that the Board may modify or waive up to two of the listed requirements in paragraphs (a) through (h) of the subsection. Here, the Applicant is requesting waiver of the requirements of paragraph (c) of the subsection. The caption has been revised accordingly.

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District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application. (Exhibit 20.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception from the accessory apartment requirements under § 202.10, by waiving the requirements of § 202.10(c) pursuant to § 202.10(i), to allow the conversion of an existing cellar to an accessory apartment in an existing one-family dwelling in the R-1-B 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.

Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 202.10, 202.10(i), and 202.10(c), 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 § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 5**.

VOTE: **5-0-0** (Lloyd J. Jordan, Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE.)

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: October 1, 2015

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

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING

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PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001

PUBLIC NOTICE OF CLOSED MEETINGS FOR OCT 2015

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on September 29, 2015, the Board of Zoning Adjustment voted 5-0-0 to hold closed meetings telephonically on Monday, October 5th, 19st, and 26th, beginning at 4:00 p.m. for the purpose of obtaining legal advice from counsel and/or to deliberate 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, as those cases are identified on the Board's meeting and hearing agendas for October 6th, 20th and 27th, 2015.

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

**Lloyd J. Jordan, Chairman, Marnique Y. Heath, Vice Chairperson,
Frederick L. Hill, Jeffrey L. Hinkle, and a Member of the Zoning Commission.
Clifford W. Moy, Secretary of the Board of Zoning Adjustment, Sara A.
Bardin, Director, Office of Zoning.**

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-07(2)
Z.C. Case No. 11-07
(American University 2011 Campus Plan and Further Processing
of an Approved Campus Plan – Order on Remand)
July 28, 2014

This Order concerns an application by American University (“University,” “AU,” or “Applicant”) for special exception approval pursuant to 11 DCMR §§ 3104.1 and 3035, and in accordance with § 210 of the Zoning Regulations, of an updated campus plan for a period of 10 years and for further processing approval, under the approved campus plan, of certain construction on the University’s campus in Northwest Washington, D.C., including the development of the new East Campus. The Zoning Commission for the District of Columbia (“Commission”) approved the application, subject to conditions, by Z.C. Order No. 11-07 issued May 17, 2012, and denied reconsideration of that decision by Z.C. Order No. 11-07(1), issued December 19, 2012.

Parties in this proceeding are the University; Advisory Neighborhood Commissions (“ANCs”) 3D, 3E, and 3F; and the parties in opposition, the Spring Valley-Wesley Heights Citizens Association (“SVWHCA”), the Neighbors for a Livable Community, the Westover Place Homes Corporation (“WPHC”), the Tenley Campus Neighborhood Association, the Tenley Neighbors Association, and Robert Herzstein.

Two of the parties in opposition, SVWHCA and WPHC (“petitioners”), petitioned the District of Columbia Court of Appeals to review the Commission’s decision in Z.C. Order No. 11-07. By decision issued November 14, 2013, the Court of Appeals remanded the case to the Commission, finding that “[i]n a few respects ... the Commission’s order regarding the 2011 Campus Plan does not sufficiently address certain matters raised by petitioners, the ANCs, and the Office of Planning.”¹

By letter dated February 12, 2014, the Applicant requested that the Commission reopen the record to allow the parties to provide comments on the issues designated by the Court of Appeals. The Commission granted the Applicant’s request at its public meeting on February 24, 2014, and subsequently received submissions from the University (Exhibit [“Ex.”] 624), ANC 3D (Ex. 625), and SVWHCA (Ex. 626).

This Order addresses the matters on remand, which relate to the cap on student enrollment adopted for the University’s campus, the University’s use of off-campus properties, the availability of on-campus housing, a recommendation to freeze student enrollment, use of the playground at a nearby elementary school, the planned buffer between the new East Campus development and neighboring residences, nighttime noise and noise from the buffer buildings on the East Campus, and the Commission’s reasons for crediting the traffic study submitted by the

¹ *Spring Valley-Wesley Heights Citizens Association v. District of Columbia Zoning Com’n*, 79 A.3d 904 (D.C. 2013). The decision was amended on March 27, 2014 in *Spring Valley-Wesley Heights Citizens Association v. District of Columbia Zoning Com’n*, 88 A.3d 697 (D.C. 2014).

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University over that submitted by ANC 3D. This Order incorporates by reference all findings of fact, conclusions of law, and conditions of approval previously adopted in Z.C. Order No. 11-07.

A. Magnitude of the Enrollment Cap Increase

The University's 2001 Campus Plan established student population caps of 10,600 (headcount) and 9,250 (full-time equivalent).² The campus population caps excluded AU's law students in light of the Law School's off-campus location in a commercial zone at 4801 Massachusetts Avenue, N.W. As of the date of its application for approval of the 2011 Campus Plan, AU's on-campus student enrollment was 10,298, comprising 6,318 undergraduates, 3,230 graduate students, and 750 other students; the Law School then enrolled 1,770 students, for a total student population of 12,068. (Ex. 8.)

The University's proposed 2011 Campus Plan projected growth in total student population to 13,600, comprising 6,400 undergraduates, 4,400 graduate students, 2,000 law students, and 800 other students. Because AU proposed to move its Law School to the Tenley Campus – that is, to a location within the campus plan boundaries – the Law School population was included in the proposed cap for the 2011 Plan. The new enrollment cap proposed by the Applicant for the 2011 Campus Plan represented an increase of 28% (from 10,600 to 13,600) over the cap approved for the 2001 Campus Plan. The proposed new cap also reflected projected growth in enrollment that the University described as an increase of 13% in the total student population, expected to occur mainly as increases in graduate and Law School enrollment (1,170 and 230, respectively) and not as increases in the number of undergraduate students (100). (Ex. 8; Transcript ["Tr."] of June 9, 2012 at p. 37.)

In the campus plan proceeding, the Office of Planning ("OP") and the various parties made recommendations with respect to the Applicant's proposed enrollment cap. The Commission concluded that the 2011 Campus Plan, as proposed by the University and subject to the conditions of approval adopted by the Commission, was not likely to create objectionable conditions due to the number of students. Accordingly, the Commission approved a cap on student enrollment of 13,600 (headcount), including any matriculated student enrolled in at least one class in any property included in the 2011 Campus Plan, where the number of Law School students was also made subject to a cap of 2,000 that was included in the overall cap of 13,600.

On appeal, the petitioners claimed that the Commission "misapprehended and underestimated the significance of raising the enrollment cap to 13,600 students when it characterized this as only a 13% increase in the total student population" and that the newly adopted cap would "permit a much greater increase in the number of students living and studying *on campus*..." (88 A.3d at 706.) The Court of Appeals found merit in the petitioners' claim, stating that "[f]actoring in the Law School's move to Tenley Circle, AU sought permission to increase the ceiling on the

² See Z.C. Order No. 949, Case No. 00-36CP/16638 (January 8, 2002).

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number of students attending the University *on campus* from 10,600 to 13,600 students,” an increase of more than 28%. The court suggested that the Commission “appeared not to appreciate[] that the projected increase in on-campus enrollment was of this magnitude...” and stated that the Commission did not adequately confront petitioners’ fundamental concern that an influx of as many as 3,000 additional students *in the campus area* would cause objectionable conditions for neighboring properties. (88 A.3d at 706.)

In its post-remand submission, the Applicant noted that the proposed 2011 Plan had projected an increase in student enrollment due to “modest growth projections” for undergraduates and the relocation of the Law School to property in a Residence zone. (Ex. 624.) In its post-remand submission, ANC 3D asserted that the University’s enrollment has created objectionable conditions for neighboring properties, and that “a 28 percent increase in student enrollment is out of scale for the low density residential neighborhoods surrounding the campus and will lead to and exacerbate objectionable conditions.” ANC 3D reiterated its recommendation of a cap of 12,370 students after adequate housing becomes available on campus to house two-thirds of the undergraduate student population, where the cap would include “[a]ny student who registers for a class at AU in the 20016 and 20007 zip codes – no matter whether the class is located in a residential or commercial zone immediately adjacent to the campus...” (Ex. 625.) In its post-remand submission, SVWHCA urged the Commission to adopt “a revised cap similar to ANC 3D’s recommendation, by raising the prior campus plan cap only as necessary to allow AU to relocate the law school ... result[ing] in a maximum enrollment of 12,600, which is still almost 20% higher than the prior cap.” The cap proposed by SVWHCA was described as reflecting “a compromise between the 11,233 cap sought by SVWHCA and the 13,600 cap sought by AU” and was based on assertions of adverse effects on the surrounding neighborhood, such as in the availability of scarce commercial space, the creation of “problem” off-campus residences for students, and traffic. (Ex. 626.)

The Commission does not find that the enrollment cap, proposed by the University and approved as part of the 2011 Campus Plan, represents an influx of as many as 3,000 new students into the campus area. Rather, the majority of the increase is attributable to the inclusion of law students in the enrollment cap, with a relatively small overall increase in the student population cap from the 2001 Plan.³ The relocation of the Law School from its present off-campus location to the Tenley Campus, a site within the campus plan boundaries, is not likely to cause an influx of new students whose presence is likely to create new impacts on surrounding neighborhoods. The majority of the law students permitted at the Tenley Campus will not be new to the University, since the 2011 Campus Plan set a maximum enrollment of 2,000 law school students, a projected

³ The Commission notes that ANC 3D and SVWHCA both argued that the University should not be permitted, at least temporarily, to increase its enrollment above the cap of 10,600 adopted in the 2001 Plan augmented by the current enrollment of law students of 1,770. (See Ex. 45, 204, 590, 152.) This suggests to the Commission that neither ANC 3D nor SVWHCA considered the law student enrollment as an influx of new students to the area but merely reflected the relocation of the Law School from an off-campus location to a site within the campus plan boundaries.

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increase of 230 students over the number enrolled off-campus when the proposed 2011 Campus Plan was submitted for approval. The distance between the current and future locations of the Law School is not great,⁴ and the Tenley Campus has previously been devoted to university use. Moreover, the University's use of the Tenley Campus for its Law School was the subject of a separate proceeding, a further processing of the approved 2011 Campus Plan, to ensure that the proposed relocation and related construction of new facilities at the Tenley Campus would not tend to create objectionable conditions or adverse impacts on the use of neighboring property.⁵

The 2011 Campus Plan calls for major new developments on both the Main and Tenley Campuses that will accommodate the University's student population even with the projected increases, especially considering the relatively small increase in the cap on the number of undergraduate students. Over the course of the 2011 Plan, the Main Campus will be improved with, among other things, new residence halls and new academic buildings, and the use of some existing campus properties will also be different under the 2011 Plan than under the 2001 Plan. The Tenley Campus will be improved with new buildings and other facilities sufficient to accommodate the approved maximums of 2,000 law students and 500 staff, and, as noted, its use for the Law School was specifically examined, and approved, by the Commission in a separate proceeding.

The Commission previously considered the assertions by ANC 3D and by the parties in opposition, reiterated in their post-remand submissions, that approval of the 2011 Campus Plan would create objectionable conditions due to the number of students. For the reasons discussed above and in Z.C. Order No. 11-07, the Commission reaffirms its decision with respect to the student enrollment caps approved as part of the 2011 Campus Plan.

B. Expansion into the Community and Displacement of Local Businesses

In Z.C. Order No. 11-07, the Commission noted that ANC 3D and the parties in opposition had made several recommendations related to the University's use of off-campus properties, including restrictions on any future acquisitions of property outside the campus plan boundaries for University use and lower caps on enrollment to discourage University expansion. The Commission concluded that the Applicant's use of off-campus property was beyond the scope of the campus plan proceeding, which concerned the proposed University use of property located in a residence zone in accordance with § 210 of the Zoning Regulations, and was not inconsistent with the Zoning Regulations currently in effect.⁶

⁴ The Law School is currently located at 4801 Massachusetts Avenue, N.W., a distance of approximately one-half mile northwest of the Main Campus. The Tenley Campus is located near the intersection of Wisconsin and Nebraska Avenues, N.W., approximately one mile northeast of the Main Campus.

⁵ See Z.C. Order No. 11-07B (May 17, 2012).

⁶ As noted in the prior order, a university's use of property outside its campus boundaries has been held not to require special exception approval when the use is permitted as a matter of right. See, e.g. BZA Appeal No. 16507 (order issued February 11, 2000) (university's dormitory use of certain property outside its campus plan boundaries

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On appeal, the petitioners argued that the displacement of local businesses threatened by a proposed campus growth plan was a cognizable objectionable condition that the Commission should have considered. The Court of Appeals agreed, while expressing “no view as to whether petitioners’ concerns about AU’s expansion into the surrounding neighborhood might call for the imposition of a lower cap on student enrollment or other restrictions on AU’s campus development plans.” (88 A.3d at 707.)

In its post-remand submission, ANC 3D contended that the Commission had “failed to address concerns ... that university expansion into the community – as a consequence of campus growth – would lead to objectionable conditions for the surrounding community.” (Ex. 625.) Similarly, SVWHCA’s submission stated that “a larger University enrollment meant a larger overall university operation, which had led the University to acquire scarce commercially zoned properties adjacent to the campus.” (Ex. 626.) The University proposed that the Commission should consider “evidence of how, if at all, the University’s past use of off-campus commercial properties for university uses has created objectionable conditions,” and cited the Law School’s off-campus location as the “most significant past example” of the lack of “any significant adverse impacts associated with the use of that commercial property for university uses.” The Applicant also noted the absence of evidence in the record that the University has used or would use off-campus properties in a manner likely to lead to the creation of objectionable conditions, or that the University’s potential acquisition of off-campus properties “is related to any increase in the student body population” since “no link [has been] shown between the current or past student body population size and the acquisition of off-campus properties.” (Ex. 624.)

The Commission finds no basis to conclude that the increase in enrollment or other aspects of university use approved as part of the 2011 Plan are likely to result in objectionable conditions with respect to the University’s acquisition and use of off-campus properties. The Commission concurs with the Applicant that the ANC and parties in opposition did not provide any evidence suggesting that the University’s current use of off-campus properties was tied to student enrollment or to any other aspect of the University’s operations germane to a request for a special exception under § 210, or that an increase in enrollment or other aspect of the University’s 2011 Plan would likely encourage the University to expand off-campus. The 2011 Campus Plan calls for more than 900,000 square feet of new campus development projects, including several that were also included in the 2001 Campus Plan but not constructed. Almost half of the new development will be devoted to student housing. (Ex. 238.) This degree of new development supports a conclusion that the Applicant will have adequate space over the term of the 2011 Campus Plan to conduct its university operations within its campus boundaries. Considering the potential for objectionable impacts that might result from the projected increase

did not require special exception approval because the property was zoned R-5-E, which allows dormitory use as a matter of right), *aff’d*, *Watergate West, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 815 A.2d 762 (D.C. 2003); *George Washington University v. District of Columbia Bd. of Zoning Adjustment*, 831 A.2d 921, 948 (D.C. 2003).

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in enrollment, the Commission concludes that the University presented a reasonable plan to expand its facilities on the Tenley and Main Campuses, including the new East Campus, which could decrease the impact on neighboring commercial areas, since the University likely would prefer to accommodate its facilities on its campus. In light of the increased on-campus development, the Commission concludes that approval of the 2011 Campus Plan, including the higher enrollment cap, is not likely to have a measurable increase in the displacement of commercial businesses or create any objectionable impact to the neighborhood as a result of displacement of nearby commercial enterprises. The Commission was not persuaded that any potential off-campus expansion by the University can be attributed to its proposed on-campus growth, or that limits on enrollment are warranted as a means to prevent the University from acquiring off-campus properties in the future.

C. Availability of Undergraduate Housing on Campus

A condition of approval of the 2001 Campus Plan required the University to maintain a supply of on-campus housing sufficient to make housing available for 85% of its full-time freshman and sophomore students as well as for two-thirds of all full-time undergraduates (with both percentages based on student headcount).⁷ In that proceeding the Commission found that the University was then providing housing on campus for two-thirds of its undergraduate students and that 85% of freshman and sophomore students were living in campus dormitories, which then provided a total of 3,264 beds.

At some point between the effective date of the 2001 Campus Plan and the date that AU submitted its proposed 2011 Plan, the University fell out of compliance with that condition, as the number of undergraduates increased beyond the cap associated with the two-thirds requirement. When the proposed 2011 Plan was submitted, the University housed approximately 65% of its undergraduate students (4,083 of 6,318), and 200 of the beds were provided in an off-campus apartment building rather than in on-campus student residences.

As part of the 2011 Campus Plan, the Applicant proposed to discontinue use of 497 beds on the Tenley Campus and to build new residences at four sites on the Main Campus sufficient to accommodate 1,290 students. The net increase of approximately 800 beds on campus would create an inventory of 4,352 student beds on campus. (Ex. 8.) The University proposed to continue to provide housing for two-thirds of its undergraduate students (including beds provided by the University in off-campus buildings) by Fall 2016.⁸ To meet that requirement, the

⁷ See Order No. 949, Condition No. 4.

⁸ As noted in Z.C. Order No. 11-07, the University had a master lease with an off-campus apartment house, known as the Berkshire, where AU leased 100 apartments to house two students in each unit. In addition to the master lease, many AU students rented apartments individually in the Berkshire, which has a total of 750 apartments, and AU provided apartments for two full-time employees to help manage the student population in the building. The University planned to phase out the master lease when additional housing became available on campus. (Tr. of June 9, 2012 at pp. 47, 125-127.)

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University projected that it would continue to provide 200 beds in off-campus buildings through Fall 2013, reduced to 100 beds by Fall 2016, and discontinued thereafter, once an adequate supply of undergraduate beds became available in new on-campus buildings; subsequently, any University-provided housing located off-campus would not count toward the 67% requirement. (Ex. 578, 602; Tr. of Nov. 3, 2011 at pp. 179-181.)

In the campus plan proceeding, OP recommended retention of the condition requiring the University to provide on-campus student housing for at least 67% of its total undergraduate enrollment, consistent with certain conditions. The additional requirements recommended by OP included that the housing for at least 67% of the total undergraduate enrollment should be provided within the campus plan boundaries, and student housing provided to meet this condition should be used only for undergraduate student housing. (Ex. 238, 588.)

In approving the 2011 Campus Plan, the Commission adopted Condition No. 5, which provides that:

Until the start of the fall 2016 semester, the University shall maintain a supply of housing sufficient to make housing available for 85% of its full-time freshmen and sophomore students and for 62% of all full-time undergraduates. All of the freshmen and sophomore housing and 59% of the housing for full-time undergraduates shall be located entirely on campus. By the start of the fall 2016 semester, the University shall maintain a supply of on-campus housing sufficient to make housing available for 100% of its full-time freshmen and sophomore students and for 67% of all full-time undergraduates. Nothing in this condition is intended to preclude the University from continuing to house undergraduate students who are not freshmen or sophomores off-campus after the fall 2016 semester begins; provided that the University maintains the minimum percentage of on-campus housing required.

The Court of Appeals held that “the Commission neglected to address the specific recommendation of the Office of Planning that AU actually devote its on-campus housing to the specified percentages of undergraduates” or “focus on the disparity between the number of student beds available on campus and the extent to which those beds actually are allocated to undergraduates.” (88 A.3d at 711.)

In its post-remand submission, ANC 3D stated that the Commission should have maintained the undergraduate housing mandate approved in the 2001 Plan so that AU would be required to provide adequate on-campus housing for a minimum of 85% of its freshmen and sophomores and two-thirds of its undergraduate student population. In its post-remand submission, SVWHCA recommended inclusion of OP’s recommendation in the Commission’s order so that the University could not “count as ‘undergraduate’ housing capacity that portion of housing that AU in fact does not use to house undergraduates.” (Ex. 626.) In its post-remand submission, the Applicant stated that the dedication of on-campus housing to undergraduate use would not

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“increase on-campus housing capacity or even the actual on-campus housing occupancy” but would “severely constrain[] the University’s flexibility to house its students over the life of the campus plan with no corresponding benefit in terms of reducing potential objectionable conditions in the neighborhood.” (Ex. 624.)

As the Court of Appeals noted, “the Commission did not require that any particular proportion of undergraduates *must* live on campus, and it may have had good reasons to refrain from doing so.”⁹ Rather than addressing its directive to undergraduate students, the Commission adopted Condition No. 5 to ensure that the University would provide an adequate supply of on-campus housing as a means to minimize the potential creation of objectionable conditions related to the number of students living off campus.

In complying with Condition No. 5, the University will increase its supply of on-campus housing for undergraduates, especially full-time freshmen and sophomore students, and will diminish its reliance on University-provided housing in off-campus locations.¹⁰ The University is required by the 2011 Plan to maintain a supply of on-campus housing available, eventually, for all full-time freshmen and sophomore students and for two-thirds of all full-time undergraduates. With an adequate supply of on-campus housing, coupled with an enrollment cap to limit potential increases in the number of students seeking housing, and with the University’s interest in maintaining flexibility,¹¹ the Commission concurs with the Applicant that adoption of OP’s

⁹ The court noted that “AU does not currently *require* any student to live on campus,” and “express[ed] no view as to whether it would be impermissibly intrusive into the ‘details and mechanics’ of running a university for the Commission to require a specified percentage of undergraduates to reside in on-campus housing,” citing *President & Dirs. of Georgetown Coll. v. District of Columbia Bd. of Zoning Adjustment*, 837 A.2d 58, 77 (D.C. 2003). (88 A.3d at 711, footnote 23.) In approving campus plans proposed by colleges and universities, the Commission (and previously the Board of Zoning Adjustment) has adopted conditions intended to avoid creation of any objectionable conditions or to mitigate any potential adverse impacts associated with the location of any university use in a Residence or Special Purpose zone, where the zoning requirements related to campus plans apply. The conditions of approval have been directed at a given university, which is the applicant for zoning relief, and not at students. However, conditions affecting students have been adopted by the Commission when proffered by a university and when consistent with the provisions in the Zoning Regulations stating that a university use may be located in a Residence or Special Purpose zone, subject to special exception approval, when the college or university is “located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.” (11 DCMR §§ 210.2, 507.7.) See, e.g., *George Washington University v. District of Columbia Bd. of Zoning Adjustment*, 831 A.2d 921, 927, 943 (D.C. 2003) (long-standing practice of considering “number of students” in the assessment of campus plans held not to constitute discrimination on account of matriculation contrary to District of Columbia Human Rights Act, D.C. Official Code §§ 2-1401.01 *et seq.* (2001 ed.)).

¹⁰ As noted in Z.C. Order No. 11-07, Findings of Fact Nos. 26 and 33, the University has provided housing for undergraduate students in residence halls on campus and by means of a master lease for apartments in the Berkshire, a large apartment building located off campus. Under the master lease, AU leased 100 apartments to house two students in each unit.

¹¹ Because a “[u]niversity has rights and the neighbors have rights,” a “temperate, rational, and balanced approach is called for” in a campus plan proceeding. The Commission’s responsibility is to “to determine whether a reasonable accommodation has been made between the University and the neighbors which does not interfere

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recommendation is not necessary to avoid the creation of objectionable conditions. The Commission also notes that, at a public meeting in this proceeding, OP acknowledged that a proposed condition, which was later incorporated into the Commission's order as Condition No. 5, was consistent with its position because the condition referred to "on-campus housing" (that is, phasing out the University's practice of providing student housing in off-campus buildings). (Tr. Jan. 23, 2012 at pp. 20-21.)

D. Housing requirement as *De Facto* Freeze on Undergraduate Enrollment

In the campus plan proceeding, the Applicant noted that the 67% housing requirement would effectively serve as a cap on undergraduate enrollment, since the University's ability to admit undergraduate students would depend in part on the availability of student housing. (Ex. 578, 602; Tr. of Nov. 3, 2011 at pp. 179-181.) Both ANC 3D and SVWHCA had argued that the University should be required to maintain its prior cap of 10,600, increased only by the Law School enrollment of 1,770, at least temporarily. (Ex. 45, 204, 590, 152.) Other parties in opposition contended that an enrollment cap lower than that proposed by the Applicant was "necessary to protect the character of the surrounding neighborhoods, to minimize objectionable conditions associated with growth, and to reflect the physical limitations of the campus site." (Ex. 157,)

On appeal, the petitioners challenged the Commission's "decision not to freeze student enrollment pending the provision of additional on-campus housing for two-thirds of AU's undergraduates," arguing that "the Commission acted arbitrarily and capriciously in trusting AU to adhere to an undergraduate housing availability condition it had violated in the past and has yet to fulfill." (88 A.3d at 711.) The Court of Appeals noted that "[w]hen the Commission approved AU's 2000 Campus Plan, it imposed a specific requirement that housing be made available on campus for two-thirds of the University's undergraduates to mitigate the impact on the community of anticipated increases in enrollment (up to an approved cap)." (88 A.3d at 711.) Noting that "AU's past failure or inability to fulfill the undergraduate housing availability requirement is troubling," the court nevertheless held that "the Commission has discretion to continue to trust that the University will timely comply with the on-campus housing requirement if ... the Commission decides that the evidence, including the University's noncompliance under the 2000 Plan, does not warrant imposition of an enrollment freeze." (88 A.3d at 711-712.) Nevertheless, the court held that AU did not adequately account for its inability to comply with the housing requirement of its 2000 Campus Plan, although the reason appeared to be related to the fact that undergraduate enrollment exceeded the University's projections. If that was the case, the court held, AU's argument against a freeze on enrollment – that it would be unnecessary because the on-campus housing requirement would operate automatically to keep a

with the legitimate interests of the latter," or "with the legally protected interests of the former." *President and Directors of Georgetown College v. District of Columbia Bd. of Zoning Adjustment*, 837 A.2d 58, 70 (D.C. 2003), quoting *Glenbrook Road v. District of Columbia Bd. of Zoning Adjustment*, 605 A.2d 22, 32 (D.C. 1992).

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lid on the undergraduate student population – was “less than wholly persuasive.” (88 A.3d at 712.)

In its post-remand submission, ANC 3D asserted that “the record of AU’s failure to comply with previous Zoning Orders provides sufficient cause for imposing a freeze on undergraduate enrollment until adequate on-campus housing is available to house two-thirds of the university’s undergraduates.” The ANC proposed that “AU’s undergraduate enrollment should be frozen until adequate on-campus housing is available to house two-thirds of the university’s undergraduates and then adjusted to reflect a cap of 12,370 students.” (Ex. 625.) Similarly, SVWHCA asserted that a “cap on undergraduate enrollment, pending compliance with housing capacity requirements, would be in accordance with ANC 3D’s recommendations, would require only that AU be held to its own enrollment projections, and would be an important step in protecting the surrounding community against objectionable conditions from off-campus housing.” (Ex. 626.)

In its post-remand submission, the University asserted that a temporary freeze on undergraduate enrollment, while on-campus housing was built, would be counterproductive given the importance of undergraduate admissions to the University’s academic mission and financial structure. The University stated that its “aggressive schedule for construction of new on-campus housing as well as steps to curtail the use of off-campus housing for undergraduates,” taken “in tandem with the University’s commitments to enforce student-conduct codes and other residence hall restrictions, address the concerns of the ANCs, OP, and others regarding the possible creation of objectionable conditions in the neighborhood associated with student housing.” The University also contended that the proposed freeze appeared punitive, as some sort of ‘punishment’ of the University for past errors regarding admissions or housing percentages. According to the University, a freeze on undergraduate enrollment below the approved caps would not cure any past problems or cause new housing to be built any faster. (Ex. 624.)

The Commission concurs with the Applicant that a freeze on enrollment is not warranted under the circumstances. Like the Court of Appeals, the Commission finds troubling the University’s past noncompliance with the housing requirement. However, the Commission is satisfied that the University’s plan to develop significant new on-campus housing during the term of the 2011 Campus Plan, coupled with an enrollment cap that will restrict growth in undergraduate enrollment, will be sufficient to avoid creation of objectionable conditions. This conclusion is bolstered by the inclusion of Condition No. 12 in the approved 2011 Campus Plan, which requires the University to demonstrate its substantial compliance with all conditions of approval in each further processing application submitted for approval, and states that any violation of a condition is grounds for the denial or revocation of a building permit or certificate of occupancy issued to the University and may result in the imposition of fines and penalties.

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A freeze on enrollment may not be imposed absent sufficient evidence in the record to justify that decision.¹² In this proceeding, after making findings of fact based on substantial evidence in the record, the Commission concluded that approval of the 2011 Campus Plan is not likely to cause objectionable conditions based on the number of students, because the new enrollment caps represent relatively small potential increases in the student population over the term of the Plan, a significant percentage of the undergraduate students will be housed on campus, and the University enforces a student code of conduct and other measures designed to prevent and address any student misconduct that might occur on- or off-campus. The Commission also concludes that a freeze on enrollment, below the new cap proposed by the University as part of the 2011 Plan, is not necessary to achieve compliance in light of the separately available mechanisms mentioned in Condition No. 12. The Commission's decision not to impose a freeze is consistent with the court's observations that some flexibility is needed for campus plans since university officials cannot be expected to predict with specificity the future circumstances and development of a campus¹³ and since "AU has 'ample incentive' to comply with the enrollment and housing conditions imposed by the Commission so as not to jeopardize its further processing applications for future campus development projects envisioned in the 2011 Campus Plan, and to avoid the imposition of other penalties."¹⁴

¹² See, *President and Directors of Georgetown College v. District of Columbia Bd. of Zoning Adjustment*, 837 A.2d 58, 76 (D.C. 2003) (discussion of absence of substantial evidence supporting a decision by the Board of Zoning Adjustment to freeze a university's enrollment, potentially until 2010, at the level set in 1990. The Board had adopted a freeze with the purpose of alleviating adverse impacts on surrounding neighborhoods associated with the number of students living off-campus, but the court found little, if any, support in the record for the finding that a modest enrollment increase would have contributed to or exacerbated objectionable conditions in the adjoining neighborhoods. To justify a freeze on enrollment under the circumstances, the Board was required to make reasonably detailed underlying evidentiary findings in which it specifically identified the need for continuing the 1990 cap and described in non-conclusory terms the manner in which the retention of the cap would protect the residents of the adjoining communities. The freeze decision was reversed where the Board did not confront with any specificity the precise issue – whether, and how, a minimal yearly increase in enrollment, to begin after the opening of on-campus housing for twice as many students as the total proposed 10-year increase – would significantly affect conditions in the neighboring communities. The court found significant that the focus of a Board member's remarks was not on whether the modest proposed increase, in itself, would adversely affect the neighboring communities, but was on the use of the cap as a means by which the Board could place financial pressure on the university and could make its "shoe pinch" until it did what, in this Board member's view, "the community" wanted done. But, the court held, the manner in which the zoning regulations are enforced cannot depend even on scientifically conducted public opinion polls, and certainly not on speculation as to what some undefined "community" may find desirable).

¹³ See *Georgetown Residents Alliance v. District of Columbia Bd. of Zoning Adjustment*, 816 A.2d 41, 49 (D.C. 2003).

¹⁴ See *Spring Valley-Wesley Heights Citizens Ass'n v. District of Columbia Zoning Com'n*, 856 A.2d at 1174, 1179 (D.C. 2004) (University has ample incentive to implement a condition of campus plan approval that addressed off-campus parking by affiliated vehicles, because the university remained subject to continuing oversight by the Commission and would face the prospect of serious consequences if it failed to fulfill its obligations).

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The Commission notes that, while AU did not remain in strict compliance with the housing requirement adopted in the 2001 Plan, the University did take steps to increase the supply of university-supplied housing until new on-campus residences could be built.¹⁵ The 2011 Campus Plan will further mitigate the potential for adverse impacts through the creation of additional on-campus housing and through the exclusion of housing provided by the University off-campus from the housing supply eligible to satisfy the on-campus housing requirement.

The Commission declines to adopt a freeze as a “punishment” of the University for its past noncompliance. As the court noted, “approval of a campus plan is primarily a prospective exercise; it should not, ordinarily, take on a punitive character.” (88 A.3d at 712.) Absent express statutory or regulatory authority, a regulatory agency may not impose remedial measures. Rather, in evaluating a request for special exception approval of a campus plan, the Commission is limited to a determination of whether the application has met the requirements of the Zoning Regulations, particularly § 210 and § 3104, which do not address an applicant’s past noncompliance. An applicant has the burden of showing that a proposal complies with the Zoning Regulations, but once that showing has been made, the application ordinarily must be granted. The burden placed on the University for a special exception “is much lighter than it would be if [it] sought a use variance.”¹⁶

E. East Campus – Noise

In approving the 2011 Campus Plan, the Commission made a number of findings pertaining to noise based on testimony and evidence in the record, and adopted certain conditions of approval to avoid the creation of objectionable conditions due to noise. Specifically, with respect to the East Campus, the Commission considered, among other evidence, an environmental noise study prepared by the Applicant’s expert in acoustics, who investigated potential noise sources from the East Campus and their potential impacts on the adjoining Westover Place neighborhood. (Ex. 536.)

On appeal, the petitioners argued that “AU’s analysis fell short” in two respects: (1) the study did not assess how anticipated noise from the East Campus buildings would compare with background noise levels at night (when an increase in noise might be most objectionable to neighbors); and (2) the study allegedly failed to model or assess the impact of noise from activities and mechanical operations in the buffer buildings. Noting that “the opposition to the East Campus development presented no evidence affirmatively demonstrating that an increase in nighttime noise or noise from the buffer buildings would be objectionable,” the Court of Appeals

¹⁵ In addition to procuring a master lease for 100 units in an off-campus apartment house, the University increased the occupancy of some on-campus residences by assigning approximately 300 students to triple rooms (i.e. three students living in a room designed for two). See Z.C. Order No. 11-07 at Finding of Fact No. 26.

¹⁶ *President and Directors of Georgetown College v. District of Columbia Bd. of Zoning Adjustment*, 837 A.2d 58, 68 (D.C. 2003) (citations, internal quotations, and brackets omitted).

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held that the Commission was nonetheless “obliged to ‘come to grips’” with those specific challenges to AU’s evidence. (88 A.3d at 717.)

In its post-remand submission, ANC 3D contended that the Applicant had not provided detailed designs, including the siting of mechanical equipment, and thus the record does not support a conclusion that “the East Campus will not have objectionable impacts stemming from noise associated with activities at night and in connection with mechanical equipment.” (Ex. 625.) The ANC and SVWHCA asserted that final approval for construction of East Campus buildings should be subject to an additional hearing at which the University would present a revised noise study, to which the parties could submit responses.

In its post-remand submission, the Applicant noted that the Commission did consider how potential East Campus noise would compare to nighttime background noise, citing testimony from the University’s sound expert, partly in response to questions from the Commission, describing conclusions reached after measuring background noise at approximately 8:00 p.m. or 9:00 p.m. The expert’s conclusions were that nighttime background noise for the East Campus would be comparable to the daytime noise, and that students were likely to generate less noise at night. (Tr., Nov. 3, 2011 at pp. 223-224.)

The Commission concurs with the Applicant that the issue of potential noise generated at the East Campus was adequately considered during the Campus Plan proceeding, and clarifies its decision to discuss its finding of no adverse impact in greater detail. The Commission reaffirms its conclusion that the proposed East Campus development, including the buffer buildings, will not create objectionable noise conditions based on evidence in the record. The Commission’s finding that the East Campus development will not generate objectionable noise impacts was due in part to measures implemented by the University to mitigate noise impacts, which will apply equally during the nighttime. These measures include the siting of buildings on the East Campus and their distance from neighboring residences, the absence of balconies or terraces on the eastern elevation, the exclusion of freshmen students as residents of the East Campus, and enforcement of the University’s residence hall regulations and its sound amplification policy. (Ex. 8, 440, 536.) The buffer buildings were designed by the Applicant both to minimize noise impacts of the East Campus development on neighboring residences and to avoid creating any objectionable noise conditions themselves. To achieve these goals, the University proposed to locate the buffer buildings between student residences and the adjoining townhouses in Westover Place, sited to block noise from activities occurring on two courtyards located at the center of the East Campus. The buffer buildings will not have direct entrances on the ground floor, or balconies or terraces, on their eastern elevations. They will be used for a mix of classrooms and offices, with classes ending before 11:00 p.m. and offices located along the wall of the academic/administrative buildings that will face the Westover Place property line. (Ex. 8, 50, 575, 602; Tr. of June 23, 2011 at pp. 23, 28.) The Commission also notes that OP concluded that some aspects of the Applicant’s proposal for the East Campus would help manage noise, including the location of academic and administrative uses closest to the neighboring residential

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community and the absence of mechanical equipment on the roofs of the administrative buildings. (Ex. 238.) While the study performed by the Applicant's sound expert did not directly assess the impact of noise from activities and mechanical operations in the buffer buildings, the Commission finds no reason to alter its conclusion that the East Campus development is not likely to create objectionable conditions due to noise.

Nor does the Commission agree with ANC 3D and SVWHCA that final approval for construction of East Campus buildings should be subject to an additional hearing at which the University would present a revised noise study, to which the parties could submit responses. Final approval for the construction was granted in Z.C. Order No. 11-07, in which the Commission considered and approved the Applicant's request for simultaneous approval of a new campus plan and further processing of the approved plan to allow the construction of certain projects, one of them the East Campus.¹⁷

F. East Campus – Horace Mann playground

In the campus plan proceeding, ANC 3D recommended that the University should “take other steps – in consultation with neighboring residents – to prevent use of the Horace Mann recreational space by AU students in order to preserve a quality neighborhood amenity for neighborhood residents and their young children.” (Ex. 204.) Similarly, SVWHCA contended that the proposed East Campus development would create objectionable conditions for surrounding neighbors in part because the lack of outdoor recreation space on the East Campus would lead to conflicts with students over the use of the field and grounds at the nearby Horace Mann elementary school. (Ex. 152.) As described in the opinion of the Court of Appeals, “University officials testified that they would cooperate with Horace Mann Elementary School to alleviate this concern and make it sanctionable for AU students to use the recreation area” but “the Commission did not specifically address the issue” despite “the apparent solution offered by AU.” (88 A.3 at 717.)

In its post-remand submission, ANC 3D asserted that the Commission should require, as a condition of approval of the campus plan, that the University must “develop a plan in cooperation with representatives of the Spring Valley-Wesley Heights Citizens Association and the appropriate representatives of Horace Mann Elementary School that would limit use of the Horace Mann Playground facilities by AU students and that would provide for appropriate enforcement and restoration mechanisms (if damaged).” (Ex. 625.) The University noted the lack of evidence in the record that any AU students, including those living on the East Campus, were likely to use the Horace Mann playground for recreation, and reiterated that the University “already has a relationship with the principal and staff at Horace Mann to work together if

¹⁷ See also Z.C. Order No. 11-07(1) (order issued December 19, 2012), in which the Commission denied motions for reconsideration submitted by ANC 3D and Robert Herzstein, a party in opposition. The ANC's Motion for Reconsideration or Rehearing (Ex. 616) did not allege any error with respect to construction of East Campus buildings.

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concerns were raised by the school about the use of the playground by University students” as well as its commitment to work through its campus life program “to dissuade University students from using the playground.” (Tr. of June 23, 2011 at pp. 45-148.)

The Commission reiterates its conclusion that requiring AU to provide outdoor recreational space for students in the East Campus is not necessary or warranted as a means to avoid creation of objectionable conditions with respect to the playground facility at Horace Mann Elementary School. The Commission also clarifies its prior order to express its conclusion that the concern raised by ANC 3D with respect to the playground facility was adequately addressed by the University’s commitment to cooperate with the elementary school and to sanction AU students who use the playground facility as a recreational area. With respect to student behavior off-campus in general, the Court of Appeals held that the “evidence allowed the Commission to conclude that ... AU had made effective enhancements to its enforcement mechanisms” and that the Commission “was entitled to credit AU’s representations that it would in good faith continue to improve its strategies to control student conduct.” (88 A.3d at 709.)

G. East Campus – Landscaped and Fenced Buffer Zone

In approving the Applicant’s proposal for development of the East Campus, the Commission noted that the University would create and maintain a physical and landscaped buffer between the East Campus buildings and the adjoining townhouse residences. (Ex. 8.) No lights would be installed in the landscaped buffer area adjacent to the Westover Place residences. (Ex. 440) OP had recommended that the Applicant provide a buffer, at least 65 feet wide and landscaped with evergreen and deciduous trees, along the eastern property line of the East Campus adjacent to Westover Place, with the nonresidential buildings at two and three stories permitted within the next 40 feet, so that the residential uses would be at least 125 feet from the eastern property line adjacent to Westover Place. OP also recommended installation of a fence to preclude recreational use of the buffer area by students. (Ex. 238.) ANC 3D had advocated a buffer larger than the 65 feet proposed by the University, and the petitioners also argued that the proximity of the East Campus development to neighboring residences would create objectionable conditions. (Ex. 590, 157.)

The Court of Appeals concurred with the petitioners that the Commission had not adequately explained why it had accepted AU’s buffer proposal – a buffer 55 to 60 feet deep for most of its length, with one part only 40 feet deep to accommodate a remaining parking space – without modification rather than the recommendations of OP or ANC 3D, and had not addressed the recommendation for a fence to keep AU students out of the buffer zone. In its post-remand submission, ANC 3D asserted that the “Court concluded that the Commission failed to offer a ‘reasoned basis’ for rejecting arguments made by OP and ANC 3D” with respect to the width of the buffer and the fence, and reiterated recommendations for “a buffer of no less than 65 feet for the full length of its border with neighboring residential property...” and “a fence [installed] at the rear of the buffer along the Westover Townhome development to mitigate potential public

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safety impacts and other objectionable conditions.” (Ex. 625.) Similarly, SVWHCA stated that, on remand, the Commission should require the University “to extend the 65-foot landscaped buffer between East Campus and Westover for the entire length of the property line with Westover, and to fence off the buffer, in each case as recommended by OP.” (Ex. 626.) In its post-remand submission, the Applicant noted that the Commission’s order had not taken into account the final modifications proposed by the University, which proposed different locations for buildings on the East Campus to create a consistent 65-foot-wide landscaped buffer between two academic/administrative buildings (Buildings 4 and 6) and the property line of Westover Place, and provided for year-round screening by reducing the number of deciduous trees and increasing the number of evergreen trees. One row of parking spaces on the surface parking lot would be located within the 65-foot setback area. (Ex. 579, 602.) The Applicant concurred that the landscaped area should be fenced to restrict access by AU students and to ensure that the space would serve only as a buffer.

The Commission clarifies its prior order to specify that the approved Campus Plan incorporates the final modifications of the East Campus proposed by the Applicant, including the consistent 65-foot-wide landscaped buffer between two academic/administrative buildings (Buildings 4 and 6) and the property line of Westover Place that will be planted with landscaping sufficient to provide for year-round screening. The Commission also clarifies its intent to require installation of a fence in the buffer area, which was inadvertently omitted from the prior order. The Commission finds that the fence, as recommended by OP, will preclude recreational use of the buffer area by students and instead will maintain the landscaped area as a buffer between the East Campus and adjoining residences.

H. Vehicular traffic – Crediting AU’s traffic study

In approving the 2011 Campus Plan, the Commission made a number of findings pertaining to traffic based on testimony and evidence in the record. The relevant evidence included traffic studies and testimony by the transportation planning experts who prepared them: Daniel van Pelt and Robert Schiesel of Gorove/Slade Associates for the Applicant (Ex. 10; 50, Tab 6; 438); David Fields of Nelson/Nygaard for ANC 3D (Ex. 471, 530, 579); and Jawahar (Joe) Mehra for the parties in opposition (Ex. 465, 524).¹⁸ As noted by the Court of Appeals, the impact of the 2011 Campus Plan on vehicular traffic in the vicinity of the Main and Tenley Campuses was a contested issue, and the expert reports and opinions received by the Commission were conflicting. (88 A.3d at 718.)

On appeal, petitioners claimed that the Commission failed to explain why it credited the Applicant’s study despite expert evidence to the contrary, and the Court of Appeals held that “the

¹⁸ SVWHCA also submitted a supplemental traffic statement – “A Reader’s Guide to Correcting Gorove/Slade’s Calculations of Peak Hour Vehicle Trips Generated in 2020 by AU’s Campus Plan” – prepared by Glenn Westley, PhD (economics). (Ex. 552.)

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Commission's discussion of the diverging expert opinions on the traffic issue was quite cursory, and ...descriptive rather than evaluative." (88 A.3d at 719.) The Commission's order was remanded to rectify the omission of an explanation "at least briefly, but with particularity, why it credited AU's study in light of, and despite, ANC 3D's substantial criticisms of it." (88 A.3d at 720.)

In its post-remand submission, ANC 3D reiterated its contention that the University "failed to conduct a comprehensive transportation impact analysis covering the full scope of AU facilities in the Campus Plan," renewed its recommendation that the University should be required to implement a trip cap intended to reduce the number of vehicles traveling to the campus, and stated that "AU should be required to develop a new Transportation Demand Management Plan" in conjunction with the District Department of Transportation and the Community Liaison Committee.¹⁹ (Ex. 625.) In its post-remand submission, SVWHCA reiterated that, in the Campus Plan proceeding, ANC 3D and the parties in opposition had "identified a great number of defects in the traffic study submitted by AU" and that "allowing the full extent of growth projected by the University was likely to create adverse traffic effects." (Ex. 626.)

In its post-remand submission, the University noted that the "primary objection voiced by ANC 3D and its witness was that the Gorove/Slade study relied upon an allegedly 'flawed' transportation study conducted for the U.S. General Services Administration ("GSA") in connection with the Ward Circle area and the Department of Homeland Security operations," and that the ANC had "also asserted that the University's traffic studies undercounted the number of cars coming to and from University facilities." The University responded that "the record showed that the data and conclusions which were allegedly 'flawed' in the GSA-funded study were segregable from the data used by Gorove/Slade in forming its opinions and study regarding the University's traffic impacts." (Ex. 602, 624.) The Applicant emphasized evidence showing that (i) Gorove/Slade confirmed with the District Department of Transportation ("DDOT") that the data in the Applicant's study taken from the GSA study were not the aspects of the GSA study that were the source of concern, so Gorove/Slade did not rely on any potentially problematic data in reaching its conclusions; (ii) Gorove/Slade demonstrated that the methodology used in counting trip generation was appropriate in the current context (Ex. 602B); and (iii) Gorove/Slade responded to all issues raised by opponents concerning methodology and counting cars, explaining why its methodology complied with DDOT and industry standards and thereby resulted in an accurate assessment. (Ex. 602.)

In the Campus Plan proceeding, the Commission reviewed and deliberated upon considerable information related to traffic, including specific data about past, present, and likely future conditions relating to University-affiliated traffic associated with the Main and Tenley

¹⁹ The 2011 Campus Plan continued, with some modification, the Community Liaison Committee created in the University's 2001 Campus Plan to foster consistent communication between the University and the surrounding neighborhoods, discuss issues of mutual interest, and propose solutions to problems that exist or may arise in implementing the approved campus plan. See Z.C. Order No. 11-07, Condition No. 16.

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Campuses. The studies and testimony of the various transportation experts retained by the parties were often conflicting, and the analyses performed by the University's experts were challenged by experts testifying on behalf of ANC 3D or the parties in opposition. In particular, the ANC's traffic expert testified that the University had not addressed "several technical transportation issues" and suggested "additional TDM measures worth considering," including a peak hour auto trip cap. (Ex. 471.)

In this Order, based on all the testimony and evidence in the record, the Commission reaffirms its conclusion that the traffic study prepared by the Applicant's transportation expert, as supplemented by the experts' testimony, adequately supported the Commission's conclusion that approval of the proposed 2011 Campus Plan would not tend to create objectionable conditions due to traffic. The Commission agrees with the Applicant's statement in its post-remand submission that the Commission considered the issues raised by ANC 3D and the petitioners but found that their concerns were addressed in the data collected and the explanations offered by the University and its witnesses. The Commission was not persuaded that the Applicant's experts relied on data that was flawed or otherwise unreliable, noting that DDOT independently assessed the Applicant's methodology²⁰ and that the University's study did not depend on aspects of the GSA study that have been discounted. While the parties in opposition attacked the entire GSA traffic study, in fact only a portion of that study has been invalidated, and that portion did not affect the study or testimony of the Applicant's traffic experts. The Commission thoroughly considered the validity of the GSA study during the campus plan proceeding and was satisfied that the Applicant's use of that study had not compromised its own study.²¹

The Commission credited the testimony by the Applicant's transportation experts with respect to the University's actual experience with vehicular travel and parking demand, including the efficacy of TDM measures in effect since the approval of its last campus plan. Based on the explanations of their study methods and their responses to criticisms leveled at the Applicant's study by ANC 3D and the parties in opposition,²² the Commission found no reason to discredit

²⁰ As noted in Z.C. Order No. 11-07, DDOT indicated its agreement with the methodology used by the University, including the underlying assumptions such as projections of modal splits, used in the traffic study submitted by the Applicant's experts. (Ex. 229; Tr. of Sept. 22, 2011 at pp. 230-240.) DDOT's analysis of the traffic evidence in the Campus Plan proceeding led to its own conclusion that approval of the proposed campus plan would create "minimal vehicular impacts," citing trip generation characteristics and the planned reduction in the number of parking spaces on campus, and that the level of service for vehicular traffic would not significantly change. (Ex. 229, 475.)

²¹ See Tr. of Jan. 23, 2012, pp. 41-43, 49-52 and Tr. of Feb. 16, 2012 at 22-24. In response to comments made by the Commission at the January 23, 2012 public meeting, all the parties submitted additional information. (Ex. 602, 604-607.)

²² The report submitted by the transportation expert retained by the parties in opposition contended that the Applicant's transportation report did not accurately project traffic and increased delays that would result from approval of the proposed campus plan, because the University's experts "systematically underestimated existing and future traffic conditions and the impacts of AU's proposed plan and did not follow accepted industry practice in important respects." (Ex. 465, 524.)

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the University's traffic study. The studies prepared by other experts and submitted by ANC 3D and the parties in opposition did not assess transportation impacts considering the same scope and actual experience observed by the University since the 2001 Campus Plan was implemented.

In the 2011 Plan proceeding, ANC 3D contended that the Applicant's proposal was likely to cause objectionable conditions related to traffic, and challenged the Applicant's proposed TDM strategies on the grounds that those measures were not likely to be effective. However, the ANC did not substantiate its position, and the Commission concluded that the University's TDM measures had been effective in reducing vehicular demand to the campus over the course of the prior campus plan. The ANC was not satisfied with improvements to the TDM measures proposed by the University in this proceeding, but urged adoption of additional measures, especially a trip cap, which the Commission declined to adopt.²³

In its post-remand submission, ANC 3D again did not identify specific errors with the Applicant's traffic study but reiterated its contentions that the University failed to conduct a comprehensive traffic analysis and should be required to implement a trip cap in addition to other TDM measures. Considering the explanations provided by the University's traffic experts with respect to their methods and industry standards, as well as the testimony and report submitted by DDOT, the Commission was not persuaded that the criticisms made by ANC 3D and SVWHCA demonstrated that the study provided by the Applicant's traffic experts was flawed or otherwise unreliable.

For the reasons discussed above, it is **ORDERED** that the Commission's decision reflected in Z.C. Order No. 11-07 is **AFFIRMED**.

VOTE: **4-0-0** (Anthony J. Hood, Peter G. May, and Michael G. Turnbull voting in the affirmative; Marcie I. Cohen and Robert E. Miller not having participated, not voting)

BY ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

FINAL DATE OF THE ORDER: September 28, 2015

²³ This aspect of the Commission's Order was upheld on appeal. See 88 A.3d at 720, footnote 52.

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