

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 21-0193, Ballot Access Modernization Amendment Act of 2015
- Office of the State Superintendent of Education schedules public hearings to discuss the proposed Child Care and Development Fund (CCDF) Block Grant Plan and the Proposed Rulemaking (ANPR) for Child Development Facilities Licensing
- Department of Energy and Environment formulates regulations for controlling air toxics and hazardous air pollutants
- D.C. Public Library sets cost recovery fees
- Public Service Commission schedules a public interest hearing on the settlement agreement filed by Washington Gas Light Company and Integrys Energy Services-Natural Gas, LLC and other settling parties
- Department of Housing and Community Development sets the deadline for filing Low Income Housing Tax Credit and HOME Annual Owner’s Certification Documents
- Department of Small and Local Business Development announces funding availability for the DSLBD Healthy Food Retail Program Grant

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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MURIEL E. BOWSER
MAYOR

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ENROLLED ORIGINAL

A RESOLUTION

21-291

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency, due to congressional review, 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 Congressional Review Emergency Declaration Resolution of 2015".

Sec. 2. (a) There is an immediate need to amend 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.*), 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.

(b) This emergency act is necessary to prevent a gap in the law as the emergency legislation, the Sexual Assault Victim Rights Task Force Report Extension Emergency Amendment Act of 2015, effective October 16, 2015 (D.C. Act 21-0159; 62 DCR 13720), expires on January 14, 2016.

(c) Temporary legislation, the Sexual Assault Victim Rights Task Force Report Extension Temporary Amendment Act of 2015, enacted on October 22, 2015 (D.C. Act 21-0173; 62 DCR 13988), 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.

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 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

21-293

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Ms. Christina M. Respress to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Christina M. Respress Confirmation Resolution of 2015”.

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

Ms. Christina M. Respress
7109 13th Avenue
Takoma Park, MD 20912

as a representative of an organization that provides services within the Continuum of Care member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), replacing Hannah Hawkins, for a term to end June 12, 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

21-294

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the reappointment of Ms. Elizabeth Schroeder Stribling to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Elizabeth Schroeder Stribling Confirmation Resolution of 2015”.

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

Ms. Elizabeth Schroeder Stribling
1418 Jonquil Street, N.W.
Washington, D.C. 20012
(Ward 4)

as a representative from an organization that provides services within the Continuum of Care member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), for a term to end May 1, 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

21-295

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the reappointment of Mr. Michael L. Ferrell to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Michael L. Ferrell Confirmation Resolution of 2015”.

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

Mr. Michael L. Ferrell
1611 Lemontree Lane
Silver Spring, MD 20904

as a representative from an organization that provides services within the Continuum of Care member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), for a term to end May 1, 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

21-296

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the reappointment of Ms. Deborah Shore to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Deborah Shore Confirmation Resolution of 2015”.

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

Ms. Deborah Shore
3408 Patterson Street, N.W.
Washington, D.C. 20015
(Ward 3)

as a representative from an organization that provides services within the Continuum of Care member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), for a term to end May 1, 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

21-297

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Mr. Adam Rocap to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Interagency Council on Homelessness Adam Rocap Confirmation Resolution of 2015".

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

Mr. Adam Rocap
2401 Virginia Avenue, N.W.
Washington, D.C. 20037
(Ward 2)

as a representative from an organization that provides services within the Continuum of Care member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), replacing Jean Michel Giraud, for a term to end August 10, 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

21-298

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Ms. Nechama Masliansky to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Nechama Masliansky Confirmation Resolution of 2015”.

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

Ms. Nechama Masliansky
3001 Veazey Terrace, N.W.
Unit 1224
Washington, D.C. 20008
(Ward 3)

as a representative from an organization that provides services within the Continuum of Care member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), replacing Kari K. Bedell, for a term to end August 10, 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

21-299

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Mr. Eric J. Sheptock to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Eric J. Sheptock Confirmation Resolution of 2015”.

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

Mr. Eric J. Sheptock
425 2nd Street, N.W.
Washington, D.C. 20001
(Ward 6)

as a homeless or formerly homeless individual member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), replacing Darryl A. Becher, for a term to end August 10, 2016.

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

21-300

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the reappointment of Mr. Donald L. Brooks to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Donald L. Brooks Confirmation Resolution of 2015”.

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

Mr. Donald L. Brooks
1649 Franklin Street, N.E. Unit 1
Washington, D.C. 20018
(Ward 5)

as a homeless or formerly homeless individual member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), for a term to end June 4, 2016.

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

21-301

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Mr. Albert Townsend to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Albert Townsend Confirmation Resolution of 2015”.

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

Mr. Albert Townsend
860 S. Greenbrier Street, Unit 1
Arlington, VA 22204

as a homeless or formerly homeless individual member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), replacing Jackie L. Chandler, for a term to end August 10, 2016.

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

21-302

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Ms. Margaret A. Hacskaylo to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Margaret A. Hacskaylo Confirmation Resolution of 2015”.

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

Ms. Margaret A. Hacskaylo
1325 13th Street, N.W. Unit 47
Washington, D.C. 20005
(Ward 2)

as an advocate for the District’s homeless population member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), replacing Nan Roman, for a term to end May 1, 2016.

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

21-303

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the reappointment of Ms. Margaret Riden to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Margaret Riden Confirmation Resolution of 2015”.

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

Ms. Margaret Riden
1443 Monroe Street, N.W.
Washington, D.C. 20010
(Ward 1)

as an advocate for the District’s homeless population member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), for a term to end May 1, 2016.

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

21-304

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Ms. Jill Carmichael to the Interagency Council on Homelessness.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Interagency Council on Homelessness Jill Carmichael Confirmation Resolution of 2015”.

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

Ms. Jill Carmichael
3128 Sherman Avenue, N.W.
Washington, D.C. 20010
(Ward 1)

as an advocate for the District’s homeless population member of the Interagency Council on Homelessness in accordance with section 4 of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01), for a term to end August 10, 2016.

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

21-305

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Dr. Tanya Royster as the Director of the Department of Behavioral Health.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Director of the Department of Behavioral Health Tanya Royster Confirmation Resolution of 2015”.

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

Dr. Tanya Royster
1702 Shepherd Street, N.W.
Washington, D.C. 20011
(Ward 4)

as the Director of the Department of Behavioral Health, established by section 5113 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 7-1141.02), in accordance with section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)), to serve at the pleasure of the Mayor.

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

21-308

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Rear Admiral Christopher Weaver (USN, Retired) as the Director of the Department of General Services.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Director of the Department of General Services Christopher Weaver Confirmation Resolution of 2015”.

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

Rear Admiral Christopher E. Weaver (USN, Retired)
511 7th Street, S.E.
Washington, D.C. 20003
(Ward 6)

as the Director of the Department of General Services, established by section 1022 of the Department of General Services Establishment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 10-551.01), in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), to serve at the pleasure of the Mayor.

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

21-309

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Ms. Ana Recio Harvey 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 Ana Recio Harvey Confirmation Resolution of 2015”.

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

Ms. Ana Recio Harvey
1275 25th Street, N.W. Unit #601
Washington, D.C. 20037
(Ward 2)

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 Matthew T. Brown, 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 Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-310

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Mr. Matthew T. Brown 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 Matthew T. Brown Confirmation Resolution of 2015”.

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

Mr. Matthew T. Brown
1228 C Street, S.E.
Washington, D.C. 20003
(Ward 6)

as a principal 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 Allen Lew, 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 Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-311

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the appointment of Ms. Tammi Lambert as the Director of the Office of Veterans Affairs.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Director of the Office of Veterans Affairs Tammi Lambert Confirmation Resolution of 2015”.

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

Ms. Tammi Lambert
905 6th Street, S.W., Apt. #708-B
Washington, D.C. 20024

as the Director of the Office of Veterans Affairs, established by section 703 of the Office of Veterans Affairs Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 49-1002), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), to serve at the pleasure of the Mayor.

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

21-312

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To approve proposed rules to amend section 718 of Title 23 of the District of Columbia Municipal Regulations to modify reimbursement levels to the Metropolitan Police Department under the Reimbursable Detail Subsidy Program.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Reimbursable Detail Subsidy Program Regulations Approval Resolution of 2015”.

Sec. 2. Pursuant to D.C. Official Code § 25-211(b), the Mayor transmitted to the Council on September 16, 2015, proposed rules to modify reimbursement levels by the Alcoholic Beverage Regulation Administration to the Metropolitan Police Department under the Reimbursable Detail Subsidy Program. The Council approves the proposed rules, published at 62 DCR 3976, to amend section 718 of Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and the Chairperson of the Alcoholic Beverage Control Board.

Sec. 4. 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. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-313

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To approve proposed rules to amend Chapter 16 of Title 23 of the District of Columbia Municipal Regulations regarding contested hearings, non-contested hearings, protest hearings, and procedures.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “ABRA Administrative and Procedural Regulations Approval Resolution of 2015”.

Sec. 2. Pursuant to D.C. Official Code § 25-211(b), the Mayor transmitted to the Council on September 16, 2015, proposed rules of the Alcoholic Beverage Control Board regarding contested hearings, non-contested hearings, protest hearings, and procedures. The Council approves the proposed rules, published at 62 DCR 5499, to amend Chapter 16 of Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and the Chairperson of the Alcoholic Beverage Control Board.

Sec. 4. 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. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-314

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To authorize and provide for the issuance, sale, and delivery, pursuant to a plan of finance, in one or more series, in an aggregate principal amount not to exceed \$150 million of District of Columbia revenue bonds, and to authorize and provide for the loan of the proceeds of such bonds to assist The Catholic University of America in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as “The Catholic University of America Revenue Bonds Project Approval Resolution of 2015”.

Sec. 2. Definitions.

For the purpose of this resolution, the term:

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

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

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

(4) “Borrower” means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be The Catholic University of America, a nonprofit corporation organized under the laws of the District of Columbia and exempt from federal income taxes under 26 U.S.C. § 501(a) as an organization described in 26 U.S.C. § 501(c)(3).

(5) “Chairman” means the Chairman of the Council of the District of Columbia.

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

(7) “District” means the District of Columbia.

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(8) "Financing Documents" means the documents other than Closing Documents that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the making of the Loan, including any offering document, and any required supplements to any such documents.

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

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

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

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

(A) Refunding all or a portion of the outstanding District of Columbia Revenue Bonds (The Catholic University of America Issue, Series 2007) originally issued in the aggregate principal amount of \$72,710,000 pursuant to the provisions of The Catholic University of America Revenue Bonds Project Approval Resolution of 2007, effective May 1, 2007 (Res. 17-172; 54 DCR 004281);

(B) Refunding all or a portion of the outstanding District of Columbia Revenue Bonds (The Catholic University of America Issue), Series 2010, originally issued in the aggregate principal amount of \$38,010,000 pursuant to the provisions of The Catholic University of America Revenue Bonds Project Approval Resolution of 2010, effective June 1, 2010 (Res. 18-483; 57 DCR 4973);

(C) Improvements to the Borrower's campus, including but not limited to the modernization and upgrade of (i) building envelopes, including windows, exterior wall systems and roofs, (ii) power distribution and lighting systems, and (iii) heating and cooling and control systems, together with other improvements to land or interests in land, buildings, structures, machinery, equipment, furnishings or other real or personal property located on the Borrower's campus;

(D) Any required deposit to a debt service reserve fund or other reserve fund;

(E) All or a portion of eligible Issuance Costs; and

(F) Any bond insurance or other credit enhancement.

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Sec. 3. Findings.

The Council finds that:

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

(2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, pursuant to a plan of finance, in one or more series, in an aggregate principal amount not to exceed \$150 million and to make the Loan for the purpose of financing, refinancing, or reimbursing costs of the Project.

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

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

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

Sec. 4. Bond authorization.

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

(1) The issuance, sale, and delivery of the Bonds, pursuant to a plan of finance, in one or more series, in an aggregate principal amount not to exceed \$150 million; and

(2) The making of the Loan.

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

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

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Sec. 5. Bond details.

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

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

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

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

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

(e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Borrower subject to the approval

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of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

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

Sec. 6. Sale of the Bonds.

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

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

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

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

Sec. 7. Payment and security.

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

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

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

Sec. 8. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the Bonds and to make the Loan to the Borrower. Each of the

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Financing Documents and each of the Closing Documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

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

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

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

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

Sec. 9. Authorized delegation of authority.

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

Sec. 10. Limited liability.

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

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

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

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

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

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

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

Sec. 11. District officials.

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

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

Sec. 12. Maintenance of documents.

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

Sec. 13. Information reporting.

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

Sec. 14. Disclaimer.

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

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

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

Sec. 15. Expiration.

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

Sec. 16. Severability.

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

Sec. 17. Compliance with public approval requirement.

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

Sec. 18. Transmittal.

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

Sec. 19. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-315

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve Modification Nos. 6 and 7 and proposed Modification No. 8 to Contract No. CW24576 with Intergraph Corporation to manage and maintain the District’s Computer Aided Dispatch System 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 “Modification Nos. 6, 7, and 8 to Contract No. CW24576 Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists a need to approve Modification Nos. 6 and 7 and proposed Modification No. 8 to Contract No. CW24576 with Intergraph Corporation to manage and maintain the District of Columbia’s Computer Aided Dispatch System and to authorize payment for the goods and services received and to be received under the contract.

(b) On September 30, 2013, the District awarded Contract No. CW24567 to Intergraph Corporation, with a base year for the period from October 1, 2013, through September 30, 2014.

(c) The District exercised the first option year of Contract No. CW24576, for the period from October 1, 2014, through September 30, 2015.

(d) By Modification No. 6, on September 28, 2015, the District partially exercised the second option year of Contract No. CW24576 in the estimated amount of \$118,065.12 for the period from October 1, 2015, through October 31, 2015.

(e) By Modification No. 7, on October 23, 2015, the District further partially exercised the second option year of Contract No. CW24576 in the estimated amount of \$236,130.24 for the period from November 1, 2015, through December 31, 2015.

(f) By Modification No. 8, the District proposes to exercise the remainder of the second option year of Contract No. CW24576 for the period from January 1, 2016, through September 30, 2016 in the estimated amount of \$1,062,586.08, making the total estimated amount for option year two \$1,416,781.44.

(g) Council approval is necessary because these modifications increase the contract by more than \$1 million during a 12-month period.

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(h) Approval is necessary to allow the continuation of these vital services. Without this approval, Intergraph Corporation cannot be paid for goods and services provided in excess of \$1 million for the contract period from October 1, 2015, through September 30, 2016.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modification Nos. 6, 7, and 8 to Contract No. CW24576 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

21-316

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve Modification Nos. 001 and 005 and proposed Modification No. 002 to Contract No. DCFA-2015-C-2292SS with PFC Associates, LLC to operate and provide occupational and ancillary health care services for covered employees at the Police and Fire Clinic 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 "Modification Nos. 001, 002, and 005 to Contract No. DCFA-2015-C-2292SS Approval and Payment Authorization Emergency Declaration Resolution of 2015".

Sec. 2. (a) There exists an immediate need to approve Modification Nos. 001 and 005 and proposed Modification No. 002 to Contract No. DCFA-2015-C-2292SS with PFC Associates, LLC ("PFC") to operate and provide occupational and ancillary health care services for all covered employees at the Police and Fire Clinic ("Clinic") and to authorize payment for the goods and services received and to be received under the contract.

(b) On July 1, 2015, the Office of Contracting and Procurement ("OCP"), on behalf of the District Metropolitan Police Department, entered into Contract No. DCFA-2009-C-2292SS with PFC to operate and provide occupational and ancillary healthcare services for covered employees at the Clinic from July 1, 2015, through October 31, 2015, in the total estimated contract amount of \$4,399,726.33.

(c) On October 28, 2015, by Modification No. 001, OCP extended the term of the contract for the period from November 1, 2015, through November 21, 2015, in the estimated contract amount of \$893,321.38.

(d) On November 19, 2015, by Modification No. 005, OCP extended the term of the contract from November 22, 2015, to December 1, 2015, with no change in the estimated contract amount.

(e) OCP now desires to extend the term of the contract for the period from December 1, 2015, through June 30, 2016, in the estimated contract amount of \$8,232,555.00. The total estimated contract amount for the extension of the current contract is \$9,125,876.38.

(f) Council approval is necessary because the modifications increase the contract by more than \$1 million during a 12-month period.

ENROLLED ORIGINAL

(g) Approval is necessary to allow the continuation of these vital services. Without this approval, PFC cannot be paid for goods and services provided in excess of \$1 million for the contract period from November 1, 2015, through June 30, 2016.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modification Nos. 001, 002, and 005 to Contract No. DCFA-2015-C-2292-SS 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

21-317

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the sense of the Council that the District of Columbia Housing Authority prioritize and develop a “Build First” model of reinvestment in Greenleaf public housing as part of its redevelopment strategy.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council Supporting a “Build First” Model of Reinvestment in Greenleaf Public Housing Resolution of 2015”.

Sec. 2. The Council finds that:

(1) Greenleaf public housing, located in Southwest D.C., makes up 455 important units of public housing, much of which is dedicated to senior and disabled residents and multiple-bedroom family housing. Greenleaf public housing includes Greenleaf Gardens, Greenleaf Senior, Greenleaf Extension, and Greenleaf Addition, all located in Ward 6.

(2) The District of Columbia Housing Authority (“DCHA”) has initiated a planning process for the reinvestment and replacement of Greenleaf public housing.

(3) The Greenleaf and surrounding Southwest community share significant concerns regarding potential displacement of current Greenleaf public housing residents as part of the DCHA future redevelopment.

(4) The Office of Planning, as part of its extensive small area plan process, recognized these concerns and included recommendations in its Southwest Neighborhood Plan, which the Council approved on July 14, 2015.

(5) The Neighborhood Plan recommends developing a strategy for keeping current residents in the community during and after construction and redevelopment, including identifying potential “Build First” sites.

(6) The Southwest community, including Advisory Neighborhood Commission 6D, the Southwest Neighborhood Assembly, and the Southwest Community Benefits Coordinating Committee, has expressed a strong desire to support a “Build First” model for Greenleaf public housing replacement.

(7) In light of DCHA’s status as an independent public agency, and recognizing the importance of protecting the needs of the Greenleaf and Southwest community, the Council makes a statement on the issue.

ENROLLED ORIGINAL

Sec. 3. It is the sense of the Council that DCHA should prioritize and develop a “Build First” model of reinvestment in Greenleaf public housing to better preserve this important housing availability and the Southwest community that currently calls it home.

Sec. 4. The Council shall transmit a copy of this resolution, upon its adoption, to the District of Columbia Housing Authority, the Deputy Mayor for Planning and Economic Development, and the Office of Planning.

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

ENROLLED ORIGINAL

A RESOLUTION

21-318

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To confirm the reappointment of Ms. Sandra Mattavous-Frye as the People's Counsel.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "People's Counsel Sandra Mattavous-Frye Confirmation Resolution of 2015".

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

Ms. Sandra Mattavous-Frye
2411 First Street, N.W.
Washington, D.C. 20001
(Ward 5)

as the People's Counsel, established by section 1 of An Act To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88 Stat. 1975; D.C. Official Code § 34-804), for a term to end June 13, 2019.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-319

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To establish the date by which the Mayor shall submit to the Council the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 2017, to identify information and documentation to be submitted to the Council with the proposed budget for the government of the District of Columbia for the fiscal year ending September 30, 2017, and to require the Mayor to submit performance plans and accountability reports pursuant to Title XIV-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fiscal Year 2017 Budget Submission Requirements Resolution of 2015”.

Sec. 2. Pursuant to section 442(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 798; D.C. Official Code § 1-204.42(a)) (“Home Rule Act”), the Mayor shall submit to the Council, and make available to the public, not later than March 24, 2016, the proposed budget for the District government and related budget documents required by sections 442, 443, and 444 of the Home Rule Act (D.C. Official Code §§ 1-204.42, 1-204.43, and 1-204.44), for the fiscal year ending September 30, 2017.

Sec. 3. The proposed budget shall contain:

(1) Required budget documents as follows:

(A) For the entire District government, including all subordinate agencies, independent agencies, independent instrumentalities, and independent authorities (“agency”), the proposed budget shall contain a summary statement or table showing the following:

(i) The revenues by source (local, dedicated tax, special purpose, federal, and private);

(ii) Expenditures by Comptroller Source Group; and

(iii) Projections for revenues and expenditures for the Fiscal Year 2016 approved budget and for the Fiscal Year 2017 proposed budget.

(B) For each agency or separate Organizational Level I line item in the District’s annual budget, summary statements or tables showing all sources of funding by source (local, dedicated tax, special purpose, federal, private, and intra-district) for Fiscal Years 2014 and 2015;

ENROLLED ORIGINAL

(C) For each agency or separate Organizational Level I line item in the District's annual budget, a summary statement or table showing projections of all sources of funding by source (local, dedicated tax, special purpose, federal, private, and intra-district), for the Fiscal Year 2016 approved budget and for the Fiscal Year 2017 proposed budget;

(D) For each agency or separate Organizational Level I line item in the District's annual budget, summary statements or tables showing expenditures by Comptroller Source Group and by Program (Organizational Level II), delineated by Activity (Organizational Level III), by source of funding for Fiscal Years 2014 and 2015, as well as projections for the Fiscal Year 2016 approved budget and for the Fiscal Year 2017 proposed budget;

(E) For each Program (Organizational Level II), a delineation by Comptroller Source Group;

(F) A narrative description of each program and activity that explains the purpose and services to be provided; and

(G) A summary statement or table showing, by Comptroller Source Group and by Program, delineated by Activity, authorized full-time equivalents ("FTEs") by revenue source (local, dedicated tax, special purpose, federal, private, intra-district, and capital).

(2) School-related budget documents as follows:

(A) A summary statement or table showing the number of full-time and part-time school-based personnel in the District of Columbia Public Schools, by school level (e.g., elementary, middle, junior high, pre-kindergarten through 8th grade, senior high school) and school, including school-based personnel funded by other District agencies, federal funds, or private funds;

(B) A summary statement or table showing the number of special education students served by school level (e.g., elementary, junior high), including the number of students who are eligible for Medicaid services; and

(C) For each District of Columbia public school, a summary statement or table of the local funds budget, including the methodology used to determine each school's local funding.

(3) Agency budgets shall be structured to ensure accessibility and transparency for how taxpayer dollars will be disbursed. Agency budget structures should align with current or proposed agency organizational structures and programs and clearly indicate the source and amount of funding needed for each individual program, facility, or venue identified on the agency's website. Agency program and activity titles shall be specific and descriptive and reflect the programs and activities within the agency. The following shall be eliminated:

(A) Program titles that reiterate the agency name;

(B) Duplicate program and activity titles within an agency; and

(C) Discretionary budget that is not clearly identified and explained.

(4) A Capital Improvements Plan ("CIP") for Fiscal Years 2017 through 2022 that is based on the current approved CIP. The CIP shall include all capital projects (inclusive of subprojects) as defined in section 103(8) of the Home Rule Act. The CIP shall be presented separately in one volume and shall include the following information:

(A) A detailed description for each project with planned allotment in Fiscal Years 2017 through 2022. The projects shall be organized alphabetically by title,

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summarized by owner agency, and listed in a table of contents. Each project description shall include the following:

- (i) A specific scope consistent with the project title;
- (ii) The purpose;
- (iii) The current status;
- (iv) The location (address and ward, if applicable);
- (v) A facility name or identifier, if applicable;
- (vi) Appropriate maps or other graphics;
- (vii) The estimated useful life;
- (viii) The current estimated full-funded cost;
- (ix) Proposed sources of funding;
- (x) Current allotments, expenditures, and encumbrances;
- (xi) Proposed allotments by fiscal year;
- (xii) For each pool project, a Fiscal Year 2017 spending plan that identifies the specific District assets that will be improved with the proposed budget;
- (xiii) The change in budget authority request from the prior year;
- (xiv) The number of FTE positions and the amount of Personnel Services budget to be funded with the project, as a percentage of the proposed allotment; and
- (xv) The estimated impact that the project will have on the annual operating budget;

(B) The proposed Highway Trust Fund budget and the projected local Highway Trust Fund cash flow for Fiscal Years 2016 through 2022, with actual expenditures for Fiscal Year 2015;

(C) A capital budget pro forma setting forth the sources and uses of new allotments by fund detail and owner agency;

(D) An explanation of the debt cap analysis used to formulate the capital budget and a table summarizing the analysis by fiscal year, which shall include total borrowing, total debt service, total expenditures, the ratio of debt service to expenditures, and the balance of debt service capacity for each fiscal year included in the CIP; and

(E) An analysis, prepared by the Mayor, of whether the CIP is consistent with the Comprehensive Plan, Transportation Improvement Program, Washington Metropolitan Area Transit Authority capital budget, and other relevant planning programs, proposals, or elements developed by the Mayor as the central planning agency for the District. The Mayor's analysis shall highlight and explain any differences between the CIP and other programs and plans on a project-by-project basis.

(5) Additional documents as follows:

(A) Copies of all documents referenced in and supportive of the budget justification for Fiscal Year 2017, including the proposed Fiscal Year 2017 Budget Request Act, and any other legislation that is necessary for implementation of the proposed budget for the District for Fiscal Year 2017;

(B) A table of all intra-district funds included in the Fiscal Year 2017 budget, including the receiving and transmitting agency, and whether there is a signed Memorandum of Understanding for each intra-district funding arrangement;

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(C) A table showing all tax-supported debt issued and authorized within and above the debt cap and spending authority remaining within the cap;

(D) A summary table, which shall include a list of all intra-agency and inter-agency changes of funding, with a narrative description of each change sufficient to provide an understanding of the change in funds and its impact on services;

(E) A crosswalk, for any agency that has undergone a budget restructuring in Fiscal Year 2016 or which would undergo a proposed budget restructuring in Fiscal Year 2017, that shows the agency's allocations before the restructuring under the new or proposed structure;

(F) A table showing each agency's actual fringe rate and amount for Fiscal Years 2014 and 2015, the approved rate and amount for Fiscal Year 2016, and the proposed rate and amount for Fiscal Year 2017; and

(G) A spreadsheet detailing each revenue source by line item, including the actual amount received for that revenue line item in the prior 2 fiscal years and the amount projected to be received for that revenue line item in the proposed budget.

Sec. 4. Pursuant to Title XIV-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective May 16, 1995 (D.C. Law 11-16; D.C. Official Code § 1-614.11 *et seq.*), the Mayor shall submit to each Councilmember and the Council Officers, and make available to the public, not later than January 31, 2016, all performance accountability reports for Fiscal Year 2015 that cover all publicly funded activities of each District government agency.

Sec. 5. The Mayor and the Chief Financial Officer shall include in the submission of the budget a presentation of the budget for the University of the District of Columbia with detail similar to that provided for subordinate agencies.

Sec. 6. The submission of the budget shall include actual copies of agency budget enhancement requests, including each agency's "Form B," consistent with section 47-318.05a of the District of Columbia Official Code.

Sec. 7. Pursuant to section 446 of the Home Rule Act, the Council's budget review period shall begin after the date that all materials required to be submitted by sections 2 through 6 have been submitted in accordance with this resolution and the Council's rules.

Sec. 8. The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 9. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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A RESOLUTION

21-320

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to amend Chapter 46 of Title 47 of the District of Columbia Official Code to clarify the real property tax abatement for Lot 72 in Square 5041 and Lot 811 in Square 5056.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Emergency Declaration Resolution of 2015”.

Sec. 2. (a) It is necessary to pass emergency legislation to address the immediate concerns related to a residential property development in Ward 7.

(b) In December 2012, the Council passed the Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Act of 2012, effective April 20, 2013 (D.C. Law 19-255; 60 DCR 987), which amended Chapter 46 of Title 47 of the District of Columbia Official Code to abate the imposition of taxes on certain real property, Lot 808, Square 5041 and Lot 811, Square 5056, known as the Parkside Parcel E and J Mixed-Income Apartments, a development located in the Parkside neighborhood in Ward 7.

(c) In December 2014, the Council passed the Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Temporary Amendment Act of 2014, effective April 30, 2015 (D.C. Law 20-251; 62 DCR 1876). The temporary legislation will expire on December 11, 2015.

(d) The tax abatement allowed an annual real property tax abatement equal to the amount of the real property taxes assessed and imposed up to a total maximum amount for both lots of \$600,000 per year for 10 property tax years, commencing at the beginning of the first month following the date of the issuance of a final certificate of occupancy.

(e) When the Council passed the bill, Parkside Residential, LLC owned parcels E and J. The company has since partnered with additional entities for the development, creating a new ownership entity.

(f) The emergency and temporary legislation modified the language of the tax abatement to include only references to the square and lots for development in lieu of the names of developers and development projects. The legislation also changed the 10-year \$600,000 per year real property tax abatement for both lots into a 10-year \$300,000 per year real property tax

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abatement for each lot. These changes were made in light of the then pending closing on the property.

(g) The developer has closed on Lot 72, formerly Lot 808, and construction has begun. Emergency legislation is necessary to continue the tax abatements and ensure that the language of the tax abatement remains consistent with the existing financing.

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 Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

21-321

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to amend the Animal Control Act of 1979 to clarify that animals at educational institutions are permitted for educational and instructional purposes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Classroom Animal for Educational Purposes Emergency Declaration Resolution of 2015".

Sec. 2. (a) There is an immediate need to amend section 9(h) of the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code § 8-1808(h)), to make clear that animals at educational institutions are permitted for educational and instructional purposes.

(b) The Department of Health has previously notified schools across the District that they must remove animals – such as geckos, frogs, toads, tadpoles, and other species historically used for instructional purposes but not specifically cited in section 9 of the Animal Control Act of 1979 – or the District will seize and destroy them.

(c) To address this concern, the Council enacted the Classroom Animal for Educational Purposes Clarification Second Temporary Act of 2015 on April 30, 2015. Since its passage, a number of schools have obtained and maintained animals on the school premises to provide teaching and learning opportunities for students.

(d) Because a number of schools already maintain animals on their premises, this emergency action is necessary to prevent classroom and instructional animals from being removed and ensure that the schools can continue providing teaching and learning opportunities for students with living creatures that are treated and maintained humanely and safely.

(e) This emergency action is necessary to prevent a gap in the law as the temporary legislation that is currently in effect, the Classroom Animal for Educational Purposes Clarification Second Temporary Amendment Act of 2015, effective April 30, 2015 (D.C. Law 20-255; 62 DCR 2257), expires on December 11, 2015. The permanent version of this emergency measure, the Educational and Instructional Animals Clarification Amendment Act of 2015, has not yet been passed by the Council.

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

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Classroom Animal for Educational Purposes Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-322

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to order the closing of a portion of the public alley system in Square 70, bounded by 22nd Street, N.W., N Street, N.W., 21st Street, N.W., New Hampshire Avenue, N.W., and M Street, N.W., in Ward 2.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Closing of a Public Alley in Square 70, S.O. 15-23283, Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve emergency legislation to close a portion of the public alley system in Square 70, S.O. 15-23283.

(b) The alley is owned by the 1255 22nd Street Limited Partnership (“the Applicant”) and is located at the northeast corner of 22nd Street, N.W., and Ward Place, N.W., in Ward 2. The Applicant’s property includes Lots 193 and 194; the alley is located along the eastern edge of Lot 193. Lot 193 contains a seven-story office building that is vacant except for a Post Office, and Lot 193 contains a parking lot.

(c) The Applicant intends to convert the office space into residential units and build a connecting nine-story residential building on the site of the existing parking lot. As part of the development plans, the Applicant will maintain public access over the existing 30-foot-wide alley, by way of a tunnel-like passage, created by the construction of the building, with a width of 30 feet and a height of 16 feet.

(d) The Applicant will dedicate a perpetual easement over the closed portion of the alley to allow continued access to the new residential units, as well as to the rear of two properties fronting on N Street, N.W., that abut the alley (Lots 153 and 192).

(e) A permanent version of this legislation passed first reading unanimously on November 3, 2015 and will be considered by the Council on second reading on December 1, 2015. Making the closing effective sooner than congressional review would allow will enable the project to proceed without the risk of delay.

Sec. 3. The Council of the District of Columbia determines the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Closing of a Public Alley in Square 70, S.O. 15-23283, Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-323

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve multiyear Contract No. DCPL-2016-C-0005 with Smoot/Gilbane III MLK, A Joint Venture, to provide Construction Manager At-Risk services for the renovation of the Martin Luther King Jr. Memorial Library from the date of award through December 31, 2019.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Proposed Multiyear Contract No. DCPL-2016-C-0005 Approval Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve multiyear Contract DCPL-2016-C-0005 with Smoot/Gilbane III MLK, A Joint Venture, for Construction Manager At-Risk (“CMAR”) services for the renovation of the Martin Luther King Jr. Memorial Library (“MLK Library”). The period of performance is from the date of award through December 31, 2019.

(b) On April 30, 2015, the District of Columbia Public Library (“DCPL”) issued a Request for Proposals for a contractor to provide Phase 1 of CMAR services for the renovation of the MLK Library as part of a 2-step source selection process (“selection process”). On August 28, 2015, the Technical Evaluation Panel compiled the Step 2 report recommending award to Smoot/Gilbane III MLK, A Joint Venture, the highest-scored offeror after Step 2 presentations, and transmitted the results to the DCPL Chief Procurement Officer. The Chief Procurement Officer, after performing her own independent assessment of each offeror, recommends that the subject contract for Design-Build Services be awarded to Smoot/Gilbane III MLK, A Joint Venture, the highest-scored offeror in the Step 2 selection process.

(c) The estimated total expenditure under this multiyear delivery of services contract with Smoot/Gilbane III MLK, A Joint Venture, is \$9,072,102 for Phase One of the contract.

(d) DCPL now seeks Council approval of this multiyear contract consisting of a performance period from the date of award through December 31, 2019.

(e) Council approval is necessary to allow the performance of and payment for these vital services for the term of this multiyear contract.

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 Proposed Multiyear Contract No. DCPL-2016-C-0005 Approval Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-324

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to extend Contract No. DCKV-2007-C-0001 with Industrial Bank, N.A. to provide secondary collections services for photo enforcement, parking, and moving tickets, and to authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. DCKV-2007-C-0001 Extension Approval and Payment Authorization Emergency Declaration Resolution of 2015".

Sec. 2. (a) There exists an immediate need to approve the extension of Contract No. DCKV-2007-C-0001 with Industrial Bank, N.A. to provide secondary collections services for photo enforcement, parking, and moving tickets and to authorize payment for the services received and to be received under the contract.

(b) On September 30, 2015, the Office of the Chief Financial Officer executed Modification No. 30, extending Contract No. DCKV-2007-C-0001 from October 1, 2015, through November 30, 2015, in the amount of \$700,000.

(c) Proposed Modification No. 31 will extend Contract No. DCKV-2007-C-0001 from December 1, 2015, through March 31, 2016, in the amount of \$1.4 million. This modification also provides that the District may further extend the period of this contract for up to 3 2-month option periods, each in the amount of \$700,000. If all options are exercised, the not-to-exceed amount of the 12-month extension will be \$4.2 million.

(d) Council approval is necessary because these modifications increase the contract to one of more than \$1 million during a 12-month period, and to allow the continuation of these vital services and Industrial Bank, N.A. to continue to perform under 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. DCKV-2007-C-0001 Extension 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

21-325

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to amend the Business Improvement Districts Act of 1996 to clarify that the business improvement district shall submit a plan to the Mayor to request to extend its charter for a period of 5 years.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Business Improvement Districts Charter Renewal Emergency Declaration Resolution of 2015”.

Sec. 2. (a) In 2014, the Council passed the Business Improvement Districts Amendment Act of 2014, effective February 25, 2015 (D.C. Law 20-161; D.C. Official Code § 2-1215.01 *et seq.*) (“Act”). The Act modernized the law concerning business improvement districts (“BID”).

(b) The Act inadvertently changed the way that a BID’s charter was extended. The inadvertent change requires the Board and the membership of a BID to first approve a BID plan and then submit it to the Mayor requesting that its operations be extended for 5 years. Historically, BID plans were approved and submitted to the Mayor in accordance with the BID’s bylaws. The change in the charter renewal procedure that was made in the Act altered the timing and administrative burden of a BID applying to renew its charter. The change will have a negative impact on the BIDs, especially on smaller neighborhood BIDs.

(c) The Adams Morgan BID is in the process of organizing its plan to renew its charter and without this technical amendment, the Act would require the BID to meet a higher threshold and would add uncertainty to its renewal extension process.

(d) Emergency legislation is necessary to expeditiously return the BID charter renewal procedure to the way it had been since 2002, when the first BID term extension took place.

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 Business Improvement Districts Charter Renewal Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-326

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to authorize the Mayor to assemble the W Street Trash Transfer site, Lots 36, 41, and 802 in Square 3942 and Parcels 0143/107 and 0143/110, through the use of eminent domain.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Lots 36, 41, and 802 in Square 3942 and Parcels 0143/107 and 0143/110 Eminent Domain Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve the use of eminent domain to acquire Lots 36, 41, and 802 in Square 3942 and Parcels 0143/107 and 0143/110.

(b) The District of Columbia Water and Sewer Authority (“DC Water”) currently operates a site south of N Place, S.E., north of the Anacostia River and between 1st and Canal Streets, S.E. (“DC Water Site”).

(c) Pursuant to the Anacostia Waterfront Framework Plan, the District plans to dispose of and develop a portion of the DC Water Site so as to leverage other large-scale District investments in the Capitol Riverfront/Near Southeast neighborhood such as the South Capitol Street Bridge project and Nationals Park thereby serving to accelerate and promote economic vitality and enhance economic development in the District of Columbia.

(d) For the planned disposition and development to proceed, it is necessary for DC Water to relocate the functions currently at the DC Water Site.

(e) The District of Columbia and DC Water have entered into a Memorandum of Understanding for DC Water to relocate a portion of the uses of the DC Water Site to a site in Prince Georges County, Maryland.

(f) To ensure adequate response times to water and sewer emergencies, DC Water must also maintain a site west of the Anacostia River.

(g) The District desires to relocate the current DC Water Site uses not being relocated to the Prince Georges County site, including customer care and sewer service operations, to Lots 36, 41, and 802 in Square 3942 and Parcels 0143/107 and 0143/110 (“W Street Site”).

(h) The W Street Site is currently occupied by a trash transfer station.

(i) The trash transfer station is a blighting factor in Brentwood and its surrounding communities.

ENROLLED ORIGINAL

(j) Residents of Brentwood and the surrounding communities have concerns regarding the noxious fumes that emanate from the trash transfer station and pervasive vermin, and have complained that there is an increased incidence of health concerns.

(k) The W Street Site trash transfer station continues to operate as an open air trash transfer station, which allows its pungent odors to reach much farther than they would if the facility were closed.

(l) Since August 2012, the District Department of the Environment has conducted at least 37 inspections and issued 8 notices of infractions to the W Street Site trash transfer station.

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 Lots 36, 41, and 802 in Square 3942 and Parcels 0143/107 and 0143/110 Eminent Domain Authorization Emergency Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-327

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to include specified people in the category of a sibling for the purpose of ensuring that foster children have connections with siblings.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Encouraging Foster Children To Have Connections with Siblings Emergency Declaration Resolution of 2015”.

Sec. 2. (a) Title IV-E of the Social Security Act, approved June 17, 1980 (P.L. 96-272; 42 USC § 670 *et seq.*) (“Title IV-E”), provides federal funds to states and the District of Columbia for foster care and guardianship and adoption assistance programs.

(b) Section 209 of the Preventing Sex Trafficking and Strengthening Families Act, approved September 29, 2014 (128 Stat. 1941; 42 U.S.C. §§ 671 and 675), requires states and the District, as a condition of receiving Title IV-E funds, to encourage the placement of foster children with siblings by including in the category of a sibling individuals who would have been considered a sibling but for the termination or disruption of parental rights.

(c) For the District to be eligible for Title IV-E funding, it must enact legislation by January 1, 2016, that encourages the placement of foster children with siblings.

(d) Emergency legislation is necessary to ensure that the District of Columbia maintains compliance with the federal requirements and continues to be eligible for Title IV-E funding.

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 Encouraging Foster Children To Have Connections with Siblings Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-328

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve Modification Nos. 2, 3, and 4 to Contract No. DCAM-14-NC-0099A with RWD Consulting, LLC, for consolidated maintenance services for the John A. Wilson Building, and to authorize payment in the aggregate amount of \$1,332,677.33 for the goods and services received and to be received under these modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modification Nos. 2, 3, and 4 to Contract DCAM-14-NC-0099A Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Modification Nos. 2, 3, and 4 to Contract No. DCAM-14-NC-0099A with RWD Consulting, LLC, for consolidated maintenance services for the John A. Wilson Building, and to authorize payment in the aggregate amount of \$1,332,677.33 for the goods and services received and to be received under the modifications.

(b) The underlying contract was competitively bid, awarded to RWD Consulting, LLC, and previously approved by the Council in the amount of \$1,588,111.96 for the base year as CA 20-536. Thereafter, Modification No. 2 was issued to partially exercise Option Year One with a value of \$266,535.47. Modification No. 3 also partially exercised Option Year One and had a value of \$266,535.47. Modification Nos. 2 and 3 had an aggregate value of \$533,070.94 and did not require Council approval.

(c) Modification No. 4 will cause the aggregate value of the modifications issued, after the Council’s last approval of the base contract, to exceed the \$1 million threshold pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Modification No. 4 in the amount of \$799,606.39 is necessary to compensate RWD Consulting, LLC, for work completed and to be completed pursuant to the modification.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Modification Nos. 2, 3, and 4 to Contract No. DCAM-14-NC-0099A 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

21-329

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve Modification Nos. 4, 5, and 6 to Contract No. DCAM-14-NC-0099B with Spectrum Management, LLC, for consolidated maintenance services for One Judiciary Square, and to authorize payment in the aggregate amount of \$2,969,289.60 for the goods and services received and to be received under the modifications.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Modification Nos. 4, 5, and 6 to Contract DCAM-14-NC-0099B Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Modification Nos. 4, 5, and 6 to Contract No. DCAM-14-NC-0099B with Spectrum Management, LLC, for consolidated maintenance services for One Judiciary Square, and to authorize payment in the aggregate amount of \$2,969,289.60 for the goods and services received and to be received under the modifications.

(b) The underlying contract was competitively bid, awarded to Spectrum Management, LLC, and previously approved by the Council in the amount of \$2,679,770.92 for the base year as CA 20-537. Thereafter, Modification No. 4 was issued to partially exercise Option Year One with a value of \$613,013.92. Modification No. 5 also partially exercised Option Year One and had a value of \$276,749.28. Modification Nos. 4 and 5 had an aggregate value of \$889,763.20 and did not require Council approval.

(c) Modification No. 6 will cause the aggregate value of the modifications issued, after the Council’s last approval of the base contract, to exceed the \$1 million threshold pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51).

(d) Approval of Modification No. 6 in the amount of \$2,079,526.40 is necessary to compensate Spectrum Management, LLC, for work completed and to be completed pursuant to the modification.

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

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Modification Nos. 4, 5, and 6 to Contract No. DCAM-14-NC-0099B 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

21-330

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve Modification Nos. 4,5, and 6 and proposed Modification No. 7 to Contract No. GAGA-2013-C-0036 to provide Whole School Whole Child Program services to improve the quality of in-school support and afterschool programming to the District of Columbia Public Schools and to authorize payment for the services received and to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Contract No. GAGA-2013-C-0036 Modification Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists a need to approve Modification Nos. 4, 5, and 6 and proposed Modification No. 7 to Contract No. GAGA-2013-C-0036 to provide Whole School Whole Child Program services to District of Columbia Public Schools and to authorize payment for the services received and to be received under the contract.

(b) On September 30, 2015, by Modification No. 4, the District of Columbia Public Schools exercised a partial option of option year two of Contract No. GAGA-2013-C-0036 to provide Whole School Whole Child Program services from October 1, 2015, through October 31, 2015, in the amount of \$141,111.12.

(c) On October 6, 2015, by Modification No. 5, the District of Columbia Public Schools exercised a partial option of option year two of Contract No. GAGA-2013-C-0036 to provide Whole School Whole Child Program services from November 1, 2015, through November 30, 2015, in the amount of \$141,111.12.

(d) On November 1, 2015, by Modification No. 6, the District of Columbia Public Schools exercised a partial option of option year two of Contract No. GAGA-2013-C-0036 to provide Whole School Whole Child Program services from December 1, 2015, through December 31, 2015, in the amount of \$141,111.12.

(e) Modification No. 7 is now necessary to exercise the remainder of option year two, in the amount of \$846,666.64 for the total option year two amount of \$1.27 million.

(f) Council approval is necessary because these modifications increase the total expenditure under the contract to more than \$1 million during a 12-month period.

ENROLLED ORIGINAL

(g) Approval is necessary to allow the continuation of these vital services. Without this approval, City Year, Inc. cannot be paid for services provided in excess of \$1 million for the contract period October 1, 2015 through September 30, 2016.

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. GAGA-2013-C-0036 Modification 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

21-331

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve Change Order Nos. 001 and 002 to Contract No. DCAM-14-NC-0046A with DC Partners for the Revitalization of Education Projects to complete the exercise of Option Year 002 and to authorize payment in the not-to-exceed amount of \$9.8 million for the goods and services received and to be received under the contract for the period of Option Year 002..

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Exercise of Option Year 002 of Contract No. DCAM-14-NC-0046A Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Change Order Nos. 001 and 002 to Contract No. DCAM-14-NC-0046A with DC Partners for the Revitalization of Education Projects (“DCPEP”) for the exercise of the remainder of Option Year 002 of the Agreement for Program Management Services for the DCPS Portfolio. The changes orders exercise, in full, the last option to extend the term of the contract and establish an aggregate not-to-exceed amount of \$9.8 million for Option Year 002. Council approval is necessary to authorize payment to DCPEP for the goods and services received and to be received under the contract and change orders for the period of Option Year 002.

(b) The Department of General Services awarded the underlying contract with DCPEP to provide program management services for the District of Columbia Public Schools portfolio and certain legacy projects in the Department of Parks and Recreation portfolio. The contract was submitted to the Council for review and approval and was approved as CA20-0290. Subsequently, the Department of General Services exercised the first of the 2 one-year options to extend the term of the contract; that action was also submitted to the Council for review and approval and was approved as CA20-0522. Thereafter, the Department of General Services partially exercised the second option year and issued Change Order No. 001 to the partial exercise, the aggregate value of which was \$975,000.

(c) Change Order No. 002 will cause the aggregate value of Option Year 002 to exceed \$1 million.

(d) Council approval of Change Order No. 002 is required pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), because the change order will increase the total expenditure under Option

ENROLLED ORIGINAL

Year 002 of Contract No. DCAM-14-NC-0046A to an amount in excess of \$1 million during a 12-month period.

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 Exercise of Option Year 002 of Contract No. DCAM-14-NC-0046A 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

21-332

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve Modification Nos. 3, 4, 4A, 5, and 6 to Contract No. GAGA-2013-C-0029 to allow the District of Columbia Public Schools to continue purchasing equipment under the American Express Buy Down Account Program 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. GAGA-2013-C-0029 Modification Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Modification Nos. 3, 4, 4A, 5, and 6 to Contract No. GAGA-2013-C-0029 to continue option year 2 of the American Express Buy Down Account Program for the District of Columbia Public Schools.

(b) On September 30, 2015, by Modification No. 3, the District of Columbia Public Schools exercised a partial option of option year 2 of Contract No. GAGA-2013-C-0029 for the period October 1, 2015 through October 31, 2015 at no cost.

(c) On October 13, 2015, by Modification No. 4, the District of Columbia Public Schools exercised a partial option of option year 2 of Contract No. GAGA-2013-C-0029 for the period November 1, 2015 through November 30, 2015 at no cost.

(d) On November 17, 2015, by Modification No. 4A, the District of Columbia Public Schools exercised a partial option of option year 2 of Contract No. GAGA-2013-C-0029 for the period December 1, 2015 through December 30, 2015 at no cost.

(e) Modification No. 5 is now necessary to increase the contract from \$10 million to \$15 million.

(f) Modification No. 6 is now necessary to exercise the remainder of option year 2 in the amount of \$15 million.

(g) Council approval is necessary because these modifications increase the expenditures under the contract to an amount in excess of \$1 million during a 12-month period.

ENROLLED ORIGINAL

(h) Approval is necessary to allow the continuation of these vital services. Without this approval, American Express TRS Company, cannot be paid for services provided in excess of \$1 million for the contract period October 1, 2015 through September 30, 2016.

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. GAGA-2013-C-0029 Modification 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

21-333

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to approve Modification Nos. M0008, M0009, M0010, and M00011 to Human Care Agreement No. CW22955 to continue to provide family reunification homes to District youth on behalf of the Department of Youth and Rehabilitation Services.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Human Care Agreement No. CW22955 Modification Approval and Payment Authorization Emergency Declaration Resolution of 2015”.

Sec. 2. (a) There exists an immediate need to approve Modification Nos. M0008, M0009, M0010, and M0011 to Human Care Agreement No. CW22955 to continue to provide family reunification homes to District youth on behalf of the Department of Youth and Rehabilitation Services.

(b) Modification Nos. M0008, M0009, M0010, and M0011 to Human Care Agreement No. CW22955 modifies the Human Care Agreement by increasing the not-to-exceed amount of option year 3 from \$984,563.90 to \$1,636,118.40 for the period from January 5, 2015, through January 4, 2016.

(c) Council approval is necessary since this modification increases the contract to more than \$1 million during a 12-month period.

(d) Approval is necessary to allow the continuation of these vital services. Without this approval, Tricom Training Institute, cannot be paid for services provided in excess of \$1 million.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Human Care Agreement No. CW22955 Modification 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

21-334

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2015

To declare the existence of an emergency with respect to the need to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to provide that all costs associated with the payment of compensation, benefits, and other expenses to injured District government employees may be paid from the Employees' Compensation Fund.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Employees' Compensation Fund Clarification Emergency Declaration Resolution of 2015".

Sec. 2. Section 2342 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.42), currently prohibits the use of funds from the Employees' Compensation Fund for all costs associated with the payment of compensation, benefits, and other expenses to injured District government employees. It is necessary to amend section 2342 immediately to permit payment of all such costs from the Employees' Compensation Fund so that injured District government employees can continue to receive the compensation, benefits, and other expenses that they are entitled to receive.

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 Employees' Compensation Fund Clarification Emergency Amendment Act of 2015 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

- | | |
|---------|---|
| B21-526 | Office of the Attorney General Personnel and Procurement Clarification Amendment Act of 2015

Intro. 12-9-15 by Chairman Mendelson at the request of the Attorney General and referred to the Committee on Judiciary with comments from the Committee of the Whole |
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| B21-527 | Vacant and Blighted Buildings Enforcement Amendment Act of 2015

Intro. 12-15-15 by Councilmembers Silverman, May, Todd, Orange, Nadeau, Cheh, and Chairman Mendelson and referred to the Committee on Business, Consumer, and Regulatory Affairs with comments from the Committee on Finance and Revenue |
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| B21-528 | Strangulation Criminal Offense Act of 2015

Intro. 12-15-15 by Councilmember Bonds and referred to the Committee on Judiciary |
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| B21-529 | Special Police Officer Enhanced Security Amendment Act of 2015

Intro. 12-15-15 by Councilmember McDuffie and referred to the Committee on Judiciary |
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PROPOSED RESOLUTIONS

- PR21-460 District of Columbia Commemorative Works Committee Otto Condon
Confirmation Resolution of 2015
- Intro. 12-7-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole
-
- PR21-461 Commission on African Affairs Chibu Anyanwu Confirmation Resolution of
2015
- Intro. 12-7-15 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Housing and Community Development
-
- PR21-462 Commission on African Affairs Ikenna Udejiofor Confirmation Resolution of
2015
- Intro. 12-7-15 by Chairman Mendelson at the request of the Mayor. Retained
by the Council with comments from the Committee on Housing and
Community Development
-
- PR21-464 Citizens Review Panel on Child Abuse and Neglect Emily Smith Goering
Appointment Resolution of 2015
- Intro. 12-10-15 by Chairman Mendelson and referred to the Committee of the
Whole
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- PR21-465 Citizens Review Panel on Child Abuse and Neglect Michelle A. McLeod
Appointment Resolution of 2015
- Intro. 12-10-15 by Chairman Mendelson and referred to the Committee of the
Whole
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- PR21-466 Citizens Review Panel on Child Abuse and Neglect Marie Cohen
Appointment Resolution of 2015
- Intro. 12-10-15 by Chairman Mendelson and referred to the Committee of the
Whole
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PR21-467 Children and Youth Investment Trust Corporation Board of Directors Fred Taylor Appointment Resolution of 2015

Intro. 12-10-15 by Chairman Mendelson and referred to the Committee of the Whole

PR21-468 Children and Youth Investment Trust Corporation Board of Directors Jennifer Budoff Appointment Resolution of 2015

Intro. 12-10-15 by Chairman Mendelson and referred to the Committee of the Whole

PR21-469 District of Columbia Taxicab Commission Anthony Wash Confirmation Resolution of 2015

Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

PR21-470 District of Columbia Taxicab Commission Jonathan M. Zeitler Confirmation Resolution of 2015

Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

PR21-471 District of Columbia Taxicab Commission Michelle L. Pourciau Confirmation Resolution of 2015

Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

PR21-472 District of Columbia Taxicab Commission Elliott L. Ferguson, II Confirmation Resolution of 2015

Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

PR21-473 Science Advisory Board Burton W. Wilcke Confirmation Resolution of 2015

Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary

- PR21-474 Board of Zoning Adjustment Ms. Anita Butani D'Souza Confirmation Resolution of 2015
Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR21-475 Board of Dentistry Ms. Dianne J. Smith Confirmation Resolution of 2015
Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-476 Board of Dentistry Dr. Judith Henry Confirmation Resolution of 2015
Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-477 Board of Dentistry Dr. Renee A. McCoy-Collins Confirmation Resolution of 2015
Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-478 Board of Dentistry Dr. Wesley D. Thomas Confirmation Resolution of 2015
Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-479 Commission on the Fashion Arts and Events Kristopher Johnson-Hoyle Confirmation Resolution of 2015
Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs
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- PR21-480 Commission on the Fashion Arts and Events Jacqueline Rodgers-Hart Confirmation Resolution of 2015
Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs
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PR21-481 Commission on the Fashion Arts and Events Brandon Andrews Confirmation Resolution of 2015

Intro. 12-11-15 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

PR21-482 Sense of the Council Urging Congress to Adopt Comprehensive Gun Control Resolution of 2015

Intro. 12-15-15 by Councilmembers Grosso, Alexander, Bonds, Cheh, Evans, McDuffie, Orange, Silverman, Allen, Nadeau, Todd, May, and Chairman Mendelson. Retained by the Council with comments from the Committee on Judiciary and the Committee of the Whole

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

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

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

ANNOUNCES A PUBLIC HEARING ON

**BILL 21-0193, THE “BALLOT ACCESS MODERNIZATION
AMENDMENT ACT OF 2015”**

AND

**BILL 21-0194, THE “AUTOMATIC VOTER REGISTRATION
AMENDMENT ACT OF 2015”**

**Thursday, January 14, 2016, 1 p.m.
Room 123, John A. Wilson Building
1350 Pennsylvania Ave., N.W.
Washington, D.C. 20004**

On January 14, 2016, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will convene a public hearing to consider Bill 21-0193, the “Ballot Access Modernization Amendment Act of 2015”, and Bill 21-0194, the “Automatic Voter Registration Amendment Act of 2015”. The hearing will be held in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave, N.W., at 1 p.m.

The stated purpose of B21-0193 is to amend the District of Columbia Election Code of 1955 to require the Board of Elections (BOE) to implement a mobile application process for collecting petition signatures.

The stated purpose of B21-0194 is to amend the District of Columbia Election Code of 1955 to require BOE to accept electronic registration information from the Department of Motor Vehicles (DMV), and to use this information to register voters and maintain up-to-date voter rolls, provided that each person has an opportunity to opt out of automatic registration; and to amend the District of Columbia Traffic Amendment Act, 1925, to require DMV to provide BOE with electronic records containing the legal name, age, residence, and citizenship information and electronic signature of each person who may qualify as a qualified elector.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Kate Mitchell, Committee Director, at (202) 727-8275, or

via e-mail at kmitchell@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) **by close of business, January 11, 2016**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring **fifteen, single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically to kmitchell@dccouncil.us.

For witnesses who are unable to testify at the roundtable, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on January 29, 2016.**

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

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

AND

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

ANNOUNCE A JOINT PUBLIC HEARING ON

**BILL 21-385, THE “CITIZENS WITH INTELLECTUAL DISABILITIES CIVIL
RIGHTS RESTORATION ACT OF 2015”**

**WEDNESDAY, JANUARY 27, 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, and Councilmember Kenyan McDuffie, Chairperson of the Committee on the Judiciary, announce a joint public hearing on Bill 21-385, the “Citizens with Intellectual Disabilities Civil Rights Restoration Act of 2015.” The hearing will take place at 11:00 a.m. on Wednesday, November 27, 2015 in Room 412 of the John A. Wilson Building.

The purpose of this bill is to establish that civil commitment is no longer required for persons supported by the Department of Disability Services (DDS) in order to receive residential services. It ceases new civil commitments of persons with intellectual disabilities, except commitments for those found to be incompetent to stand trial in a criminal case. It terminates existing commitments unless a person or his or her substitute decision-maker provides informed consent to continue commitment to the Superior Court within 90 days of the effective date of the legislation. It creates the legal framework for supported decision making where people with intellectual disabilities can make decisions with the help of their families.

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 Monday, January 25, 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, February 10, 2015.

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

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

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

ANNOUNCES A PUBLIC HEARING ON

B21-0507, THE “CRIMINAL CODE REFORM COMMISSION AMENDMENT ACT OF 2015”

**Wednesday, January 6, 2016, 1:00 p.m.
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Wednesday, January 6, 2016, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will hold a public hearing on Bill 21-0507, the “Criminal Code Reform Commission Amendment Act of 2015”. The hearing will be held in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 1:00 p.m.

The stated purpose of Bill 21-0507, the “Criminal Code Reform Commission Amendment Act of 2015”, is to move responsibility for criminal code reform from the Sentencing and Criminal Code Revision Commission and establish the Criminal Code Reform Commission as an independent agency to analyze and propose reforms to the District’s criminal code.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Chanell Autrey, Legislative Counsel, at (202) 727-8272, or via e-mail at cautrey@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) **by close of business, January 4, 2016**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring **twenty copies** of their written testimony and, if possible, also submit a copy of their testimony electronically to cautrey@dccouncil.us. *Please note that this notice has been revised to reflect that witnesses may sign up to testify by close of business on January 4, 2016.*

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on January 20, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B21-525, Office of the Attorney General Personnel and Procurement Clarification Temporary Amendment Act of 2015, **B21-534**, Washington Metropolitan Area Transit Authority Safety Regulation Temporary Amendment Act of 2015, **B21-537**, Microstamping Implementation Temporary Amendment Act of 2015 were adopted on first reading on December 1, 2015. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on January 5, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA
EXCEPTED SERVICE APPOINTMENTS AS OF NOVEMBER 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
Jordan, Adrian	Senior Budget Analyst	7	Excepted Service - Reg Appt
Groves, Susanna	Senior Budget Analyst	7	Excepted Service - Reg Appt
Rummel, Jordan	Communications Specialist	2	Excepted Service - Reg Appt
Mansbach, Jeffrey	Legislative Counsel	5	Excepted Service - Reg Appt
Bailey, Jordan	Constituent Services Coordinator	1	Excepted Service - Reg Appt

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 21-151: Request to reprogram \$1,466,000 of Fiscal Year 2016 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office the Secretary on December 8, 2015. This reprogramming ensures that OSSE will be able to procure contractual services for the evaluation of the Community Services program and support various activities within the Elementary and Secondary Education program.

RECEIVED: 14 day review begins December 9, 2015

Reprog. 21-152: Request to reprogram \$686,084 of Fiscal Year 2016 Local funds budget authority within the Department of Human Services (DHS) was filed in the Office of the Secretary on December 8, 2015. This reprogramming ensures that DHS will be to fund eight additional FTEs and associated operating costs to support the Homeless Services Youth (HSY) program and the expansion of the Parent and Adolescent Support Services (PASS) program.

RECEIVED: 14 day review begins December 9, 2015

Reprog. 21-153: Request to reprogram \$4,383,492 of Fiscal Year 2016 Local funds budget authority within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary on December 11, 2015. This reprogramming will ensure that OSSE is able to procure contractual services and staff and will support costs associated with purchasing office supplies, travel, professional fees, grants, and information technology equipment.

RECEIVED: 14 day review begins December 12, 2015

Reprog. 21-154: Request to reprogram \$11,523,943 of Fiscal Year 2016 Local funds budget authority within the D.C. Fire and Emergency Medical Services Department (FEMS) was filed in the Office of the Secretary on December 11, 2015. This reprogramming will ensure that FEMS has adequate funding to cover longevity pay and overtime pay. As well as to procure information technology and training services.

RECEIVED: 14 day review begins December 12, 2015

Reprog. 21-155: Request to reprogram \$1,794,376 of Fiscal Year 2016 Local funds budget authority within the Department of Corrections (DOC) was filed in the Office of the Secretary on December 11, 2015. This reprogramming will ensure that DOC can procure critical safety, educational, pharmaceutical, information technology, culinary, and recreational supplies, in addition to furniture for the Central Detention Facility.

RECEIVED: 14 day review begins December 12, 2015

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: November 27, 2015
Petition Date: January 11, 2016
Roll Call Hearing Date: January 25, 2016

License No.: ABRA-100542
Licensee: Eritrean Cultural & Civic Center
Trade Name: Eritrean Cultural Center
License Class: Retailer’s Class “CX” Multi-Purpose Facility
Address: 2154-2166 24th Place, N.E.
Contact: J. Jackson: 202-251-1566

WARD 5 ANC 5C SMD 5C02

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

Requests a Change of Location. Total Occupancy Load of 1000. Live Entertainment Endorsement.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

HOURS OF LIVE ENTERTAINMENT

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: December 18, 2015
Petition Date: February 1, 2016
Hearing Date: February 16, 2016
Protest Hearing: April 6, 2016

License No.: ABRA-101229
Licensee: My Little Bistro and Shop, LLC
Trade Name: Taco-Ma Yucatan Chicken
License Class: Retailer's Class "C" Restaurant
Address: 353 Cedar Street, N.W.
Contact: Andrew Kline: 202 686-7600

WARD 4

ANC 4B

SMD 4B01

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. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on April 6, 2016 at 1:30 pm.

NATURE OF OPERATION

New Restaurant serving L.A. style Yucatan Mexican food. Total Occupancy Load: 40.

HOURS OF OPERATON

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

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Posting Date: November 20, 2015
 Petition Date: January 4, 2016
 Hearing Date: January 19, 2016
 Protest Date: March 16, 2016

License No.: ABRA-100621
 Licensee: Daikaya Shaw, LLC
 Trade Name: TBD
 License Class: Retailer’s Class “C” Restaurant
 Address: 805 V Street, N.W.
 Contact: Jeff Jackson: (202) 251-1566

WARD 1 ANC 1B SMD 1B11

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. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on March 16, 2016 at 1:30 pm.

NATURE OF OPERATION

New Restaurant. Japanese cuisine with an assortment of side dishes. Total Occupancy Load of 70.
 **Summer Garden with 30 Seats.

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

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

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

Sunday through Thursday 10am – 12am, Friday and Saturday 10 am – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: November 20, 2015
Petition Date: January 4, 2016
Hearing Date: January 19, 2016
Protest Date: March 16, 2016

License No.: ABRA-100621
Licensee: Daikaya Shaw, LLC
Trade Name: TBD
License Class: Retailer’s Class “C” Restaurant
Address: 805 V Street, N.W.
Contact: Jeff Jackson: (202) 251-1566

WARD 1

ANC 1B

SMD 1B11

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. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on March 16, 2016 at 1:30 pm.

NATURE OF OPERATION

New Restaurant. Japanese cuisine with an assortment of side dishes. Total Occupancy Load of 70.
****Sidewalk Café with 30 Seats.**

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

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

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

Sunday through Thursday 10am – 12am, Friday and Saturday 10 am – 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: December 18, 2015
Petition Date: February 1, 2016
Hearing Date: February 16, 2016
Protest Hearing: April 6, 2016

License No.: ABRA-100312
Licensee: El Agave Tex Mex Rest. LLC
Trade Name: Villa Tuscana
License Class: Retailer's Class "C" Restaurant
Address: 1723 Columbia Road, N.W.
Contact: Jose Davio La Rios: 202-779-6541

WARD 1 ANC 1C SMD 1C06

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. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on April 6, 2016 at 4:30 pm.

NATURE OF OPERATION

New Italian restaurant. Total Occupancy Load: 123. Inside seating for 99 patrons. Sidewalk Café seating 24 patrons. Entertainment Endorsement.

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

Sunday through Thursday 11am-2am, Friday & Saturday 11am-3am

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

Sunday through Thursday 11am-1am, Friday & Saturday 11am-2am

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 7pm-2am, Friday & Saturday 7pm-3am

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF PUBLIC HEARINGS (UPDATE)**

The Division of Early Learning in the Office of the State Superintendent of Education (OSSE) will hold four public hearings on (1) the draft Child Care and Development Fund Block Grant Plan (CCDF Plan) and (2) Advanced Notice of Proposed Rulemaking (ANPR) - Child Development Facilities Licensing. The purpose of the four public hearings is to solicit verbal or written comments from the public on the District's draft CCDF plan or the ANPR.

The CCDF Block Grant is a major source of funding to help parents pay for child care. It is the primary source of funding for quality initiatives in early care and education. The proposed CCDF Plan will be available on December 24, 2015 at 810 First Street, NE and on the OSSE website at: www.osse.dc.gov.

The ANPR will address revisions to the regulatory framework for licensing of child development facilities and is being published to provide stakeholders an opportunity to send comments to OSSE prior to formal publication of the Notice of Proposed Rulemaking. The ANPR will be available on December 24, 2015 at 810 First Street, NE and on the OSSE website at: www.osse.dc.gov.

Public Hearings: CCDF Plan and ANPR - Child Development Facilities Licensing**Monday, January 11, 2016**

5:00 p.m. - 7:00 p.m.

National Children's Center

3400 Martin Luther King Jr. Ave. SE

[Register for this hearing](#)**Tuesday, January 12, 2016**

5:00 p.m. - 7:00 p.m.

Petworth Neighborhood Library

4200 Kansas Ave. NW

[Register for this hearing](#)**Thursday, January 14, 2016**

5:00 p.m. - 7:00 p.m.

Southwest Library

900 Wesley Place SW

[Register for this hearing](#)**Tuesday, January 19, 2016**

4:30 p.m. - 6:30 p.m.

Educare DC

640 Anacostia Ave. NE

[Register for this hearing](#)

Family members, service providers, advocates, program administrators, government workers, community groups, residents and other interested parties are encouraged to attend and give testimony at the public hearings. *If you would like to attend, please use the registration links under each public hearing date to register. If you would like to testify, please indicate during registration that you would like to testify during the hearing you plan to attend.* Registered persons will be scheduled for a 3-minute period to testify first. Persons not registered to testify will be allowed to testify as time permits. Persons who testify are encouraged to bring a copy of the written testimony for the record. Amharic, Chinese, French, Spanish, Vietnamese, Korean and Sign Language interpreters will be available if the services are requested by **December 18, 2015**, to ensure availability. Requests for interpretation can be made using the registration links above.

How to Submit Written Testimony for the draft CCDF Plan

Written comments on the draft CCDF Plan may be submitted at the hearing or throughout the comment period. All written comments must be received by **4:00 p.m. on Wednesday, January 20, 2016**. To submit a written comment outside of the public hearing, please visit www.osse.dc.gov click on the “Programs” tab, then click on “Early Learning” to find the Child Development Fund Plan starting December 11, 2015 or email Carolyn J. Terry-Taylor, Policy and Program Officer at carolynj.taylor@dc.gov.

How to Submit Written Testimony for the ANPR - Child Development Facilities Licensing

Written comments on the ANPR - Child Development Facilities Licensing may be submitted at the hearing or throughout the comment period. All written comments must be received by **4:00 p.m. on Monday, February 8, 2016**. Persons desiring to comment on this advance notice should file comments in writing by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Jamai Deuberry re: “ANPR - Child Development Facilities Licensing,” 810 First Street, NE 9th Floor, Washington, DC 20002 or via email addressed to: ossecomments.proposedregulations@dc.gov with subject ““ANPR - Child Development Facilities Licensing.””

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF PUBLIC HEARING (UPDATE)**

The Division of Early Learning in the Office of the State Superintendent of Education (OSSE) will hold a public hearing on the District's draft Child Care and Development Fund Block Grant Plan (CCDF Plan). The purpose of the public hearing is to solicit verbal or written comments from the public on the District's draft plan for the use of federal CCDF dollars for the period of October 1, 2016 through September 30, 2018. The CCDF Block Grant is a major source of funding to help parents pay for child care. It is the primary source of funding for quality initiatives in early care and education. The proposed CCDF Plan will be available on December 24, 2015 at 810 First Street, NE and on the OSSE website at: www.osse.dc.gov.

Public Hearing: CCDF PLAN**Friday, January 15, 2016**

1:00 p.m. - 3:00 p.m.

Office of the State Superintendent of Education

810 First St. NE (Third Floor Grand Hall)

[Register for this hearing](#)

The focus of this public hearing is exclusively on the draft CCDF Plan and testimony provided on January 15, 2016 during the hearing, whether verbal or written, must only address the draft CCDF Plan.

Family members, service providers, advocates, program administrators, government workers, community groups, residents and other interested parties are encouraged to attend and give testimony at the public hearings. ***If you would like to attend, please use the registration links under each public hearing date to register. If you would like to testify, please indicate during registration that you would like to testify during the hearing you plan to attend.*** Registered persons will be scheduled for a 3-minute period to testify first. Persons not registered to testify will be allowed to testify as time permits. Persons who testify are encouraged to bring a copy of the written testimony for the record. Amharic, Chinese, French, Spanish, Vietnamese, Korean and Sign Language interpreters will be available if the services are requested by **December 18, 2015**, to ensure availability. Requests for interpretation can be made using the registration links above.

How to Submit Written Testimony for the draft CCDF Plan

Written comments on the draft CCDF Plan may be submitted at the hearing or throughout the comment period. All written comments must be received by **4:00 p.m. on Wednesday, January 20, 2016**. To submit a written comment outside of the public hearing, please visit www.osse.dc.gov click on the "Programs" tab, then click on "Early Learning" to find the Child Development Fund Plan starting December 11, 2015 or email Carolyn J. Terry-Taylor, Policy and Program Officer at carolynj.taylor@dc.gov.

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

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

Case No. 15-25: Jost-Kuhn House
1354 Madison Street NW
Square 2799, Lots 19 and 809
Applicant: Dr. Johnny Bowen (owner)
Affected Advisory Neighborhood Commission: 4A

Case No. 15-18: The Furies Collective
219 11th Street SE
Square 969, Lot 66
Applicants: Robert Pohl (owner) and the D.C. Preservation League
Affected Advisory Neighborhood Commission: 6B

The hearing will take place at **9:00 a.m. on Thursday, January 28, 2016**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2). A copy of the rules can be obtained from the Historic Preservation Office at 1100 4th Street, SW, Suite E650, Washington, DC 20024, or by phone at (202) 442-8800, and they are included in the preservation regulations which can be found on the Historic Preservation Office website.

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

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

If the Historic Preservation Review Board designates the property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may

apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

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

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

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

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

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

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PUBLIC INTEREST HEARING

FORMAL CASE NO. 1128, IN THE MATTER OF THE FORMAL COMPLAINT OF INTEGRYS ENERGY SERVICES-NATURAL GAS, LLC FOR ITSELF AND IN ITS CAPACITY AS AGENT FOR PEPCO ENERGY SERVICES, INC.; DIRECT ENERGY SERVICES, LLC; NOVEC ENERGY SOLUTIONS, INC.; AND BOLLINGER ENERGY, LLC, REGARDING OPERATIONAL FLOW ORDER NONCOMPLIANCE PENALTIES LEVIED BY WASHINGTON GAS LIGHT COMPANY FOR THE PERIOD JANUARY THROUGH MARCH 2014,

And

GAS TARIFF 2014-03, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S APPLICATION TO AMEND RATE SCHEDULE NO. 5

The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 130.11 of the Commission's Rules of Practice and Procedure, of a public interest hearing to consider the Settlement Agreement filed by Washington Gas Light Company ("WGL" or "Company") and Integrys Energy Services-Natural Gas, LLC, Compass Energy Gas Services, LLC, Direct Energy Services, LLC, NOVEC Energy Solutions, Inc., Bollinger Energy, LLC, and Stand Energy Corporation ("Settling Parties").¹ The public interest hearing will convene Thursday, January 14, 2016, at 10:00 a.m. in the Commission Hearing Room, 1325 G Street, N.W., Eighth Floor, Washington, DC 20005.

BACKGROUND

On September 16, 2014, the Joint Suppliers filed a Formal Complaint against WGL alleging that WGL improperly levied \$1.4 million in penalties against them for failure to comply with the Company's Operations Flow Orders ("OFOs") during the period January through March 2014 (the "Subject Period").² On October 14, 2014, WGL filed its Response to the Formal Complaint requesting that the Commission "issue an Order requiring Joint Suppliers to pay the penalties

¹ *Formal Case No. 1128, In the Matter of the Formal Complaint of Integrys Energy Services-Natural Gas, LLC for Itself and in its Capacity as Agent for Pepco Energy Services, Inc.; Direct Energy Services, LLC; NOVEC Energy Solutions, Inc.; and Bollinger Energy, LLC, Regarding Operational Flow Order Noncompliance Penalties Levied by Washington Gas Light Company for the Period January through March 2014 ("Formal Case No. 1128"), Joint Motion and Unanimous Agreement of Stipulation and Full Settlement, filed August 21, 2015 ("Settlement Agreement").*

² *Formal Case No. 1128, Joint Suppliers Complaint filed September 16, 2014 ("Joint Suppliers' Complaint").*

assessed for failing to deliver the DRV and non-compliance with OFOs over the period January to March 2014.”³

On March 25, 2015, the Commission issued Order No. 17843, which, among other things, scheduled a hearing for June 17, 2015.⁴ However, on April 16, 2015, WGL and the Joint Suppliers filed a Joint Motion stating that they “have reached an agreement in principle that would include a settlement of all issues in this proceeding, as well as certain tariff-related issues currently pending in GT-2014-03.”⁵ Consequently, WGL and the Joint Suppliers requested additional time to memorialize the agreement, discuss its elements with the Commission Staff and the Office of [the] People’s Counsel as necessary, and present the finalized agreement to the Commission.⁶ As a result, the Commission suspended the proceedings to allow the parties’ time to memorialize a settlement agreement.⁷

Subsequently, on August 21, 2015, WGL and the Joint Suppliers filed a Joint Motion for Approval of the Unanimous Agreement of Stipulation and Full Settlement which resolves all of the disputed issues related to the Joint Suppliers’ Formal Complainant and provides revisions to Rate Schedule No. 5.⁸ According to the Joint Suppliers and WGL, “This Settlement Agreement is contingent upon Commission acceptance of the revised tariff pages attached hereto for the Company’s Rate Schedule No. 5 as well as all of the other terms of the Settlement.”⁹ On October 2, 2015, the Commission issued a Notice of Proposed Tariff (NOPT) soliciting public comment on proposed tariff revisions. No comments were filed in response to the NOPT.¹⁰

³ *Formal Case No. 1128*, Response of Washington Gas Light Company to Formal Complaint, filed October 10, 2014 (“WGL’s Response”) at 8.

⁴ *Formal Case No. 1128, In the Matter of the Formal Complaint of Integrys Energy Services-Natural Gas, LLC for Itself and in its Capacity as Agent for Pepco Energy Services, Inc.; Direct Energy Services, LLC; NOVEC Energy Solutions, Inc.; and Bollinger Energy, LLC, Regarding Operational Flow Order Noncompliance Penalties Levied by Washington Gas Light Company for the Period January through March 2014 (“Formal Case No. 1128”),* Order No. 17843, rel. March 25, 2015 at 11.

⁵ *Formal Case No. 1128*, Joint Motion to Suspend Procedural Schedule, filed April 16, 2015 (“Joint Motion”), at 2.

⁶ *Formal Case No. 1128*, Joint Motion at 2.

⁷ *Formal Case No. 1128*, Order No. 17867, rel. April 24, 2015 at 2-3.

⁸ *Formal Case No. 1128 and GT 2014-03*, Settlement Agreement.

⁹ *Formal Case No. 1128 and GT 2014-03*, Joint Motion for Approval of the Unanimous Agreement of Stipulation and Full Settlement at 8. Also, the Joint Suppliers and WGL state that “The Settlement Agreement is also contingent upon acceptance of the terms of the Settlement Agreement and the applicable revised tariff sheets by the Maryland Public Service Commission and the Virginia State Corporation Commission.”

¹⁰ 62 *D.C. Reg.* 013139-013141 (2015).

PROPOSED SETTLEMENT AGREEMENT

The Settlement Agreement has six major provisions: (1) a Pipeline Delivery Matrix that all Competitive Service Providers (“CSPs”) participating in WGL’s Customer Choice Program in the District of Columbia must comply with; (2) penalties for failure to comply with Pipeline Delivery Matrix and the Daily Required Volume (“DRV”); (3) a requests for waiver of Delivery Matrix; (4) a section addressing Daily Imbalance Trading; (5) an Interruptible Delivery Service Tolerance Band to compute penalties for failure to deliver the DRV on any day when the Company has not issued a balancing curtailment or Operational Flow Order (“OFO”); and (6) Capacity Assignments.¹¹ Also, the Settlement Agreement states that concerning “penalties assessed to the Joint CSPs by WGL for failure to comply with the Delivery Matrix and balancing Curtailment order over the January through March 2014 period, WGL, the Joint CSPs and Stand Energy agree to pay their proportional amount of a dollar value equal to \$1.4 million, without interest, in full and complete settlement of the Settling Parties’ respective claims in Formal Case No. 1128.”¹² According to the Settlement Agreement, “Each CSP that was assessed a non-compliance penalty by WGL will pay its pro-rata share of the 1.4 million settlement amount.”¹³

PUBLIC INTEREST HEARING

The purpose of this public interest hearing is to determine if the proposed Settlement Agreement is in the public interest pursuant to Section 130.11 of the Commission’s Rules of Practice and Procedure.¹⁴ During the course of the hearing, the settling parties will present witnesses to testify regarding the proposed Settlement Agreement.

The hearing will be broadcast live on the Commission’s website, www.dcpssc.org, and the video archived at http://www.dcpssc.org/public_meeting/index.asp.

ADDITIONAL INFORMATION

Copies of the Settlement Agreement may be obtained by contacting the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, or by visiting the Commission’s website at www.dcpssc.org. The proposed Settlement Agreement will also be located on the Commission’s eDocket system in *Formal Case No. 1128*, item 17 or *Gas Tariff 2014-03*, item 32 and can be obtained at http://www.dcpssc.org/edocket/docketsheets_pdf_FS.asp?caseno=FC1128&docketno=17&flag=D&show_result=Y.

¹¹ *Formal Case No. 1128 and GT 2014-03*, Settlement Agreement at 4-8.

¹² *Formal Case No. 1128 and GT 2014-03*, Settlement Agreement at 8-9.

¹³ *Formal Case No. 1128 and GT 2014-03*, Settlement Agreement at 9.

¹⁴ 15 DCMR § 130.11 (July 10, 1992).

BOARD OF ZONING ADJUSTMENT**PUBLIC HEARING NOTICE****TUESDAY, MARCH 8, 2016****441 4TH STREET, N.W.****JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

TIME: 9:30 A.M.

WARD TWO

18772A
ANC-2C **Application of MR Gallery Square LLC**, pursuant to 11 DCMR § 3104.1, for a special exception from the number of roof structure requirements pursuant to § 411.4, to permit a restaurant use in the penthouse of a hotel in the DD/C-3-C District (Housing Priority Area B) at premises 627-631 H Street N.W. (Square 453, Lot 59).

WARD SIX

19194
ANC-6B **Application of Utku Aslanturk**, 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, and the nonconforming structure requirements under § 2001.3, to construct a three-story rear addition to an existing one-family dwelling in the R-4 District at premises 229 10th Street S.E. (Square 944, Lot 39).

WARD TWO

19197
ANC-2F **Application of Nicholas Rubenstein and Jenn Hsu**, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403.2, and the nonconforming structure requirements under § 2001.3, to renovate an existing one-story garage into a two-story, one-family dwelling in the R-4 District at premises 1317 Naylor Court N.W. (Square 367, Lot 863).

WARD SIX

19198
ANC-6A **Application of Peter Lord and Rebecca Larsen**, 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, and the nonconforming structure requirements under § 2001.3, to construct a two-story rear addition to an existing one-family dwelling in the R-4 District at premises 230 12th Place N.E. (Square 1010, Lot 74).

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WARD SIX

19199 **Application of Thomas and Whitney Paxson**, pursuant to 11 DCMR §
ANC-6A 3104.1, for a special exception under § 223, not meeting the lot occupancy
 requirements under § 403.2, the open court requirements under § 406, and the
 nonconforming structure requirements under § 2001.3, to construct a third-story
 addition to an existing one-family dwelling in the R-4 District at premises 619
 Elliott Street N.E. (Square 1028, Lot 131).

WARD SIX

19207 **Appeal of ANC 6C**, pursuant to 11 DCMR §§ 3100 and 3101, from an October
ANC-6C 1, 2015 decision by the Zoning Administrator, Department of Consumer and
 Regulatory Affairs, to issue Building Permit No. B1509391 (revised as
 B1512716), to allow the construction of a second-story addition with balcony to
 a one-family dwelling in the CAP/R-4 District at premises 518 6th Street N.E.
 (Square 835, Lot 29).

WARD EIGHT

19210 **Application of Atlantic Gardens Redevelopment LP**, pursuant to 11
ANC-8D DCMR § 3104.1, for a special exception from the child development center
 requirements pursuant to § 205, to permit an increase in the number of children
 and staff for an existing child development center from 20 children and four staff
 to 33 children and nine staff in the R-5-A District at premises 4226-4228 4th
 Street S.E. (Square 6207, Lot 30).

WARD TWO

19213 **Application of PVS International, LLC**, pursuant to 11 DCMR § 3104.1,
ANC-2E for a special exception from the fast-food establishment requirements pursuant to
 § 733, to permit the continued operation of a fast-food establishment with 45
 seats in the C-2-A District at premises 3347 M Street N.W. (Square 1205, Lot
 810).

PLEASE NOTE:

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning.

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Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

MARNIQUE Y. HEATH, CHAIRMAN, FREDERICK L. HILL, VICE CHAIRPERSON, JEFFREY L. HINKLE, AND A MEMBER OF THE ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING**Apiculture Schedule of Fines**

The Director of the Department of Energy and Environment (Department), pursuant to the authority set forth in Section 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 (Civil Infractions Act), effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1) (2012 Repl.)), Sections 211 and 219 of the Sustainable Urban Agriculture Apiculture Act of 2012, effective April 20, 2013 (D.C. Law 19-262; D.C. Official Code §§ 8-1825.01 and 8-1825.09 (2013 Repl.)), as amended by Title IV, Subtitle B of the Sustainable D.C. Omnibus Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-142; 61 DCR 8045 (August 8, 2014)), the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl.)), and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the intent to adopt the following amendments to Chapter 40 (Department of the Environment (DDOE) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

These rules will add a new Section 4017, Apiculture Infractions, to Title 16 of the District of Columbia Municipal Regulations, by adding to the schedule of fines for violations in 21 DCMR Chapter 19, related to urban apiculture. The fines shall be scheduled as Class 4 infractions.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 12, 2015 at 62 DCR 008311. No comments were received. Pursuant to § 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1) (2012 Repl.)), this rulemaking was submitted to the Council of the District of Columbia (Council) for a review period of thirty (30) days. The Proposed Resolution of Approval for the Notice of Final Rulemaking was introduced in the Council on October 7, 2015, and was deemed passively approved on November 20, 2015.

These rules were adopted as final on July 23, 2015 and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 40, DEPARTMENT OF THE ENVIRONMENT (DDOE) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

A new Section 4017 is added to read as follows:

4017 APICULTURE INFRACTIONS

4017.1 [RESERVED]

4017.2 [RESERVED]

4017.3 [RESERVED]

4017.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 19 DCMR § 1520.1 (failure to register a colony of bees with the Department);
- (b) 19 DCMR § 1523.1 (failure to obtain a permit prior to transporting a colony, portion of a colony, bees on combs, empty used combs, or used hives into the District);
- (c) 19 DCMR § 1523.3 (failure to obtain a Certificate of Apiary Inspection from the Department prior to taking any colony, portion of a colony, bees on combs, empty used combs, or used hives out of the District);
- (d) 19 DCMR § 1524.2 (failure to keep bees in hives with removable combs);
- (e) 19 DCMR § 1524.3 (failure to maintain hive in sound condition);
- (f) 19 DCMR § 1524.4 (failure to maintain adequate space in the hive to prevent overcrowding and deter swarming);
- (g) 19 DCMR § 1524.5 (failure to provide colony with a convenient, adequate, and constant source of water);
- (h) 19 DCMR § 1524.6 (failure to promptly remediate a bee swarm);
- (i) 19 DCMR § 1525.1 (failure to locate a hive as required from a property line);
- (j) 19 DCMR § 1525.1d (failure to secure annual written approval from neighbors within 30 feet of the proposed hive when hive distance requirements aren't met)
- (k) 19 DCMR § 1525.2 (failure to provide an adequate flyway barrier);
- (l) 19 DCMR § 1525.3 (failure to obtain written permission from the Department to keep more than four (4) hives on any one-quarter acre lot (10,890 square feet));
- (m) 19 DCMR § 1526.2 (violation of the ban on the keeping of Africanized bees);
- (n) 19 DCMR § 1526.3 (failure to re-queen a colony with a marked queen in a colony that exhibits unusual aggressive characteristics);

- (o) 19 DCMR § 1527.1 (failure to take measures to control the spread of bee disease);
- (p) 19 DCMR § 1527.2 (failure to quarantine a colony that is suspected to have American foulbrood or other bee disease that may pose a risk to the colony, environment, or public health);
- (q) 19 DCMR § 1527.3 (failure to notify the Department of a quarantined colony);
- (r) 19 DCMR § 1527.4 (removing bees, colonies, and equipment from a quarantined area); or
- (s) 19 DCMR § 1527.8 (failure to properly destroy a colony with American foulbrood or any untreatable disease).

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF FINAL RULEMAKING****Control of Hazardous Air Pollutants (HAPs)**

The Director of the Department of Energy and Environment (“the Department”), pursuant to the authority set forth in Sections 5 and 6(b) of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985, as amended (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06(b) (2012 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) (2012 Repl.)); the Human and Environmental Health Protection Act of 2010, effective March 31, 2011 (D.C. Law 18-336; D.C. Official Code §§ 8-108.01, *et seq.* (2012 Repl.)); Mayor's Order 98-44, dated April 10, 1998; Mayor's Order 2006-61, dated June 14, 2006; and Mayor's Order 2011-153, dated September 7, 2011, hereby gives notice of the intent to add a new Chapter 14 (Air Toxics and Hazardous Air Pollutants), to Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

Proposed Rulemakings

On March 16, 2012, the Department proposed rules to adopt by reference ten (10) federal standards for hazardous air pollutants (HAP) for the following source categories: Perchloroethylene Dry Cleaning Facilities, Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, Halogenated Solvent Cleaning, Publicly Owned Treatment Works, Stationary Reciprocating Internal Combustion Engines, Hospital and Other Ethylene Oxide Sterilizers, Gasoline Dispensing Facilities, Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources, Area Source Plating and Polishing Operations, and the Printing and Publishing Industry, published at 59 DCR 2167. The rules proposed to replace the previous National Emission Standards for Hazardous Air Pollutants (“NESHAP”) requirements in 20 DCMR § 717 (where older versions of some of these regulations had previously been adopted by reference) and the District's own requirements for HAPs in other sections of 20 DCMR, Chapter 7. The rulemaking also included an eventual phase-out of perchloroethylene in dry cleaning operations, pursuant to the Human and Environmental Health Protection Act of 2010. *See* D.C. Official Code § 8-108.03 (2013 Repl.).

The Department received comments from five entities regarding its adoption of the NESHAP for Reciprocating Internal Combustion Engines (“RICE”), specifically the Department's proposal to omit provisions of the federal rule that would allow emergency generators to participate in emergency demand response (“DR”) programs. Comments were submitted by Level 3 Communications LLC, EnerNoc, Inc., Blue Sky Environmental LLC, MedStar Health, and the District of Columbia Water and Sewer Authority. Commenters urged the Department to reconsider its decision to prohibit emergency engines from participating in DR programs, arguing that it was important to ensuring grid reliability and did not pose a threat to air quality.

On June 6, 2014, the Department repropose the rulemaking, published at 61 DCR 5773, because the federal Environmental Protection Agency (“EPA”) had updated two of the federal

rules for source categories: Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, and Stationary Reciprocating Internal Combustion Engines. The rulemaking preamble stated that the comments received on the first proposed rulemaking would be considered during the comment period for the second rulemaking period and need not be resubmitted. No additional comments were received on the second proposed rulemaking.

Final Rulemaking Action

The Department is finalizing this rulemaking without changes from the second proposal, including its decision to exclude portions of the federal rule permitting emergency generators to participate in DR programs. As stated in the preamble to the first proposed rulemaking, the Department has determined that allowing emergency generators to participate in DR programs would be detrimental to air quality in the District. Diesel-fired emergency generators are not required to install pollution control technologies and therefore have dirtier emissions than non-emergency generators. RICE emit oxides of nitrogen (NO_x), a precursor to ozone (smog) formation. The District is designated as being in nonattainment of the 2008 National Ambient Air Quality Standards for ozone and therefore must work to limit emissions of ozone precursors such as NO_x. 40 C.F.R. § 81.309. For these reasons, the Department determined that they should only be permitted to operate in the event of a true emergency, for example in response to a power outage or equipment failure. They should not be used to alleviate demand on the grid during peak usage in order to prevent power outages, as is done through emergency DR programs.

In addition, since the Department proposed this rulemaking, the D.C. Council enacted the Air Quality Amendment Act of 2014, effective September 9, 2014 (D.C. Law 20-0135; 61 DCR 6767 (July 3, 2014)) (Act)¹. Section 203 of the Act requires any generator participating in a DR program to implement Best Available Control Technology (BACT) and prohibits any generator that participates in DR from being classified as an emergency generator. The Department therefore lacks the discretion to allow uncontrolled emergency generators to participate in demand response programs through this rulemaking. The Department is in the process of drafting a rulemaking to set BACT standards for DR generating sources.

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 September 16, 2015, and was deemed passively approved on November 30, 2015. These rules were adopted as final on May 20, 2015 and will become effective upon publication of this notice in the *D.C. Register*.

A new Chapter 14 is added to Title 20 DCMR, ENVIRONMENT, to read as follows:

CHAPTER 14 AIR TOXICS AND HAZARDOUS AIR POLLUTANTS

Secs.

1400	Emission Standards for Hazardous Air Pollutants for Source Categories
1401	Emission Standards for Perchloroethylene Dry Cleaning Facilities

¹ D.C. Law 20-0135 became effective on September 9, 2014. See the D.C. Council website (<http://lims.dccouncil.us/Legislation/B20-0368?FromSearchResults=true>) for more information.

- 1402 Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
- 1403 Emission Standards for Halogenated Solvent Cleaning
- 1404 Emission Standards for the Printing and Publishing Industry
- 1405 Emission Standards for Hazardous Air Pollutants for Publicly Owned Treatment Works
- 1406 Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
- 1407 Emission Standards for Hospital and Other Ethylene Oxide Sterilizers
- 1408 Emission Standards for Hazardous Air Pollutants for Gasoline Dispensing Facilities
- 1409 Emission Standards for Hazardous Air Pollutants for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources
- 1410 Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers
- 1411 Emission Standards for Hazardous Air Pollutants for Area Source Plating and Polishing Operations

1400 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

- 1400.1 The requirements of 40 C.F.R. part 63, subparts A, B, C, D, E, and appendix A (Test Methods) (40 C.F.R. §§ 63.1 – 63.99), as amended, together with the terms used and defined, are hereby adopted by reference for the purpose of implementing the National Emission Standards for Hazardous Air Pollutants (NESHAP) for source categories pursuant to the requirements of Section 112 of the Clean Air Act, 42 U.S.C. § 7412, except that the word “Administrator” as used in the C.F.R. sections shall be taken to mean Director of the District Department of Energy and Environment.

1401 EMISSION STANDARDS FOR PERCHLOROETHYLENE DRY CLEANING FACILITIES

- 1401.1 After January 1, 2014, no person shall install a machine designed to use perchloroethylene as a cleaning agent for clothes or other fabrics.
- 1401.2 After January 1, 2029, no person shall use perchloroethylene as a cleaning agent for clothes or other fabrics.
- 1401.3 Except as controlled by Subsections 1401.1 and 1401.2, the requirements of 40 C.F.R. part 63, subpart M (40 C.F.R. §§ 63.320 – 63.326), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.”

1401.4 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart M, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1402 EMISSION STANDARDS FOR CHROMIUM EMISSIONS FROM HARD AND DECORATIVE CHROMIUM ELECTROPLATING AND CHROMIUM ANODIZING TANKS

1402.1 The requirements of 40 C.F.R. part 63, subpart N (40 C.F.R. §§ 63.340 – 63.348 and table 1 to subpart N of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment”.

1402.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart N, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1403 EMISSION STANDARDS FOR HALOGENATED SOLVENT CLEANING

1403.1 The requirements of 40 C.F.R. part 63, subpart T (40 C.F.R. §§ 63.460 – 63.471, appendix A to subpart T of part 63, and appendix B to subpart T of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean Director of the Department of Energy and Environment.

1403.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart T, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1404 EMISSION STANDARDS FOR THE PRINTING AND PUBLISHING INDUSTRY

1404.1 The requirements of 40 C.F.R. part 63, subpart KK (40 C.F.R. §§ 63.820 – 63.839, table 1 to subpart KK of part 63, and appendix A to subpart KK of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.”

1404.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart KK, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1405 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR PUBLICLY OWNED TREATMENT WORKS

1405.1 The requirements of 40 C.F.R. part 63, subpart VVV (40 C.F.R. §§ 63.1580 – 63.1595.), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.”

1405.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart VVV, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1406 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR STATIONARY RECIPROCATING INTERNAL COMBUSTION ENGINES

1406.1 The requirements of 40 C.F.R. 63, subpart ZZZZ (40 C.F.R. §§ 63.6580 – 63.6635 and 63.6645 – 63.6675, tables 1a-1b, tables 2a-2d and, tables 3-8 to subpart ZZZZ of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.” In addition, emergency stationary RICE shall not be permitted to participate in demand response or peak shaving programs pursuant to Subsection 1406.2.

1406.2 The requirements of 40 C.F.R. § 63.6640, as amended, together with the terms used and defined, are hereby adopted by reference, except that:

- (a) The following language shall not be adopted from 40 C.F.R. § 63.6640(f): “emergency demand response,”;
- (b) The language from 40 C.F.R. §§ 63.6640(f)(2)(ii) shall not be adopted;
- (c) The following language shall not be adopted from 40 C.F.R. § 63.6640(f)(3): “and emergency demand response”;
- (d) The following language from 63.6640(f)(4) shall not be adopted: “and emergency demand response” and “Except as provided in paragraphs 4(f)(i) and 4(f)(ii) of this section,” ;
- (e) The language from 40 C.F.R. §§ 63.6640(f)(4)(i)-(ii) shall not be adopted; and

(f) The word “Administrator” as used in the C.F.R. sections shall be taken to mean Director of the Department of Energy and Environment.

1406.3 Any violation of any of the individual requirements of 40 C.F.R. 63, subpart ZZZZ or Subsections 1406.1 through 1406.2 of this chapter, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1407 EMISSION STANDARDS FOR HOSPITAL AND OTHER ETHYLENE OXIDE STERILIZERS

1407.1 The requirements of 40 C.F.R. part 63, subpart O (40 C.F.R. §§ 63.360 – 63.368), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.”

1407.2 The requirements of 40 C.F.R. part 63, subpart WWWW (40 C.F.R. §§ 63.10382 – 63.10448, and table 1 to subpart WWWW of part 63), as in effect on July 1, 2011, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment”.

1407.3 Any violation of any of the individual requirements of 40 C.F.R. part 63, subparts O or WWWW, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1408 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR GASOLINE DISPENSING FACILITIES

1408.1 The requirements of 40 C.F.R. part 63, subpart CCCCC (40 C.F.R. §§ 63.11110 – 63.11132, tables 1-3 to subpart CCCCC of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.”

1408.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart CCCCC, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1409 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR PAINT STRIPPING AND MISCELLANEOUS SURFACE COATING OPERATIONS AT AREA SOURCES

1409.1 The requirements of 40 C.F.R. part 63, subpart HHHHHH (40 C.F.R. §§ 63.11169 – 63.11178, and table 1 to subpart HHHHHH of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.”

1409.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart HHHHHH, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1410 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS

1410.1 The requirements of 40 C.F.R. part 63, subpart JJJJJJ (40 C.F.R. §§ 63.11193 – 63.11237, and tables 1-8 to subpart JJJJJJ of part 63), as amended, and 40 C.F.R. part 63, subpart DDDDD (40 C.F.R. §§ 63.7480 – 63.7575, tables 1-10 to subpart DDDDD, and appendix A to subpart DDDDD), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.”

1410.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart JJJJJJ and 40 C.F.R. part 63, subpart DDDDD, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

1411 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AREA SOURCE PLATING AND POLISHING OPERATIONS

1411.1 The requirements of 40 C.F.R. part 63, subpart WWWWWW (40 C.F.R. §§ 63.11504 – 63.11513, and table 1 to subpart WWWWWW of part 63), as amended, together with the terms used and defined, are hereby adopted by reference, except that the word “Administrator” as used in the C.F.R. section shall be taken to mean “Director of the Department of Energy and Environment.”

1411.2 Any violation of any of the individual requirements of 40 C.F.R. part 63, subpart WWWWWW, shall constitute a separate offense for each and every day of the violation(s) of each and every requirement for the purposes of applying the penalty provisions in 20 DCMR § 105.

DISTRICT OF COLUMBIA PUBLIC LIBRARY

NOTICE OF FINAL RULEMAKING

The District of Columbia Public Library Board of Trustees, pursuant to the authority set forth in An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, as amended (29 Stat. 244, ch. 315, § 5; D.C. Official Code § 39-105 (2012 Supp.)); Section 3205 (jjj) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 39-105 (2012 Supp.)); Section 2 of the District of Columbia Public Library Board of Trustees Appointment Amendment Act of 1985, effective September 5, 1985 (D.C. Law 6-17; D.C. Official Code § 39-105 (2012 Supp.)); the Procurement Reform Amendment Act of 1996, effective April 12, 1997, as amended (D.C. Law 11-259; 44 DCR 1423 (March 14, 1997)); and Section 156 of An Act Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, approved October 21, 1998 (112 Stat. 2681, Pub. L. 105-277; codified at D.C. Official Code § 39-105 (2012 Repl.)); hereby gives notice of its intent to amend Section 809 of Chapter 8 (Public Library) of Title 19 (Amusements, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR).

The Board of Library Trustees through D.C. Official Code §39-105 (2011 Supp.) designated the Chief Librarian/Executive Director to establish rules and manage the day-to-day operations of the library. On January 15, 2015, Executive Director of the District of Columbia Public Library (“DCPL”) approved the adoption of the proposed amendment to the District of Columbia Public Library Regulations regarding Cost Recovery Fees. The proposed amendments will accurately reflect the cost recovery fees for new services in the District of Columbia Public Library.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on October 30, 2015 at 62 DCR 14117 to amend the rules to reflect the current policies at the DCPL. No comments were received.

These rules were adopted as final on January 15, 2015 and shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 8, PUBLIC LIBRARY, of Title 19 DCMR, AMUSEMENTS, PARKS AND RECREATION, is amended as follows:

Section 809, COST RECOVERY FEES, is amended to read as follows:

809 COST RECOVERY FEES

809.1 District of Columbia Public Library is authorized to establish cost recovery fees for the following services:

- (a) The DCPL Washingtoniana Division shall charge the following reimbursement cost for the scanning of photo images:

Size of Photograph/Image	Charge
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5 x 7	\$10.00
8 x 10	15.00
11 x 14	20.00

(1) Any larger scanned photograph/image will be charged at a comparable rate and scale as set above.

(b) The DCPL Passport Office shall charge the following reimbursement cost for services related to the passport office:

Service	Charge
Photo	\$15.00
Application Processing Fee	\$25.00
Overnight Mailing	\$15.00

(c) The DCPL shall charge the following reimbursement costs for the Espresso Book Machine service:

- (1) \$.03 cents per page for black and white printing.
- (2) \$.25 cents per page for color printing.
- (3) \$25 for barcode registration.

(d) The DCPL shall charge the following reimbursement costs for 3D printing services:

- (1) \$.05 cents per gram (of object’s weight) plus a \$1 charge.
- (2) Customers may bring their own materials and conduct their own printing free of charge.

(e) The DCPL shall charge the following reimbursement costs for 3D Scanning services:

- (1) \$5 per object.

DISTRICT OF COLUMBIA PUBLIC LIBRARY

NOTICE OF FINAL RULEMAKING

The District of Columbia Public Library Board of Trustees, pursuant to the authority set forth in An Act to establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, as amended (29 Stat. 244, ch. 315, § 5; D.C. Official Code § 39-105 (2012 Supp.)); Section 3205 (jjj) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 39-105 (2012 Supp.)); Section 2 of the District of Columbia Public Library Board of Trustees Appointment Amendment Act of 1985, effective September 5, 1985 (D.C. Law 6-17; D.C. Official Code § 39-105 (2012 Supp.)); the Procurement Reform Amendment Act of 1996, effective April 12, 1997, as amended (D.C. Law 11-259; 44 DCR 1423 (March 14, 1997)); and Section 156 of An Act Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, approved October 21, 1998 (112 Stat. 2681, Pub. L. 105-277; codified at D.C. Official Code § 39-105 (2012 Repl.)); hereby gives notice of its intent to amend Chapter 43 (District of Columbia Public Library: Procurement) of Title 19 (Amusements, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR).

The Board of Library Trustees through D.C. Official Code §39-105 (2011 Supp.) designated the Chief Librarian/Executive Director to establish rules and manage the day-to-day operations of the library. On October 8, 2015, the Executive Director of the District of Columbia Public Library (“DCPL”) approved to adopt the proposed new amendment(s) to the District of Columbia Public Library Regulations regarding Sole Source Procurement § 4320 to Chapter 43, Title 19 DCMR. The proposed amendments will allow the Chief Contracting Officer (“CCO”) to select a designee in Subsection 4320.6, and replace the term “Library Procurement Executive” with “CCO and/or designee” in Subsections 4320.7 and 4320.10. In addition, in Subsection 4320.7, the DCPL removed the language “in excess of fifty-thousand dollars”.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on October 30, 2015 at 62 DCR 14115 to amend the rules to reflect the current policies at the DCPL. No comments were received.

These rules were adopted as final on October 8, 2015 and shall become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 43, DISTRICT OF COLUMBIA PUBLIC LIBRARY: PROCUREMENT, of Title 19 DCMR, AMUSEMENTS, PARKS, AND RECREATION, is amended as follows:

Section 4320, SOLE SOURCE PROCUREMENT, Subsections 4320.6, 4320.7, and 4320.10, are amended to read as follows:

4320.6 The CCO and/or designee shall ensure that each sole source procurement is reviewed and approved in accordance with Subsection 4320.7.

- 4320.7 When a sole source procurement is proposed, the DCPL Office of Procurement with the representative of the requesting department shall prepare a written determination and findings (D&F) that justifies the sole source procurement. The CCO and/or designee shall approve all D&Fs before issuance of a solicitation.

- 4320.10 The CCO and/ or designee shall ensure that each sole source contract contains all of the required clauses, provisions, representations and certifications.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in the Second Omnibus Regulatory Reform Amendment Act of 1999, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.10(a)(12) (2012 Repl.)), Mayor's Order 2000-70, dated May 2, 2000, and Mayor's Order 2009-11, dated February 2, 2009, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, amendments to Chapter 26 (Real Estate Licenses) and Chapter 27 (Real Estate Practice and Hearings) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would expand a licensee's ethical obligation to disclose a financial interest in real property to the parties involved in a transaction. Also, this proposed rulemaking would increase the amount of the maximum balance of funds that can be held in the Real Estate Guaranty and Education Fund, which is maintained by the Real Estate Commission for the purpose of providing educational services to real estate licensees and redress to consumers who have been harmed by real estate professionals in the District.

Chapter 26, REAL ESTATE LICENSES, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 2609, CODE OF ETHICS FOR REAL ESTATE BROKERS, REAL ESTATE SALESPERSONS, AND PROPERTY MANAGERS, is amended as follows:

Subsection 2609.13 is amended to read as follows:

2609.13 A licensee shall disclose in writing to all parties to a real estate transaction any ownership or financial interest in the property that is the subject of the real estate transaction held directly or indirectly by the licensee, an immediate member of the licensee's family, the licensee's firm, or a member of the licensee's firm.

Section 2704, REAL ESTATE GUARANTY AND EDUCATION FUND ASSESSMENT, of Chapter 27, REAL ESTATE PRACTICE AND HEARINGS, is amended as follows:

Subsection 2704.3 is amended to read as follows:

2704.3 The Fund shall, at all times, be maintained with a balance of no less than one million forty thousand dollars (\$1,040,000) and not more than five million dollars (\$5,000,000).

All persons desiring to comment on these proposed regulations should submit comments in writing to Matt Orkins, Legislative and Public Affairs Officer, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., 5th Floor, Washington, D.C. 20024, or via e-mail

at matt.orlins@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. The agency can be reached by telephone at 202-442-4400. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at dcra.dc.gov by going to the “About DCRA” tab, clicking “News Room,” and clicking on “Rulemaking.”

**DISTRICT OF COLUMBIA
HEALTH BENEFIT EXCHANGE AUTHORITY**

NOTICE OF PROPOSED RULEMAKING

The Executive Board of the District of Columbia Health Benefit Exchange Authority (“Authority”), pursuant to the authority set forth in § 18 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 4, 2012 (D.C. Law 19-94; D.C. Official Code §§ 31-3171.01 *et seq.* (2013 Repl.)) (“Act”), hereby gives notice of the intent to adopt the following rule, which will establish a new Subtitle D (Health Benefit Exchange) of Title 26 (Insurance, Securities, and Banking) 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*.

This rulemaking is related to the assessment pursuant to the Health Benefit Exchange Authority Financial Sustainability Amendment Act of 2015, effective June 23, 2015 (D.C. Law 21-0013; 62 DCR 5946 (May 15, 2015)). This rulemaking would clarify entities subject to the assessment and establish a process by which an assessed entity may contest an assessment.

The Executive Board gives notice of the intent to take final rulemaking action in not less than thirty (30) calendar days after publication of this notice in the *D.C. Register*.

A new Title 26-D DCMR, HEALTH BENEFIT EXCHANGE, is added as follows:

A new Chapter 1, HEALTH CARRIER ASSESSMENT, is added to read as follows:

110 HEALTH CARRIER ASSESSMENT GENERAL PROVISIONS

110.1 Pursuant to D.C. Official Code § 31-3171.03(f), the Health Benefit Exchange Authority (HBX) shall annually assess each health carrier defined in § 31-3171.01(6).

110.2 For purposes of this chapter and under D.C. Official Code § 31-3171.01(6), an accident and sickness insurance company includes companies offering certain insurance products, including but not limited to:

- (a) Major medical; and
- (b) Excepted benefits as set forth in 45 C.F.R. § 146.145 and 45 C.F.R. § 148.220 unless otherwise specified in Subsection 110.3.

110.3 For purposes of this chapter and under D.C. Official Code § 31-3171.01(3A), health insurance carrier risks do not include each of the following:

- (a) Coverage for on-site medical clinics;

- (b) Coverage issued as a supplement to liability insurance;
- (c) Credit-only insurance (including mortgage insurance);
- (d) Federal Employees Dental and Vision Insurance Program, as set forth at 5 C.F.R. §§ 894.101 *et seq.*;
- (e) Federal Employees Health Benefits Program, as set forth at 5 C.F.R. §§ 890.101 *et seq.*;
- (f) Fraternal benefit societies, as set forth at D.C. Official Code § 31-5301;
- (g) Liability insurance, including general liability and auto liability insurance;
- (h) Medicare Part D, as set forth at 42 U.S.C. §§ 1395w-101 *et seq.*;
- (i) Stop-loss insurance; and
- (j) Workers' compensation or similar insurance.

120 HEALTH CARRIER ASSESSMENT ADMINISTRATIVE APPEAL

- 120.1 An entity assessed pursuant to D.C. Official Code § 31-3171.03(f) may file a request for reconsideration under this section to contest the assessment in the Notice of Assessment. An entity is limited to contesting its classification under § 31-3171.01(6), a processing error, the incorrect application of relevant methodology, or mathematical error with respect to the assessment.
- 120.2 An entity must file a request for reconsideration within forty-five (45) calendar days after the date of the Notice of Assessment. Submission of a request for reconsideration does not toll the due date for submitting payment of the assessment.
- 120.3 A contesting entity must specify the basis for the reconsideration in the request, as specified in Subsection 120.1. Such entity may provide, only at the time the reconsideration is requested or to rebut additional information provided to the entity by the Executive Director of the Authority or his or her designee consistent with Subsection 120.4, additional documentation supporting the request for reconsideration by the Authority. An entity may not submit documentation or data that was previously submitted to the Department of Insurance, Securities and Banking, but may provide evidence of timely submission.
- 120.4 The Executive Director of the Authority or his or her designee will review evidence and findings upon which the assessment was based and any additional documentation provided by the contesting entity. The Executive Director or designee may review any additional information believed to be relevant to the

request for reconsideration. The Executive Director or designee will provide any additional information used in the review to the contesting entity and provide such entity with a reasonable time to review and rebut the additional information. The contesting entity must prove its case by a preponderance of the evidence with respect to the issues of fact.

- 120.5 The Executive Director or designee will inform the contesting entity of their decision in writing within forty-five (45) calendar days of receipt of the request for reconsideration. The Executive Director's or designee's decision on the request for reconsideration is final and binding. Nothing in this section limits a contesting entity's right to judicial review.

A new Chapter 99, DEFINITIONS, is added to read as follows:

9900 DEFINITIONS

- 9900.1 When used in this chapter, the following terms shall have the meanings ascribed:

“**Authority**” means the District of Columbia Health Benefit Exchange Authority established pursuant to D.C. Official Code § 31-3171.02.

“**Health carrier**” has the same meaning as provided in D.C. Official Code § 31-3171.01(6).

Persons seeking to submit comments on these proposed rules should file comments in writing not later than thirty (30) calendar days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to Jennifer Libster, Health Benefit Exchange Authority, 1225 Eye Street, NW, 4th Floor, Washington, D.C., 20005. In addition comments may be sent by email to Jennifer.libster@dc.gov. Copies of these proposed rules may be obtained from the Health Benefit Exchange Authority at the same address or by contacting Ms. Libster at (202) 715-7576.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to Section 302 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)) as amended by the Anesthesiology Assistant Licensure Amendment Act of 2004, effective March 16, 2005 (D.C. Law 15-237; D.C. Official Code §§ 3-1201 *et seq.* (2012 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the intent to take final rulemaking action to adopt the following amendments to Chapter 51 (Anesthesiologist Hesiologist Assistants) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The adoption of the amendments to Chapter 51 are necessary to retitle the chapter, to correct a typographical capitalization error in Sections 5114, to increase the number of anesthesiologist assistants a supervisory anesthesiologist may supervise at any time to four (4), and to fix a formatting error in Section 5199.

Chapter 51, ANESTHESIOLOGIST HESIOLOGIST ASSISTANTS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

The title of Chapter 51 is amended to read as follows:

CHAPTER 51 ANESTHESIOLOGIST ASSISTANTS

Section 5114, SUPERVISING ANESTHIOLOGIST, is amended as follows:

Subsection 5114.2 is amended to read as follows:

5114.2 A supervising anesthesiologist shall be present during the induction and emergence phases of a patient to whom anesthesia has been administered.

Subsection 5114.3 is amended to read as follows:

5114.3 A supervising anesthesiologist may supervise no more than four (4) anesthesiologist assistants at any one time, consistent with federal rules for reimbursement of anesthesia services.

Section 5199, DEFINITIONS, is amended as follows:

The definition “Committee” is amended to read as follows:

Committee - the Advisory Committee on Anesthesiologist Assistants, established by § 203(c-1) of the Act (D.C. Official Code § 3-1202.03(c-1) (2001 ed.)).

A new definition “Immediately Available” is added to read as follows:

Immediately available - the supervising anesthesiologist is:

- (a) Present in the building or facility in which anesthesia services are being provided by assistant; and
- (b) Able to directly provide assistance to the anesthesiologist assistant in providing anesthesia services to the patient in accordance with the prevailing standards of:
 - (1) Acceptable medical practice;
 - (2) The American Society of Anesthesiologists' guidelines for best practice of anesthesia in a care team model; and
 - (3) Any additional requirements established by the Board of Medicine through a formal rulemaking process.

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 BEHAVIORAL HEALTH**NOTICE OF FUNDING AVAILABILITY****RFA # RM0 SCP 010816**

District-Wide Synar Compliance Program

Purpose/Description of Project

The Government of the District of Columbia Department of Behavioral Health (DBH) is soliciting applications for the coordination and implementation of the Synar Compliance Program (youth and young adult component) throughout the District of Columbia. In July 1992, Congress enacted the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act (Public Law 102-321), which includes an amendment (section 1926) aimed at decreasing youth access to tobacco. This amendment requires states (District of Columbia, Puerto Rico, the U.S. Virgin Islands, and six Pacific jurisdictions) to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under the age of 18. The goal of this project is to assist the DBH in ensuring compliance Public Law 102-321 with the capability of recruiting, selecting, training, and managing qualified youth for compliance checks with tobacco licensees, as well as completing the required paperwork. The successful grantee will be expected to highlight their experience relative to the coordination of this project. The grant award is intended to be funded and program implementation to begin on April 1, 2016.

Eligibility

Applicant must:

1. Meet the requirements of either a qualified non-profit with 501(c)3 status or a for-profit community-based organization and/or collaborative based in the District of Columbia; and be currently licensed through the Department of Consumer and Regulatory Affairs;
2. Have successfully managed the Synar Compliance Program, Youth Component for a Single State Authority within the past five (5) years, or have experience managing a program similar in method to the SYNAR program;
3. Have past experience addressing community and public health, substance abuse and behavioral health federal compliance issues; and
4. Document capacity in the form of a plan which utilizes evidence-based practices to implement a Synar protocol for 300-500 compliance checks to reduce underage tobacco sales to youth, in all eight (8) wards in the District of Columbia.

Length of Award

Grant awards will be made for a period of one (1) year from date of the award, and may be continued for up to four (4) additional years based on documented project success and availability of funding.

Available Funding

Approximately \$60,000 is available to fund one (1) non-profit or for-profit community-based organization and/or collaborative. The grant will be awarded by DBH utilizing funds provided through the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration through the Substance Abuse Prevention and Treatment Block Grant. No mini-grants or sub-grants are permitted for any entity awarded funding.

Anticipated Number of Awards

Total funds available for this grant opportunity shall not exceed one (1) grant award, not to exceed \$60,000.

Request for Application (RFA) Release

The RFA will be released January 6, 2016. The RFA will be posted on the DBH website, www.dbh.gov under Opportunities, and on the website of the Office of Partnerships and Grants, www.opgs.dc.gov under the District Grants Clearinghouse. A copy of the RFA may be obtained at the DBH, Prevention Services Division office located at 64 New York Avenue, NE, Washington, DC 20002, 3rd Floor, Suite 309 L from Jeanette Fortune, Grants Management Specialist during the hours of 8:15 a.m. – 4:45 p.m. beginning January 6, 2016.

Pre-Application Conference

A pre-application conference will be held at the DBH, 64 New York Avenue, NE, 3rd Floor, Room 366 East, on January 11, 2016, 1:00 p.m. – 3:00 p.m. For more information, please contact Jeanette Fortune at Jeanette.fortune@dc.gov

Deadline for Application

The deadline for submission is February 10, 2016 at 4:45 p.m. EST

DISTRICT OF COLUMBIA INTERNATIONAL SCHOOL**NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACT**

District of Columbia International School (“DCI”) intends to enter into a sole source contract with Building Hope, a Charter School Facilities Fund (“Building Hope”) for Project Management Services at Delano Hall on the former Walter Reed Army Medical Center campus. The decision to sole source is due to the fact that in February 2013, prior to DCI being an LEA and through Washington Yu Ying, a competitive bid process was undertaken relative to these services, Building Hope was selected as the preferred bidder, but no contract was executed as the specific property to be developed had not yet been secured. Now that DCI has an LEA agreement and the Delano Hall project is moving forward, DCI wishes to enter into a contract with Building Hope for project management services. The fee to provide these services will be 0.9% of the total construction cost plus a fee of \$25,000 to cover third party costs.

EDUCARE DC

REQUEST FOR PROPOSALS

Audit Services

Educare DC, in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995, solicits proposals for audit services. **Proposals are due no later than 5:00 PM January 15, 2016.** The complete RFP with supporting documentation can be obtained from the school's website – www.educaredc.org or by contacting by email:

Dianna Washington
Administrative Manager
dWASHINGTON@educaredc.org

Requested Services

Educare DC is seeking competitive bids for audit services. Educare DC is based in a new state-of-the-art facility in the Parkside-Kenilworth neighborhood of Ward 7. The school serves 157 low-income children (ages 6 weeks to 5 years) and their families with a high quality, research-based early childhood program.

Assumptions and Agreements

Proposals will not be returned. Educare DC reserves the right to dismiss a proposal without providing a reason. Educare DC reserves the right to terminate a contract at any time.

Submission Information

Proposals must include all requested information indicated in the official RFP. Please send final proposals to dWASHINGTON@educaredc.org.

Basis for Award of Contract

Educare DC reserves the right to award a contract as it determines to be in the best interest of the school.

Locally-Owned, Minority-Owned, Female-Owned and Small Businesses are encouraged to apply.

Proposals must be received by January 15, 2016, 5:00PM EST. Late proposals will not be accepted.

BOARD OF ELECTIONS**CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections hereby gives notice that there are vacancies in three (3) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 2A07, 5E02 and 6A03

Petition Circulation Period: **Monday, December 21, 2015 thru Monday, January 11, 2016**
Petition Challenge Period: **Thursday, January 14, 2016 thru Wednesday, January 20, 2016**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

**Certification of Filling a Vacancy
In Advisory Neighborhood Commission**

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), If there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Richard DuBeshter
Single-Member District 1A06

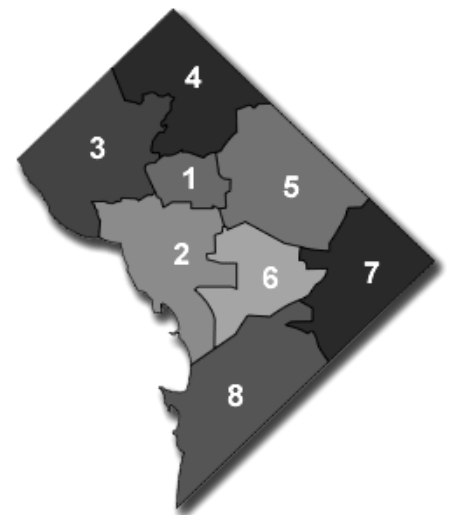
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	40,487	2,616	681	137	113	10,608	54,642
2	26,499	5,188	200	173	93	9,454	41,607
3	34,148	6,279	344	133	86	10,147	51,137
4	44,706	2,107	499	77	118	8,295	55,802
5	47,796	2,060	542	87	145	8,301	58,931
6	49,202	6,218	488	184	150	12,167	68,409
7	45,054	1,194	394	34	107	6,345	53,128
8	41,164	1,145	364	26	127	6,701	49,527
Totals	329,056	26,807	3,512	851	939	72,018	433,183
Percentage By Party	75.96%	6.19%	.81%	.20%	.22%	16.62%	100.00%

**DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF NOVEMBER 30, 2015**

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
<http://www.dcboee.org>



D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,258	27	8	2	5	205	1,505
22	3,544	330	26	15	10	936	4,861
23	2,489	179	44	15	5	670	3,402
24	2,244	240	32	15	6	713	3,250
25	3,298	372	49	9	5	974	4,707
35	3,025	188	49	15	2	760	4,039
36	3,907	251	65	7	10	1,010	5,250
37	2,987	129	53	8	8	700	3,885
38	2,634	123	57	13	10	677	3,514
39	3,917	202	79	6	11	941	5,156
40	3,750	198	98	11	13	1,036	5,106
41	3,207	177	64	14	15	988	4,465
42	1,670	68	33	2	7	438	2,218
43	1,620	59	18	3	4	349	2,053
137	937	73	6	2	2	211	1,231
TOTALS	40,487	2,616	681	137	113	10,608	54,642

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	729	167	10	10	9	474	1,399
3	1,415	364	17	9	10	630	2,445
4	1,554	458	5	13	3	696	2,729
5	1,874	571	10	13	7	670	3,145
6	2,066	830	20	8	14	1,133	4,071
13	1,142	218	5	3	0	364	1,732
14	2,526	416	18	15	7	824	3,806
15	2,655	326	23	20	9	787	3,820
16	3,229	383	22	14	10	819	4,477
17	3,954	546	32	26	9	1,211	5,778
129	2,062	329	14	14	4	777	3,200
141	1,996	256	14	15	8	579	2,868
143	1,297	324	10	13	3	490	2,137
TOTALS	26,499	5,188	200	173	93	9,454	41,607

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,192	379	16	3	2	543	2,135
8	2,279	610	28	4	7	721	3,649
9	1,053	481	6	11	6	446	2,003
10	1,658	390	16	6	6	614	2,690
11	3,072	891	39	16	9	1,190	5,217
12	420	173	2	1	2	177	775
26	2,532	305	21	10	4	773	3,645
27	2,320	256	19	10	1	569	3,175
28	2,153	478	32	9	5	693	3,370
29	1,246	237	11	6	7	378	1,885
30	1,238	213	13	4	4	273	1,745
31	2,232	305	20	4	7	533	3,101
32	2,497	292	21	3	4	562	3,379
33	2,643	299	28	7	5	620	3,602
34	3,025	370	31	19	4	903	4,352
50	1,958	250	14	5	6	437	2,670
136	690	95	7	3	1	255	1,051
138	1,940	255	20	12	6	460	2,693
TOTALS	34,148	6,279	344	133	86	10,147	51,137

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	1,992	67	30	7	4	363	2,463
46	2,615	81	37	5	10	497	3,245
47	2,819	144	36	4	11	687	3,701
48	2,576	128	29	6	4	515	3,258
49	776	43	15	0	5	182	1,021
51	3,111	506	25	6	5	604	4,257
52	1,205	164	4	0	2	209	1,584
53	1,140	67	20	1	5	230	1,466
54	2,237	75	24	1	5	441	2,783
55	2,312	72	17	3	9	416	2,829
56	2,821	86	33	7	7	598	3,552
57	2,277	67	36	6	12	423	2,821
58	2,102	50	17	4	4	336	2,513
59	2,440	85	28	7	6	396	2,962
60	1,932	65	20	3	4	566	2,590
61	1,469	49	11	1	2	246	1,778
62	3,032	114	27	2	3	349	3,527
63	3,297	119	52	2	10	613	4,093
64	2,152	61	17	9	4	311	2,554
65	2,401	64	21	3	6	310	2,805
Totals	44,706	2,107	499	77	118	8,295	55,802

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	3,998	178	67	10	5	913	5,171
44	2,605	215	28	7	14	624	3,493
66	4,267	102	39	4	6	514	4,932
67	2,820	97	20	2	7	388	3,334
68	1,761	146	26	7	7	347	2,294
69	1,981	67	13	2	11	250	2,324
70	1,396	72	20	1	3	205	1,697
71	2,293	64	24	1	9	306	2,697
72	4,020	106	29	6	13	663	4,837
73	1,809	81	28	6	5	322	2,251
74	4,097	206	58	8	10	812	5,191
75	3,270	175	56	14	7	732	4,254
76	1,304	62	13	1	4	257	1,641
77	2,531	101	21	4	11	431	3,099
78	2,765	85	33	4	10	451	3,348
79	1,899	76	16	3	10	331	2,335
135	2,871	182	41	5	9	521	3,629
139	2,109	45	10	2	4	234	2,404
TOTALS	47,796	2,060	542	87	145	8,301	58,931

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	3,888	451	42	14	9	1,035	5,439
18	4,373	322	41	15	11	966	5,728
21	1,120	61	13	3	1	260	1,458
81	4,352	357	40	9	17	883	5,658
82	2,396	239	28	11	8	554	3,236
83	4,187	518	36	18	8	1,082	5,849
84	1,878	406	21	6	7	516	2,834
85	2,609	499	23	14	9	698	3,852
86	2,064	253	26	6	7	448	2,804
87	2,630	234	19	3	11	541	3,439
88	2,037	273	14	4	8	490	2,826
89	2,418	628	23	13	5	722	3,809
90	1,543	252	14	7	9	464	2,289
91	3,851	371	37	17	14	921	5,211
127	3,719	276	48	15	8	777	4,843
128	2,249	201	32	8	7	601	3,098
130	723	278	7	2	2	261	1,273
131	1,808	432	11	14	5	569	2,839
142	1,357	166	13	5	4	379	1,924
TOTALS	49,202	6,218	488	184	150	12,167	68,409

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,410	86	13	2	4	249	1,764
92	1,555	39	11	1	6	236	1,848
93	1,442	40	19	2	4	200	1,707
94	1,938	48	17	0	3	289	2,295
95	1,489	43	15	0	2	255	1,804
96	2,237	66	20	1	7	347	2,678
97	1,403	37	17	1	4	192	1,654
98	1,755	44	22	1	4	240	2,066
99	1,295	41	14	2	3	206	1,561
100	2,088	41	15	2	4	246	2,396
101	1,526	24	15	1	5	165	1,736
102	2,297	53	19	0	6	312	2,687
103	3,341	75	35	3	12	521	3,987
104	2,719	72	22	4	10	382	3,209
105	2,299	62	20	3	4	361	2,749
106	2,716	53	17	1	9	386	3,182
107	1,552	47	13	1	4	222	1,839
108	1,078	28	7	1	0	117	1,231
109	898	34	4	1	1	88	1,026
110	3,620	92	22	5	6	408	4,153
111	2,495	60	24	0	6	386	2,971
113	1,957	56	20	1	2	236	2,272
132	1,944	53	13	1	1	301	2,313
TOTALS	45,054	1,194	394	34	107	6,345	53,128

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of NOVEMBER 30, 2015**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	1,940	56	10	0	6	277	2,289
114	2,991	104	24	2	18	507	3,646
115	2,645	66	19	6	6	601	3,343
116	3,732	92	35	4	10	594	4,467
117	1,866	43	18	0	7	305	2,239
118	2,463	59	27	0	4	399	2,952
119	2,690	103	34	0	11	516	3,354
120	1,789	34	18	2	3	284	2,130
121	2,969	68	25	1	9	433	3,505
122	1,541	38	14	0	8	213	1,814
123	1,981	102	26	5	10	299	2,423
124	2,369	55	15	1	3	317	2,760
125	4,119	97	31	1	9	672	4,929
126	3,269	102	32	2	11	605	4,021
133	1,180	33	10	0	2	160	1,385
134	1,940	38	21	1	3	269	2,272
140	1,680	55	5	1	7	250	1,998
TOTALS	41,164	1,145	364	26	127	6,701	49,527

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY

For voter registration activity between 10/31/2015 and 11/30/2015

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	328,122	26,597	3,505	844	942	71,736	431,746
Board of Elections Over the Counter	37	4	0	0	1	11	53
Board of Elections by Mail	51	12	1	0	1	38	103
Board of Elections Online Registration	164	55	0	1	1	34	255
Department of Motor Vehicle	1,074	182	11	11	2	358	1,638
Department of Disability Services	0	0	0	0	0	0	0
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	0	0	0	0	0	0	0
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	0	0	0	0	0	0	0
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	1	0	0	0	0	1	2
Department of Human Services	5	1	0	0	0	1	7
Special / Provisional	0	0	0	0	0	0	0
All Other Sources	3	0	0	0	0	0	3
+Total New Registrations	1,335	254	12	12	5	443	2,061

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Reinstated from Inactive Status	235	14	5	2	0	46	302
Administrative Corrections	5	2	0	0	7	176	190
+TOTAL ACTIVATIONS	240	16	5	2	7	222	492

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	138	12	3	3	1	51	208
Moved Out of District (Deleted)	29	11	1	0	0	11	52
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	44	0	0	0	1	3	48
Administrative Corrections	578	69	15	11	2	133	808
-TOTAL DEACTIVATIONS	789	92	19	14	4	198	1,116

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P
+ Changed To Party	318	63	15	13	4	151
- Changed From Party	-170	-31	-6	-6	-15	-336
ENDING TOTALS	329,056	26,807	3,512	851	939	72,018

**DISTRICT OF COLUMBIA BOARD OF ELECTIONS
MONTHLY MEETINGS****Scheduled for the months of January 2016 through December 2016****(All meetings are held at 441 Fourth Street, NW, Room 280 North)**

DATE	TIME	ROOM NUMBER
Wednesday, January 6, 2016	10:30 AM	Room 280 North
Wednesday, February 3, 2016	10:30 AM	Room 280 North
Wednesday, March 2, 2016	10:30 AM	Room 280 North
Wednesday, April 1, 2016	10:30 AM	Room 280 North
Wednesday, May 4, 2016	10:30 AM	Room 280 North
Wednesday, June 1, 2016	10:30 AM	Room 280 North
Wednesday, July 6, 2016	10:30 AM	Room 280 North
Wednesday, August 3, 2016	10:30 AM	Room 280 North
Wednesday, September 7, 2016	10:30 AM	Room 280 North
Wednesday, October 6, 2016	10:30 AM	Room 280 North
Wednesday, November 2, 2016	10:30 AM	Room 280 North
Wednesday, December 7, 2016	10:30 AM	Room 280 North

Please note: Schedule is subject to change.

DEPARTMENT OF ENERGY AND ENVIRONMENT**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 air quality permit Nos. 6527-R1 through 6529-R1 to the Architect of the Capitol to operate three 9.375 MMBtu per hour dual fuel fired boilers at the United States Botanic Garden Production Facility, located at 4700 Shepherd Parkway SW, Washington, DC, 20032. The contact person for the facility is Ari Novy, Executive Director at (202) 225-6670.

The permit applications and supporting documentation, along with the draft permits are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olivia Achuko at (202) 535-2997.

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:

Olivia Achuko
Environmental Engineer, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Olivia.Achuko@dc.gov

No written comments or hearing requests postmarked after January 18, 2016 will be accepted.

For more information, please contact Olivia Achuko at (202) 535-2997.

**DEPARTMENT OF HEALTH
HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

NOTICE OF MEETING

Board of Medicine
December 30, 2015

On DECEMBER 30, 2015 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 8:30 am until 10:30 am to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be open to the public from 10:30 am to 11:30 am to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations until 2:00 pm.

The meeting location is 899 North Capitol Street NE, 2nd Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website www.doh.dc.gov/bomed and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Interim Executive Director for the Board – Robin Y. Jenkins

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Physical 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, D.C. Official Code § 3-1204.05 (b)) (2012 Repl.).

Previously, the Board’s regular meetings were held monthly on the third Wednesday. Based on a current assessment of its agenda, the Board has resolved to hold its regular meeting on a bi-monthly basis. Accordingly, the Board’s next meeting will be held on Wednesday, January 20, 2016 from 3:30 PM to 5:30 PM. The meeting will be open to the public from 3:30 PM until 4:30 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 Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 4:30 PM to 5:30 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 Board’s meeting schedule for 2016 will be as follows:

January 20, 2016
March 16, 2016
May 18, 2016
July 20, 2016
September 21, 2016
November 16, 2016

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

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

**PUBLIC NOTIFICATION
Thursday, December 10, 2015**

**DHCD's Calls for Filing of LIHTC and
HOME Annual Owner's Certification Documents**

WASHINGTON, DC –Owners of affordable housing projects developed with Low Income Housing Tax Credit (LIHTC) and HOME Investment funds in the District of Columbia are hereby notified by the D.C. Department of Housing and Community Development (DHCD) to file the 2015 Annual Owner's Certifications of Compliance and submit the 2016 Monitoring Compliance Fees (fees are only for Tax Credit funded properties). These submissions are due by close of business, Friday, February 19, 2016, as a requirement by the LIHTC and HOME Investment Partnerships Act. The documents required for the annual owner's certification are available [here](#).

The LIHTC or the HOME Owner's Certificate of Continuing Program documents must be submitted as a hard copy, signed by an authorized member of the ownership entity. All other forms and documents must be returned *electronically* to AOC@dc.gov.

The required monitoring forms and documents for the 2015 calendar year are listed below:

Low Income Housing Tax Credit (LIHTC)

- **Hard Copy:** LIHTC Owner's Certificate of Continuing Program Compliance (**NOTE:** Original signature required);
- **Electronic:** Building Status and Vacancy Report;
- **Electronic:** Attachments 1 and 2, Current History of Project Contacts and Project Specifics;
- **Electronic:** Reporting Period Year Utility Allowance Support Documentation;
- **Compliance Monitoring Fees per invoice**

HOME Investment Partnerships

- **Hard Copy:** HOME Owner's Certificate of Continuing Program Compliance (**NOTE:** Original signature required);
- **Electronic:** HOME Semi-Annual Compliance Report Table;
- **Electronic:** Attachments 1&2, Current History of Project Contacts and Project Specifics;
- **Electronic:** Reporting Period Year Utility Allowance Support Documentation;

***Failure to submit or complete these forms in their entirety (including all owners' signatures) may result in noncompliance with federal regulations governing the District of Columbia.**

**Mailing Address for LIHTC and HOME Owner's Certificate of Continuing Program
Compliance Documents**

District of Columbia DHCDt-Portfolio and Asset Management Division

1800 Martin Luther King Jr. Avenue, SE

Washington, DC 20020

Attention: Sharron Campbell

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****Local Advocacy Consulting**

KIPP DC is soliciting proposals from qualified vendors for Local Advocacy Consulting. The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00 P.M., EST, on December 28, 2015. Questions can be addressed to amanda.borden@kippdc.org.

NOTICE OF INTENT TO ENTER SOLE SOURCE CONTRACTS**Professional Development**

KIPP DC intends to enter into a sole source contract with Share Fair Nation Professional Development by Educators for Educators. The decision to sole source is due to the fact that Share Fair is the exclusive provider of the training curriculum to be provided during the professional development conference and teaching expo that they will host. The cost of the contract will be approximately \$90,000.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-91**

September 10, 2015

VIA ELECTRONIC MAIL

Ms. Cynthia Perry

RE: FOIA Appeal 2015-91

Dear Ms. Perry:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Department on Disability Services (“DDS”) improperly withheld records you requested under DC FOIA.

Background

On July 16, 2015, you requested of DDS the following information pertaining to DDS employees: (1) performance evaluations (eliminating all names); (2) all disciplinary actions related to performance; (3) a list of employees by title, grade and step placed on a Performance Improvement Plan (PIP); (4) all appeals resulting from performance evaluations; and (5) the final outcome of all performance appeals. You requested further that the response identify “the above information by title, grade, step and date of hire; eliminating all names in order to eliminate conflict with Exemption 6.”

On August 3, 2015, DDS denied your FOIA request on the grounds that the information is protected under D.C. Official Code § 2-534(a)(2) (“Exemption 2”).¹ Citing supporting case law, DDS asserted that under the analogous provision of the federal FOIA, performance evaluations, disciplinary actions, and performance improvement plans are exempt from disclosure. DDS further claimed that the personal privacy interests involved in the requested documents outweigh the public interest in disclosure regardless of whether of individual employee names are redacted.

On appeal, you challenge DDS’s withholding under Exemption 2,² arguing that the information requested should be disclosed because it involves only a *de minimis* privacy interest. Citing case

¹ Exemption 2, often known as the personal privacy exemption, exempts from disclosure “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”

² Although your appeal refers to “Exemption 6,” which is the analogous provision of federal FOIA, we refer to this provision as Exemption 2 under the DC FOIA.

Ms. Cynthia Perry
Freedom of Information Act Appeal 2015-91
December 17, 2015
Page 2

law, you assert that Exemption 2 is not applicable when personal information cannot be linked to a particular individual. You claim that the information you seek cannot be linked to a particular individual because your request states that names should be removed from the disclosures. You further state that the information is pertinent to your clients, members of a collective bargaining unit, because DDS has implemented a new rating system pertaining to these individuals.

DDS provided this office with a response to your appeal, in which it reaffirmed its decision to withhold the requested information under Exemption 2³. DDS further asserted that disclosure of the requested information is prohibited under the guidance of Chapter 31A, § 3113.6 of the District's Personnel Manual, which states that "[e]xcept as provided in this section, information required to be included in an Official Personnel Folder shall not be available to the public." In subsequent correspondence to this office, DDS confirmed that records of disciplinary actions related to performance are kept in the Official Personal File of each DDS employee. DDS asserted that Exemption 2 is applicable even if individual employee names are redacted because sufficient identifying information would remain. DDS further contended that you did not cite any legal precedent supporting the disclosure of employee performance data. Subsequently, DDS provided our office with an illustrative sample of the documents requested for our *in camera* review.

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2-531. In aid of that policy, the DC FOIA creates the right "to inspect . . . and . . . copy any public record of a public body . . ." *Id.* at § 2-532(a). The right to inspect a public record, however, is subject to exemptions. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The primary issue in this appeal is DDS's reliance on Exemption 2 to withhold the information you requested. For Exemption 2 to apply there must be a substantial privacy interest in the requested information. *See Multi Ag Media LLC v. USDA*, 515 F.3d 1224, 1229 (D.C. Cir. 2008) ("[a] substantial privacy interest is anything greater than a *de minimis* privacy interest."). Government employees generally have a substantial privacy interest with respect to their disciplinary actions and performance evaluations. *See, e.g., Smith v. Dep't of Labor*, 798 F. Supp. 2d 274, 283-85 (D.D.C. 2011); *see also Bonilla v. DOJ*, 798 F. Supp. 2d 1325, 1332 (S.D. Fla. 2011); *Stern v. FBI*, 737 F.2d 84, 91 (D.C. Cir. 1984) ("[A]n employee has at least a minimal privacy interest in his or her employment history and job performance evaluations. That privacy

³ A copy of DDS's response is attached.

Ms. Cynthia Perry
Freedom of Information Act Appeal 2015-91
December 17, 2015
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interest arises in part from the presumed embarrassment or stigma wrought by negative disclosures.”).

Even if a substantial privacy interest exists, Exemption 2 can be overcome if a FOIA requester asserts a greater public interest in disclosure of the records. *See NARA v. Favish*, 541 U.S. 157, 172 (2004). If there is a privacy interest in non-disclosure and a public interest in disclosure, the competing interests must be balanced to determine whether disclosure “would constitute a clearly unwarranted invasion of personal privacy.” *Washington Post Co. v. HHS*, 690 F.2d 252, 261 (D.C. Cir. 1982). This balancing of private and public interests must be conducted with respect to the purpose of FOIA, which is “to open agency action to the light of public scrutiny.” *Department of Air Force v. Rose*, 425 U.S. 352, 360-61 (quoting S. Rep. No. 813, 89th Cong., 1st Sess., 3 (1965)). Official information that sheds light on an agency's performance of its statutory duties falls squarely within the statutory purpose of FOIA. That purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency's own conduct. *Department of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 772-773 (1989).

With respect to an individual's performance review and disciplinary action, courts have primarily held that there is an insufficient public interest in disclosure that would outweigh the privacy interest involved. *See, e.g., Ripskis v. HUD*, 746 F.2d 1, 3-4 (D.C. Cir. 1984) (finding that an interest in efficient and evenhanded personnel policies does not outweigh the personal privacy interests involved in employee evaluations). *But see, Perlman v. DOJ*, 312 F.3d 100, 107 (2d Cir. 2002) (finding that wrongdoing of a serious and intentional nature by high-level government officials is of sufficient public interest to outweigh the officials privacy interest). Here, DDS has represented that the information you requested constitutes personnel records. It is evident from the cases cited by DDS, as well as the cases we cite above, that public employees have a privacy interest in records related to their performance evaluations and disciplinary actions. *See, e.g., Smith v. Dep't of Labor*, 798 F. Supp. 2d 274, 283-85 (D. D.C. 2011). Even if a DDS employee's name were removed from the records you seek, the information could still be linked to an individual based on title, grade, step, and date of hire. Moreover, the records at issue reveal little or nothing about DDS's conduct or performance of its statutory duties, which is the purpose of FOIA.

The countervailing interest you raise in favor of disclosure is that the records would aid your client's representation of its collective bargaining unit members. It is not clear that this goal advances a significant public interest. The Supreme Court has stated that:

Once placed wholly within the FOIA's domain, the union requesting information relevant to collective bargaining stands in no better position than members of the general public. . . . The bargaining process facilitation interest is ultimately unavailing, however, because it ‘falls outside the ambit of the public interest that the FOIA was enacted to serve,’ *i.e.*, the interest in advancing ‘public understanding of the operation or activities of the government.’

Ms. Cynthia Perry
Freedom of Information Act Appeal 2015-91
December 17, 2015
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U.S. Dep't of Def. v. Fed. Labor Relations Auth., 510 U.S. 487, 499-500 (1994) (internal citations and quotations omitted).

As a result, we find that the privacy interests associated with the records you seek outweigh any public interest. Therefore, DDS properly withheld the records under Exemption 2.

Although not raised by DDS, the records at issue in this appeal are also protected under D.C. Official Code § 2-534(a)(6) (“Exemption 6”). Exemption 6 provides protection for “[i]nformation specifically exempted from disclosure by statute ... provided [the] statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or establishes particular criteria for ... types of matters to be withheld.” The applicable statute here is D.C. Official Code § 1-631.03, which states that “[i]t is the policy of the District government to make personnel information in its possession or under its control available upon request to appropriate personnel and law-enforcement authorities, except if such disclosure would constitute an unwarranted invasion of personal privacy or is prohibited under law or rules and regulations issued pursuant thereto.” The District of Columbia Court of Appeals has recognized that D.C. Official Code § 1-631.03 protects the privacy of individuals discussed in personnel information, rendering it available only upon request to appropriate personnel and law-enforcement authorities in certain circumstances. *See District of Columbia v. FOP Metro. Police Labor Comm.*, 33 A.3d 332, 347 n.16 (D.C. 2011). Accordingly, based on the language of D.C. Official Code § 1-631.03, we believe the personnel information you are seeking from DDS is exempt under Exemption 6 of the DC FOIA in addition to Exemption 2.⁴

Conclusion

Based on the foregoing, we affirm DDS’s decision and hereby dismiss your appeal.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

⁴Arguably, the records are additionally protected under certain District of Columbia Municipal Regulations (“DCMR”) that are incorporated by reference in D.C. Official Code § 1-631.04, which provides that “[t]he Mayor shall issue rules and regulations governing the disclosure of official information contained in personnel records.” Chapter 31 of Title 6B of the DCMR, entitled “Records Management and Privacy of Records,” regulates the disclosure of personnel records. Under 6B DCMR § 3113.1, the information about present and former government employees that is available to the public consists of an individual’s name, present and past position titles, grades, salaries, and duty stations. None of the documents you requested from DDS is included among those items available for public review. Further, based on the representations of DDS and our *in camera* review of a sample of responsive records, it is evident that most, if not all, of what you are seeking would be exempt from disclosure under 6B DCMR § 3113.6, which states that “[e]xcept as provided in this section, information required to be included in an Official Personnel Folder shall not be available to the public.”

Ms. Cynthia Perry
Freedom of Information Act Appeal 2015-91
December 17, 2015
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Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

/s John A. Marsh*

John A. Marsh
Legal Fellow
Mayor's Office of Legal Counsel

cc: Jason Botop, Assistant General Counsel, DDS (via email)

*Admitted in Maryland; license pending in the District of Columbia; practicing under the supervision of members of the D.C. Bar

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-92**

August 27, 2015

VIA ELECTRONIC MAIL

Katherine Jefferson

RE: FOIA Appeal 2015-92

Dear Ms. Jefferson:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that in June 2015 you submitted to the District Department of Transportation (“DDOT”) a series of requests for certain records. Since that time, DDOT has indicated that records that are responsive to your request are voluminous, consisting of 2,152 pages of email messages. DDOT has not yet produced the documents; however, it has provided you with several different cost estimates and requested that you pre-pay for the records.

The crux of your appeal relates to your frustration with the length of time that DDOT is taking to produce the documents and the varying cost estimates it has provided you. We interpret our jurisdiction under D.C. Official Code § 2-537(a) to be limited to determining whether a record may be withheld under DC FOIA. We have generally considered a fee-related appeal to be within our jurisdiction only when the fees charged were so unreasonable or excessive as to be deemed a denial of the right to inspect the requested records.¹

Under D.C. Official Code § 2-532(b), DC FOIA provides an agency burdened by a FOIA request with recourse, as it permits some of the cost of production to be shifted to the requestor. *See District of Columbia v. FOP*, 33 A.3d 332, 347-348 (D.C. 2011). Further, pursuant to D.C. Official Code § 2-532(b-3), an agency may require an individual to pre-pay for requested records if the public body determines that the fee will exceed \$250. Although DDOT has provided you with different estimates related to your request, the lowest amount has been in excess of \$250.

Here, we believe you are entitled to a specific breakdown of the fees associated with your request. Accordingly, in response to your appeal we asked DDOT to provide you with this information, particularly since you have received several different quotes. DDOT responded to your appeal in a letter dated August 26, 2015, on which this office was copied. The letter provides detailed information as to the number of hours that various levels of DDOT personnel have spent responding to your FOIA request, which generated 2,152 pages of documents. Although we sympathize with your frustration over having received a wide range of fee

¹ *See, e.g.*, FOIA Appeals 2014-04, 2012-21, and 2013-26.

Katherine Jefferson
Freedom of Information Act Appeal 2015-92
December 17, 2015
Page 2

estimates in connection with your request, DDOT's final quote is not excessive given the nature of your request and the time DDOT personnel has spent responding to it.²

Since DDOT has provided you with a final, detailed breakdown of the fees associated with your request and has indicated that you will receive the documents by September 4, 2015, we consider this appeal to be moot, and it is dismissed. The dismissal shall be without prejudice, however, and you may submit a subsequent appeal if you wish to challenge any aspect of DDOT's substantive response.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Karen Calmeise, Esq., DDOT (via email)

² Although the parameters of your FOIA request are not addressed in this appeal, we note that we have previously held on numerous occasions that requests like the one you submitted to DDOT are unreasonably broad and unduly burdensome. *See, e.g.*, FOIA Appeals 2011-09R and 2011-23.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-93**

September 3, 2015

VIA ELECTRONIC MAIL

Angela Valdez

RE: FOIA Request 2015-93

Dear Ms. Valdez:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act. In your appeal, you assert that the Office of Unified Communications ("OUC") failed to respond to a request you submitted for records related to incidents that occurred on January 12, 2003 on the 1200 block of Oates Street, NE.

On September 1, 2015, the OUC advised this office that it responded to your request on the same date. Based on the foregoing, we consider your appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to the OUC's response.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Tammie Creamer, OUC (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-94**

September 18, 2015

VIA ELECTRONIC MAIL

Ms. Sarah Fech

RE: FOIA Appeal 2015-94

Dear Ms. Fech:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the District of Columbia Fire and Emergency Services Department (“FEMSD”) improperly withheld records you requested under DC FOIA.

Background

On July 24, 2015, you submitted a request to FEMSD seeking: (1) any record of a FEMSD dispatch to a “jail” or “correctional facility” involving a person with diabetes experiencing a diabetes-related medical emergency; (2) any record of a FEMSD patient who was in the custody of the Metropolitan Police Department or District of Columbia Department of Corrections when FEMSD provided medical services; and (3) any record of informal or administrative complaints made with FEMSD regarding the treatment of any patient with diabetes, along with the record of any action taken in response. Additionally, your request stated that personal information in the records could be redacted.

On August 17, 2015, FEMSD denied your FOIA request in its entirety on the grounds that the information is protected under D.C. Official Code § 2-534(a)(2) (“Exemption 2”)¹ and the Privacy Act of 1974, 5 U.S.C. § 552a.

On appeal, you challenge FEMSD’s denial, reiterating that your request indicated that personally identifying information should be redacted from the records. You also assert there is no violation of “Exemption 2” and 5 U.S.C. § 552a, because de-identifying the information would prevent any invasion of personal privacy. Further, you assert that D.C. Official Code § 2-534(b) requires that “any reasonably segregable portion of a public record shall be provided to any person requesting the record after deletion of those portions which may be withheld from disclosure.”

¹ Exemption 2, often known as the personal privacy exemption, exempts from disclosure “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”

Ms. Sarah Fech
Freedom of Information Act Appeal 2015-94
December 17, 2015
Page 2

FEMSD provided this office with a response to your appeal on September 11, 2015.² In its response, FEMSD reaffirms its decision to withhold the requested information under Exemption 2 to prevent an unwarranted invasion of personal privacy. FEMSD also claims that the information is protected by federal privacy laws, citing provisions of the Health Insurance Portability and Accountability Act (“HIPPA”), 45 CFR § 160.103, 45 CFR § 164.502, and 45 CFR § 164.514. FEMSD asserts that the only way it can legally release patient care information is if it receives an “Authorization of Release” for each patient whose records would be produced.

In its response, FEMSD also raises two new reasons for withholding the requested information. First, regarding the records for dispatch and services, FEMSD asserts that the information does not exist because the agency’s computer system is not programmed to query the type of information requested. FEMSD asserts that FOIA does not require agencies to create records but rather to provide access to records that exist and that an agency retains, citing *Kissinger v. Reporters Comm. for Freedom of Press*, 445 U.S. 136, 152 (1980) and *Yeager v. Drug Enforcement Admin.*, 678 F.2d 315, 321 (D.C. Cir. 1982). Second, with respect to the request for administrative complaints, FEMSDS claims that it does not possess any responsive records because civil lawsuits against the district are handled by the Office of the Attorney General (“OAG”).

Along with its response, FEMSD provided documents to this office to review *in camera*, including a redacted “e-PCR.” This sample patient care report contains specific categories about the incident, the patient, the relevant dates/times, and present and pre-existing medical conditions.³ FEMSD also provided us with a “Diabetic Query,” which lists the number of incidents per month including those involving “diabetic problems.”

Discussion

It is the public policy of the District of Columbia government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, the DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” *Id.* at § 2-532(a). The right to inspect a public record, however, is subject to exemptions. *Id.* at § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The first issue we shall address is FEMSD’s decision to withhold records in their entirety based on personal privacy under Exemption 2 and HIPPA. For Exemption 2 to apply there must be a

² A copy of DDS’s response is attached.

³ In the sample redacted patient care report provided, the patient had a pre-existing diabetic condition.

Ms. Sarah Fech
Freedom of Information Act Appeal 2015-94
December 17, 2015
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substantial privacy interest in the requested information. *See Multi Ag Media LLC v. USDA*, 515 F.3d 1224, 1229 (D.C. Cir. 2008) (“[a] substantial privacy interest is anything greater than a *de minimis* privacy interest.”). There is no substantial privacy interest when information is provided without identifying data. *See National Ass’n of Retired Federal Employees v. Horner*, 879 F.2d 873, 874 (D.C. Cir. 1989). Regarding HIPPA, the protections afforded under this federal statute are incorporated into DC FOIA under D.C. Official Code § 2-534(a)(6).⁴ 45 CFR 160.103, the regulation that defines terms under HIPPA, defines “protected health information” as “individually identifiable health information.” Therefore, if health information is not individually identifiable, it is not protected under HIPPA. As set forth in 45 CFR 164.514, HIPPA provides two methods by which personal information can be removed and health information can be designated as de-identified.⁵

We recognize that the requested records contain information exempt from disclosure under Exemption 2 and HIPPA; however, DC FOIA requires that after redactions are made to individually identifying information, the remaining portions of the records should be disclosed. *See* D.C. Official Code § 2-534(b). Having reviewed the redacted patient care report that FEMSD provided us, we conclude that FEMSD can and should disclose records responsive to your request with redactions sufficient to remove individually identifiable information as necessary under Exemption 2 and applicable federal laws and regulations.⁶

The remaining issues in this appeal pertain to the adequacy of the search FEMSD conducted to locate responsive records. DC FOIA requires that a search be reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep’t of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation unsupported by any factual evidence that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States (Dep’t of Justice)*, 578 F.2d 261 (9th Cir. 1978).

To establish the adequacy of a search,

‘the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.’ [*Oglesby v. United States Dep’t of the Army*, 920 F.2d

⁴ This provision of DC FOIA exempts from disclosure information protected under a different statute if the statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or establishes particular criteria for withholding or refers to particular types of matters to be withheld.

⁵ The U.S. Department of Health & Human Services provides guidance and examples removing identifying information from health records:
<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/De-identification/guidance.html>

⁶ In the sample report provided to this office, FEMSD redacted the patient’s name, address, and all other personal information with the exception of a pre-existing diabetic condition. This is the type of redacted report that should be disclosed.

Ms. Sarah Fech
Freedom of Information Act Appeal 2015-94
December 17, 2015
Page 4

57, 68 (D.C. Cir. 1990)]. . . The court applies a ‘reasonableness test to determine the ‘adequacy’ of a search methodology, *Weisberg v. United States Dep’t of Justice*, 227 U.S. App. D.C. 253, 705 F.2d 1344, 1351 (D.C. Cir. 1983) . . .

Campbell v. United States DOJ, 164 F.3d 20, 27 (D.C. Cir. 1998).

In conducting an adequate search, an agency must make reasonable determinations as to the location of records requested and search for the records in those locations. *Doe v. D.C. Metro. Police Dep’t*, 948 A.2d 1210, 1220-21 (D.C. 2008) (citing *Oglesby*, 920 F.2d at 68). The determinations as to likely locations of records would involve knowledge of the agency’s record creation and maintenance practices. *See Pub. Emps. for Env’tl. Responsibility v. U.S. Section Int’l Boundary and Water Comm’n.*, 839 F. Supp. 2d 304, 317-18 (D.D.C. 2012). Generalized and conclusory allegations cannot suffice to establish an adequate search or the availability of exemptions. *See In Def. of Animals v. NIH*, 527 F. Supp. 2d 23, 32 (D.D.C. 2007).

FEMSD claims that the records related to dispatch and services “do not exist because the Department’s Safety Pad system is not programed to query the detailed information requested in Appellant’s FOIA request in such a way that would be responsive to her request.” We interpret this to mean that FEMSD cannot search its computer system to produce reports based on a patient’s medical condition, whether the dispatch was sent to a correctional facility, or whether the patient was in the custody of the District’s Department of Corrections or the Metropolitan Police Department when FEMSD responded to the situation. While we accept FEMSD’s representations with regard to its computer search capabilities, these limitations do not mean that the records cannot be produced. To resolve this issue, FEMSD shall explain to you its capacity to conduct electronic searches, and you shall refine your search criteria accordingly. For example, if you provide a specific time period or address of dispatch, FEMSD may be able to produce responsive records. It would then be your obligation to search the records for the information you are seeking (i.e., diabetic conditions).

Lastly, we believe that FEMSD misconstrued your request for administrative complaints filed with FEMSD concerning the treatment of individuals with diabetes. FEMSD did not address your request for administrative complaints in response to your FOIA request, but it stated to this office that “the Department does not possess any records responsive to the information requested by the Appellant in Item 3. Ms. Fech can, however, contact the Office of the Attorney General (OAG), which defends civil lawsuits against District of Columbia agencies.” The complaints you appear to be requesting are not related to litigation; rather, they are administrative complaints filed with FEMSD. Accordingly, FEMSD shall determine if the records exist, where they are stored, search these locations for complaints related to treatment of issues related to diabetes, and disclose the results with redactions as necessary under DC FOIA.

Conclusion

Based on the foregoing, we reverse and remand FEMSD’s decision. Within 7 business days of this decision, FEMSD shall coordinate with you to refine the scope of your request based on the search capability of FEMSD’s records management system. Subsequently, FEMSD shall

Ms. Sarah Fech
Freedom of Information Act Appeal 2015-94
December 17, 2015
Page 5

disclose records that are responsive to your refined request, with redactions made to personally identifying information in accordance with DC FOIA and other applicable statutes and regulations. Finally, FEMSD shall conduct an adequate search for informal or administrative complaints related to treatment of individuals with diabetes. If the search reveals responsive records, those records shall be disclosed subject to applicable redactions and privileges.

This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

/s John A. Marsh*

John A. Marsh
Legal Fellow
Mayor's Office of Legal Counsel

cc: Angela Washington, Information Privacy Officer, FEMSD (via email)

*Admitted in Maryland; license pending in the District of Columbia; practicing under the supervision of members of the D.C. Bar

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-95

September 3, 2015

VIA REGULAR MAIL

James D. Parker

RE: FOIA Appeal 2015-95

Dear Mr. Parker:

I am writing in response to the appeal you sent to the Mayor under the Freedom of Information Act, in which you indicate that the D.C. Superior Court has failed to respond to your request for documents. Under the District of Columbia Freedom of Information Act ("D.C. FOIA"), the Mayor is authorized to review public records determinations made by a public body, with the exception of the Council of the District of Columbia. *See* D.C. Official Code § 2-537(a). The term "public body" means the Mayor, a District agency, or the Council of the District of Columbia. D.C. Official Code § 2-502. Accordingly, the D.C. Superior Court is not subject to the D.C. FOIA, and the Mayor has no jurisdiction to review your appeal.

Based on the foregoing, we hereby dismiss your appeal. This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-96

September 17, 2015

VIA ELECTRONIC MAIL

Cassandra Joseph

RE: FOIA Request 2015-96

Dear Ms. Joseph:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act. In your appeal, you assert that the Department of Consumer and Regulatory Affairs ("DCRA") failed to respond to a request you submitted for records related to a hotel project in the District's Adams Morgan neighborhood.

On September 16, 2015, DCRA advised this office that it responded to your request on the same date. Based on the foregoing, we consider your appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to DCRA's response.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

cc: Brandon Bass, FOIA Officer, DCRA (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-97**

September 3, 2015

VIA REGULAR MAIL

Ashley H. Arrington

RE: FOIA Appeal 2015-97

Dear Mr. Arrington:

I am writing in response to the appeal you sent to the Mayor under the Freedom of Information Act, in which you indicate that the D.C. Superior Court has failed to respond to your request for documents. Under the District of Columbia Freedom of Information Act ("D.C. FOIA"), the Mayor is authorized to review public records determinations made by a public body, with the exception of the Council of the District of Columbia. *See* D.C. Official Code § 2-537(a). The term "public body" means the Mayor, a District agency, or the Council of the District of Columbia. D.C. Official Code § 2-502. Accordingly, the D.C. Superior Court is not subject to the D.C. FOIA, and the Mayor has no jurisdiction to review your appeal¹.

Based on the foregoing, we hereby dismiss your appeal. This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director
Mayor's Office of Legal Counsel

¹ The case cited in your appeal, *Hill v. Federal Judicial Center*, 238 Fed.Appx.622, 623 (D.C.Cir. 2007), refers to a right to documents under common law, as opposed to under D.C. FOIA, and is beyond this office's jurisdiction.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-98**

September 28, 2015

VIA ELECTRONIC MAIL

RE: FOIA Appeal 2015-98

Dear Mr. Gillum:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) ("DC FOIA"), contending that the Metropolitan Police Department ("MPD") improperly withheld records in response to your request for information under DC FOIA.

Background

On August 31, 2015, you submitted a request to MPD for records pertaining to police report CCN#15131596. MPD responded to you in an email dated September 8, 2015, in which the agency denied your request based on an assertion that the records are investigatory files exempt from disclosure pursuant to D.C. Official Code § 2-534(a)(3)(A)(i).

Subsequently, you appealed MPD's decision on the ground that MPD improperly invoked the investigative records exemption. You maintain that disclosure of the records is in the public interest and cite to provisions of Arizona and Georgia state law, which allow for the release of initial police reports.

MPD responded to your appeal in a letter to this office dated September 19, 2015, reiterating its position that releasing the records at issue would interfere with an ongoing MPD enforcement proceeding. Further, at the request of this office, MPD provided a supplemental response on September 23, 2015, asserting that the withheld documents were not reasonably segregable.¹ Along with its supplemental response, MPD provided this office with a copy of the withheld CCN#15131596 reports for our *in camera* review.

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code § 2- 531. In aid of that

¹ MPD's responses are attached for your review.

Mr. Gillum
Freedom of Information Act Appeal 2015-98
September 28, 2015
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policy, DC FOIA creates the right “to inspect ... and ... copy any public record of a public body ...” *Id.* at § 2-532(a).

That right, however, is subject to various exemptions that may form the basis for denial of a request. *Id.* at § 2-534. The DC FOIA was modeled on the corresponding federal Freedom of Information Act, *Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The Investigatory Records Exemption

The DC FOIA contains an exemption for investigatory records compiled for law enforcement purposes when disclosure would interfere with enforcement proceedings. *See* D.C. Official Code § 2-534(a)(3)(A)(i). The exemption applies to records prepared or assembled in the course of an investigation that focus directly on “specifically alleged illegal acts, illegal acts of a particular identified [persons], acts which could, if proved, result in civil or criminal sanctions.” *Barry*, 529 A.2d at 321-22 (quoting *Rural Housing Alliance v. United States Dep’t of Agriculture*, 498 F.2d 73, 81 (D.C. Cir. 1974)). The purpose of the exemption is to prevent “the release of information in investigatory files prior to the completion of an actual, contemplated enforcement proceeding.” *National Labor Relations Bd. v. Robbins Tire & Rubber Co.*, 437 U.S. 224, 232 (1978). Further, the exemption remains applicable to records “[s]o long as the investigation continues to gather evidence for a possible future criminal case, and that case would be jeopardized by the premature release of the evidence.” *E.g., Fraternal Order of Police, Metro. Labor Comm. v. D.C.*, 82 A.3d 803, 815 (D.C. 2014) (internal quotation and citation omitted).

In asserting the investigatory records exemption, it is impermissible for an agency to issue a “blanket exemption” of all records in a file by virtue of the records’ location in that file. *Crooker v. Bureau of Alcohol, Tobacco & Firearms*, 789 F.2d 64, 66 (D.C. Cir. 1986). “[W]here an agency fails to demonstrate that the documents sought relate to any ongoing investigation or would jeopardize any future law enforcement proceedings, the investigatory records exemption would not provide protection to the agency’s decision.” *Fraternal Order of Police*, 82 A.3d at 815 (internal quotation and citation omitted).

It is clear that the records in question were compiled for law enforcement purposes with respect to an ongoing criminal investigation; the issue is whether their release would interfere with an enforcement proceeding. MPD has asserted that “[d]isclosure of records at this time would expose witnesses to danger, alert potential criminal suspects to the ongoing investigation, and reveal the direction and progress of the investigation, thus potentially compromising the investigation.”² MPD provided the two CCN#15131596 reports in question to this office for *in camera* review. Having reviewed these reports, we concur with MPD’s representation. The reports contain details on evidence seized, suspects’ behavior when apprehended, and other

² MPD correspondence dated September 19, 2015, at p. 2.

Mr. Gillum
Freedom of Information Act Appeal 2015-98
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information which, if disclosed, could expose the government's prosecution strategy and otherwise interfere with an open criminal investigation.

Segregability

Under the DC FOIA, even when an agency establishes that it has properly withheld a document under an exemption, it must disclose all reasonably segregable, nonexempt portions of the requested documents. D.C. Official Code § 2-534(b). *See also, e.g., Roth v. U.S. Dep't of Justice*, 642 F.3d 1161, 1167 (D.C. Cir. 2011). Here, the MPD has demonstrated that it considered whether portions of the records in question, including CCN #15131596, are reasonably segregable. On the issue of segregability, MPD stated:

A disclosure to a requester is deemed under FOIA to be publicly available. The disclosure of any information which would be useful or informative to the requester would also be useful or informative to a suspect or a witness. Knowing what has transpired in the investigation, which includes not only the information which the Metropolitan Police Department ("MPD") possesses but also knowing the information which it does not possess, a suspect or witness can take actions or tailor any statements which they are called to make in order to hamper or defeat the efforts of MPD. Any detail revealed can be useful. The identification of existing records itself would contribute to the disclosure of the direction, progress, and status of the investigation.³

Having reviewed the documents and MPD's responses to your appeal, we accept MPD's representation that there is no reasonable way for the documents to be redacted in the manner described in D.C. Official Code § 2-534(b),⁴ as the exempt and non-exempt portions are inextricably intertwined such that after redaction of the withheld documents would produce "an edited document with little informational value." *Antonelli v. Federal Bureau of Prisons*, 623 F. Supp. 2d 55, 60 (D.D.C. 2009) (internal citations omitted).

Conclusion

Based on the foregoing, we affirm the MPD's decision and dismiss your appeal. This constitutes the final decision of this office.

If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

³ MPD correspondence dated September 23, 2015, at p. 1.

⁴ "(b) Any reasonably segregable portion of a public record shall be provided to any person requesting the record after deletion of those portions which may be withheld from disclosure pursuant to subsection (a) of this section . . ."

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Sincerely,

/s Gregory Evans

Gregory Evans
Associate Director
Mayor's Office of Legal Counsel

cc: Ronald B. Harris, Deputy General Counsel, MPD (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2015-99**

October 9, 2015

VIA ELECTRONIC MAIL

Ms. Jennifer Wedekind

RE: FOIA Appeal 2015-99

Dear Ms. Wedekind:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the District of Columbia Public Schools (“DCPS”) improperly withheld records you requested under the DC FOIA.

Background

On March 25, 2015, you submitted a request to DCPS containing 11 requests for documents related to the District’s Empowering Males of Color initiative (“EMOC”). In response, DCPS produced over 400 pages of documents, some of which were redacted. DCPS identified but withheld other responsive documents under various FOIA exemptions.

You appealed DCPS’s decision on September 9, 2015, arguing that DCPS had misapplied the FOIA exemptions, and as a result had improperly redacted and withheld documents to which your organization is entitled. Principally, you argue that: (1) DCPS has relied on an excessively broad interpretation of the deliberative process privilege; (2) the vast majority of withheld documents are not predecisional, as they were created after the announcement of the EMOC initiative; and (3) the deliberative process privilege does not apply to documents that solely reflect the implementation of established agency policy.

DCPS provided this Office with a response to your appeal on September 24, 2015. Therein, DCPS reasserted the same exemptions. Additionally, DCPS included a copy of the withheld and redacted documents for this Office’s *in camera* review.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public

records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534.

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *See Barry v. Washington Post Co.*, 529 A.2d 319, 321 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe the local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

The crux of this matter is DCPS's assertion of three privileges encompassed by D.C. Official Code § 2-534(a)(4): the deliberative process privilege, the attorney-client privilege, and the attorney-work product privilege ("Exemption 4"). Exemption 4 vests public bodies with discretion to withhold "inter-agency or intra-agency memorandums and letters which would not be available by law to a party other than an agency in litigation with the agency[.]" This exemption has been construed to "exempt those documents, and only those documents, normally privileged in the civil discovery context." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). Privileges in the civil discovery context include the deliberative process privilege. *McKinley v. Bd. of Governors of the Fed. Reserve Sys.*, 647 F.3d 331, 339 (D.C. Cir. 2011). The deliberative process privilege protects agency documents that are both predecisional and deliberative. *Coastal States Gas Corp., v. Dep't of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). A document is predecisional if it was generated before the adoption of an agency policy and it is deliberative if it "reflects the give-and-take of the consultative process." *Id.*

The exemption thus covers recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency. Documents which are protected by the privilege are those which would inaccurately reflect or prematurely disclose the views of the agency, suggesting as agency position that which is as yet only a personal position. To test whether disclosure of a document is likely to adversely affect the purposes of the privilege, courts ask themselves whether the document is so candid or personal in nature that public disclosure is likely in the future to stifle honest and frank communication within the agency . . .

Id.

While the ability to pinpoint a final decision or policy may bolster the claim that an earlier document is predecisional, courts have found that an agency does not necessarily have to point specifically to an agency's final decision to demonstrate that a document is predecisional. *See e.g., Gold Anti-Trust Action Comm. Inc. v. Bd. of Governors of the Fed. Reserve Sys.*, 762 F. Supp. 2d 123, 136 (D.D.C. 2011) (rejecting plaintiff's contention that "the Board must identify a specific decision corresponding to each [withheld] communication"); *Techserve Alliance v. Napolitano*, 803 F. Supp. 2d 16, 26-27 (D.D.C. 2011).

Under DC FOIA, even when an agency establishes that it has properly withheld a document under an exemption, it must disclose all reasonably segregable, nonexempt portions of the

document. *See, e.g., Roth v. U.S. Dep't of Justice*, 642 F.3d 1161, 1167 (D.C. Cir. 2011). “To demonstrate that it has disclosed all reasonably segregable material, ‘the withholding agency must supply a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’” *Judicial Watch, Inc. v. U.S. Dep't of Treasury*, 796 F. Supp. 2d 13, 29 (D.D.C. 2011) (quoting *Jarvik v. CIA*, 741 F. Supp. 2d 106, 120 (D.D.C. 2010)). In *Judicial Watch*, the court held that “[a]lthough purely factual information is generally not protected under the deliberative process privilege, such information can be withheld when ‘the material is so inextricably intertwined with the deliberative sections of documents that its disclosure would inevitably reveal the government’s deliberations.’” *Id.* at 28. (quoting *In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997)). In these instances, factual information is protected when disclosing the information would reveal an agency’s decision-making process in a way that would have a chilling effect on discussion within the agency and inhibit the agency’s ability to perform its functions. *Id.*

Along with its formal response to your appeal, DCPS provided this Office with copies of the email messages and documents that it redacted in part or withheld. The following is an analysis of the redacted and withheld documents.

DCPS’s Initial Response to Your FOIA Request

Part 2: “Any records identifying and/or describing existing or planned education programs created or anticipated to receive funding pursuant to the Empowering Males of Color initiative.”

The only document DCPS withheld with respect to Part 2 of your request is a February 25, 2015, memorandum titled “500 for 500: Mentoring through Literacy – Strategy Meeting Follow up & Next Steps.” DCPS withheld this document under the deliberative process privilege. The two-page document is broken into four sections: “Purpose and Background,” “Current Status & Early Implementation Challenges,” “Five Proposed Solutions (and Budgetary Impact),” and “Additional Support Required from Other DCPS Offices.” The first two sections are neither deliberative nor predecisional; rather, they are “communications made after the decision and designed to explain it . . .” *N.L.R.B. v. Sears*, 421 U.S. 132, 152 (1975). These sections do not constitute opinion or debate as to actions to be taken but instead represent a recounting of actions already taken and the current status of an agency’s program. Analysis of ongoing policy is not deliberative. *See Citizens for Responsibility & Ethics v. United States Dep't of Homeland Sec.*, 514 F. Supp. 2d 36, 46 (D.D.C. 2007). This part of the document must be disclosed.

The other two sections, “Five Proposed Solutions (and Budgetary Impact),” and “Additional Support Required from Other DCPS Offices” are deliberative. They are the type of documents that are “gauging the appropriate response to a specific type of problem . . .” *Citizens for Responsibility & Ethics*, 514 F. Supp. 2d at 45-46. These sections describe possible agency action and the opinion of a specific writer as to how the agency should address problems. As a result, these sections are protected under the deliberative privilege process and may be redacted from the remaining non-exempt portions of the document.

Jennifer Wedekind
Freedom of Information Act Appeal 2015-99
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Part 3: “Any records reflecting the eligibility and/or admission criteria for existing or planned education programs created or anticipated to receive funding pursuant to the Empowering Males of Color initiative. This request includes but is not limited to the following programs: Urban Prep DC, the Proving What’s Possible Fund, the five-week Summer Reading Camp and the 500 for 500 Mentoring through Literacy program.”

DCPS withheld three documents that are responsive to Part 3 of your FOIA request. One of the documents is the “500 for 500” memorandum, which this decision has already addressed. The other two documents are “RE: Next Steps on PWP: Social Emotional Focus Area” and “Request for Proposals Proving What’s Possible Grant.” DCPS withheld both of these documents under the deliberative process privilege, asserting they are drafts and therefore protected by the privilege.

The first document, “RE: Next Steps on PWP: Social Emotional Focus Area” is not deliberative. The document consists of two emails from high-ranking DCPS officials, the Director of Psychological Services and the Chief of Staff of the Office of Innovation & Research. The two emails describe actions that these officials have decided will be taken with regard to grants. Generally, intra-agency memoranda or similar communication from subordinates to superiors on an agency ladder are more likely to be deliberative than those flowing in the opposed direction. *Schlefer v. United States*, 702 F.2d 233, 238 (D.C. Cir. 1983); *Coastal States Gas Corp.*, 617 F.2d at 868 (“The identity of the parties to the memorandum is important; a document from a subordinate to a superior official is more likely to be predecisional, while a document moving in the opposite direction is more likely to contain instructions to staff explaining the reasons for a decision already made.”). The emails do not consist of opinion or deliberation as to what an appropriate course of action would be; rather, they are directives. As a result, this document should be released.

The second document, “Request for Proposals Proving What’s Possible Grant.” DCPS asserts that this document is a draft that has never been finalized. Therefore, the contours of DCPS’s RFP may have changed since this document was drafted, and this document may “inaccurately reflect or prematurely disclose the views of the agency, suggesting an agency position that which is as yet only a personal position.” *Id.* at 866. Based on the information before us, the document was properly withheld. *But see Coastal States Gas Corp.*, 617 F.2d at 866 (“Finally, even if the document is predecisional at the time it is prepared, it can lose that status if it is adopted, formally or informally, as the agency position on an issue or is used by the agency in its dealings with the public.”). If this document has been shared with Urban Prep or another non-District entity, the document would lose its protection under the deliberative process privilege. As such should DCPS seek to continue withholding this document from you, it should provide this Office with a declaration or affidavit indicating that: (1) the commitments expressly stated within the document have not been adopted since it was drafted; and (2) no non-District entity, such as Urban Prep, has received a copy of this document, which would mean it is not an interagency record.

Part 4: “Any records related to eligibility, criteria, or guidelines for grants made pursuant to the Proving What’s Possible Fund, and any records related to grant applications submitted to or grant awards made from the Proving What’s Possible Fund.”

The only document DCPS withheld in response to Part 4 of your initial FOIA request is the document titled “Request for Proposals Proving What’s Possible Grant,” which this decision has previously addressed.

Part 5b: “Any records — created, modified or obtained between January 1, 2006 and the present — relating to DCPS’s reasons for authorizing any single-sex education program within DCPS, created or anticipated to receive funding pursuant to the Empowering Males of Color initiative. This request includes but is not limited to: . . . Any records reflecting evaluations of existing or past single-sex education programs in DCPS or elsewhere, including but not limited to evaluations of any school owned or operated by Urban Prep Academies, including any entities owned by, directed by, or otherwise associated with Tim King and/or Urban Prep Academies[.]”

The three documents DCPS withheld under Part 5(b) of your initial FOIA request are entitled “20150219_Urban Prep Budget.xlsx,” “Urban Prep Capital Budget 1pager_TWFeedback.pdf,” and “Urban Prep Dist. Chart Compact Framework.draft.pdf.” The first document, “20150219_Urban Prep Budget.xlsx,” is not an opinion of an individual within DCPS. It appears to be a draft budget of the DC Public Education Fund, a non-governmental entity that has publicly posted its total budget for supporting EMOC.¹ The document bears the sole logo of the DC Public Education Fund, rendering it unclear why DCPS considers it an agency document entitled to protection. In the absence of further context about this document, it should be released.

The “Urban Prep Capital Budget 1pager_TWFeedback.pdf,” is a compilation of factual information and charts about Urban Prep Academies (“Urban Prep”), a nonprofit organization that operates a network of all-male high schools identified by DCPS as a potential EMOC partner. It is unclear who authored this document. Nevertheless, the document does not contain opinion, candor, or analysis. Prevailing case law indicates that purely factual information cannot be withheld under the deliberative process privilege. *Coastal States Gas Corp.*, 617 F.2d at 869. Accordingly, this document is not protected by the deliberative process privilege.

The third document “Urban Prep Dist. Chart Compact Framework.draft.pdf,” appears to have been properly withheld because it is deliberative.² The draft document is a chart that outlines a series of “decision points” and corresponding proposed commitments from DCPS and Urban Prep. DCPS asserts that this document is a draft that has never been finalized. Therefore, the commitments of either DCPS or Urban Prep may have changed since this document was drafted,

¹ <http://www.dceducationfund.org/wp-content/uploads/2015/01/Empowering-Males-of-Color1.pdf>

² You have argued that this document, among others, is not pre-decisional because it was created after the announcement of the EMOC initiative. While the decision to create EMOC had been made at the time this document was drafted, the decision as to which charter school would pilot the program and the terms by which it would be done had not yet been made as of the creation of this document.

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and this document may “inaccurately reflect or prematurely disclose the views of the agency, suggesting as agency position that which is as yet only a personal position.” *Id.* at 866. Based on the information before us, the document was properly withheld. *But see Coastal States Gas Corp.*, 617 F.2d at 866 (“Finally, even if the document is predecisional at the time it is prepared, it can lose that status if it is adopted, formally or informally, as the agency position on an issue or is used by the agency in its dealings with the public.”). If this document has been shared with Urban Prep or another non-District entity, the document would lose its protection under the deliberative process privilege. As such should DCPS seek to continue withholding this document from you, it should provide this Office with a declaration or affidavit indicating that: (1) the commitments expressly stated within the document have not been adopted since it was drafted; and (2) no non-District entity, such as Urban Prep, has received a copy of this document, which would mean it is not an interagency record.

Part 5c: “Any records — created, modified or obtained between January 1, 2006 and the present — relating to DCPS’s reasons for authorizing any single-sex education program within DCPS, created or anticipated to receive funding pursuant to the Empowering Males of Color initiative. This request includes but is not limited to: . . . Any records pertaining to any legal analyses about the constitutionality and/or legality under Title IX, the D.C. Human Rights Act or other applicable law or regulation of any such programs.”

DCPS withheld four documents under Part 5(c) of your initial FOIA request: (1) “Feb 12, 2015 letter to Racine from Chancellor Kaya Henderson,” (“Racine Letter”); (2) “Empowering Males of Color: Frequently Asked Questions (FAQ);” (3) “SUBJECT: Urban Prep Academy Guidance Memo;” and (4) “March draft letter to Cheh.” Unusually, and broadly, DCPS has asserted that the attorney-work product, attorney client, and deliberative process privileges apply to all four of these documents. Each privilege will be analyzed in turn.

The Racine Letter consists of correspondence sent from DCPS Chancellor Henderson – the highest ranking member of DCPS – to Attorney General Karl Racine. That the letter was written by Chancellor Henderson is significant vis a vis the deliberative process privilege, as courts have held that “[t]he identity of the parties to the memorandum is important’ a document from a subordinate to a superior official is more likely to be predecisional, while a document moving in the opposite direction is more likely to contain instructions to staff explaining the reasons for a decision already made.” *Coastal States Gas Corp.*, 617 F.2d at 868. *See also, Citizens for Responsibility & Ethics*, 514 F. Supp. 2d at 46; *Schlefer*, 702 F.2d at 238. Chancellor Henderson writes to Attorney General Racine that the purpose of her letter is to “provide . . . a fuller explanation of our single-gender high school . . . to make [the attorney general] aware of the full range of work we are doing. . . .” Thus, by its own terms, the letter was sent to inform another high ranking government official about agency policy. Further, even if it were deliberative, the letter is filled with pages of purely factual information and graphs that should have been disclosed. Any perceived deliberative material should be redacted.

Notwithstanding DCPS’s assertion, the Racine Letter is not protected by the attorney-client privilege. For this correspondence to be protected by the attorney-client privilege, Chancellor Henderson would have to be soliciting legal counsel or advice from Attorney General Racine. In

the Racine Letter, Chancellor Henderson writes to the Attorney General to “provide [him] with the analysis and legal assurances that we will have in place to ensure that all students have access to strong educational opportunities.” At no point in the letter does Henderson solicit legal advice or counsel from the Attorney General. DCPS asserts in its response to your appeal that the Racine Letter contains legal analysis by DCPS attorneys; yet, there is no such indication in the letter. Moreover, even if attorneys helped Chancellor Henderson draft the letter, the substance of the communication remains unchanged; it is still an explanatory letter without any solicitation of legal counsel.

The attorney work product privilege protects the legal strategies and plans of an attorney made in anticipation of litigation. *E.g. Hickman v. Taylor*, 329 U.S. 495, 513 (1947). In the Racine Letter, Chancellor Henderson explicitly states, “I am not a lawyer[.]” Further, as previously mentioned, there is no indication that the letter was prepared by an attorney or solicits legal advice. As a result, the attorney work product privilege does not apply to the Racine Letter. Having determined that none of the FOIA exemptions DCPS invoked to withhold this letter applies, we conclude that it should be disclosed.

The second withheld responsive document for Part 5(c), the Empowering Males of Color: Frequently Asked Questions (FAQ) draft, is not protected by the attorney-work product privilege. The attorney-work product privilege is designed to protect the mental impressions and strategies of an attorney in preparation for litigation. This document is an FAQ, a document designed to share the thoughts of the agency with the public. It cannot be properly considered a document designed to stay confidential. It is therefore not protected by the attorney work product privilege.

This document is also not protected by the attorney-client privilege, as it is not a communication from a client to a lawyer seeking legal counsel; however, the document is deliberative and predecisional. The seven-page draft is heavily redlined and contains 19 comments from agency employees. Having reviewed the document, we concur that this is the very sort of give and take of the deliberative process that is meant to be protected. While the EMOC program was announced before this document was created, many items in this draft FAQ reveal implementing decisions that had not been fully made at the time the document was written. Further, the item is a draft, and its release may confuse the public as to DCPS’s final, official position. The FAQ does not describe agency action taken but is instead forward looking to action the agency is considering taking in implementing its larger EMOC policy objective. This item was properly withheld, subject to an affidavit or declaration to this Office that no final version was ever created and that this document was never shared with Urban Prep, DC Public Education Fund, or any other non-governmental entity.

The third withheld responsive document for Part 5(c), SUBJECT: Urban Prep Academy Guidance Memo, is protected by the attorney work product privilege and need not be disclosed. Upon review, the document was clearly created in contemplation of and preparation for possible litigation, and is work product which agency attorneys made for their clients. It was therefore properly withheld.

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The fourth withheld responsive document for Part 5(c), “March draft letter to Cheh,” is a moot issue. While DCPS claimed in its response to this Office that “[t]here is no final version of that document,” it appears that a final version of the document was sent on March 30, 2015.³ This Office will therefore not reach the question of whether a communication from the Office of the Attorney General to a legislative branch member, Councilmember Cheh, qualifies as an interagency communication. Moreover, the draft is protected by attorney-work product privilege, as it is filled with comments from agency lawyers in anticipation of litigation.

Part 7: “Any records reflecting the teaching methods or curricula used or proposed to be used in any single-sex education program created or anticipated to receive funding pursuant to the Empowering Males of Color initiative.”

The only document DCPS withheld under Part 7 of your initial FOIA request is the document entitled, “500 for 500,” which this decision previously addressed.

Part 9(a): “Any records in the possession of DCPS related to Urban Prep Academies, including any entities owned by, directed by, or otherwise associated with Tim King and/or Urban Prep Academies. This request includes but is not limited to: Records reflecting graduation rates, suspension rates, expulsion rates, transfer rates and/or drop-out rates at any Urban Prep Academies school[.]”

The only documents DCPS withheld under Part 9 (a) of your initial FOIA request are the documents entitled, “20150219_Urban Prep Budget.xlsx,” “Urban Prep Capital Budget 1pager_TWFeedback.pdf,” and “Urban Prep Dist. Chart Compact Framework.draft.pdf,” which this decision previously addressed.

Part 9(b): “Any records in the possession of DCPS related to Urban Prep Academies, including any entities owned by, directed by, or otherwise associated with Tim King and/or Urban Prep Academies. This request includes but is not limited to: . . . Records reflecting proposals, plans, agreements and/or understandings between DCPS and Tim King, or between DCPS and Urban Prep Academies[.]”

The only document DCPS withheld for Part 9(b) of your request is entitled, “Letter of understanding.” This document is a draft agreement letter between DCPS and Urban Prep Academies, filled with comments by agency lawyers. The document is not protected by the attorney work product privilege because it is a document designed to formalize a relationship and is not made in preparation for litigation. Not every document created by a lawyer is protected by the attorney work product privilege. The comments in the document are, however, protected by the deliberative process privilege, as is the substance of the agreement. The terms of the agreement are in draft form and the obligations of either DCPS or Urban Prep may have changed since this document was drafted. Therefore, this document may “inaccurately reflect or prematurely disclose the views of the agency, suggesting as agency position that which is as yet only a personal position.” *Coastal States Gas Corp.*, 617 F.2d at 866. Based on the

³ <https://s3.amazonaws.com/s3.documentcloud.org/documents/1698174/minority-school-oag-opinion.pdf>; <http://www.washingtoncitypaper.com/blogs/looselips/2015/03/30/browsers-all-boys-school-plan-gets-attorney-general-approval/>

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information before us, the document was properly withheld. If the commitments of DCPS and Urban Prep have since been integrated into agency policy, the document would have to be disclosed. Similarly, if this document has ever been shared with Urban Prep or any other non-District entity, the document would lose protection under the deliberative privilege process. As a result, this document shall be withheld, subject to an affidavit from DCPS to this Office that: (1) the commitments expressly stated within this document have not been agreed to since; and (2) neither Urban Prep, nor any other non-executive branch entity, has ever received a copy of this document, which would cause the document to lose the characteristic of being an interagency record.

Part 10: “Any records reflecting the funding structure to be applied to Urban Prep DC, the Proving What’s Possible Fund, the five-week Summer Reading Camp, the 500 for 500 Mentoring through Literacy program, and any other program anticipated to receive funding pursuant to the Empowering Males of Color initiative. This request includes but is not limited to correspondence, exchange of payments, proposals, plans, agreements, and/or understandings between DCPS and the DC Public Education Fund.”

The only document DCPS withheld under Part 10 of your initial FOIA request is the document entitled, “20150219_Urban Prep Budget.xlsx,” which this decision previously addressed.

DCPS’s Supplemental Response to your Initial FOIA Request

Part 3: “The document named ‘Overall EMOC document’ refers to a ‘working group’ which assisted in developing the EMOC initiative. Any documents related to that working group, or created by or in conjunction with that working group would be responsive to our requests, however were not provided. Please advise if this omission was pursuant to a FOIA exemption and if so, which exemption applies. If no exemption applies, please provide all responsive documents.”

This Office has reviewed the 17 documents withheld in the supplemental response to Part 3 of the FOIA request. Of those documents, it is clear that 16 of them are protected by the deliberative process privilege and are not reasonably segregable. These documents consist of meeting agendas of a DCPS working group that met throughout 2014. These documents are interagency records. They were created before the January 21, 2015, announcement of the EMOC program, and are therefore predecisional. Further, they reflect quintessential deliberation, as they contain speculation as to what DCPS needs to do and reveal the decision making process of the agency. These documents do not contain factual information that could be reasonably segregated; the entire document is a record of the decision making process. Therefore DCPS properly withheld 16 of the documents in their entirety.

One of these documents, however, should be redacted and released. The document titled “BEAMS Committee Meeting – May 16, 2014” contains a page and a half of purely factual information. This portion of the document is not an opinion or advice, nor is it a recommendation of future agency decisions. Conversely, the remainder of the document, beginning with “Points to Consider,” is clearly deliberative, as it outlines a series of decision

points, with some recommendations, still open to agency action. The document should be redacted and released accordingly.

Part 4: “The document named “Overall EMOC document” refers to an “internal analysis” conducted as part of the development of EMOC. Any documents related to that internal analysis would be responsive to our requests, however were not provided. Please advise if this omission was pursuant to a FOIA exemption and if so, which exemption applies. If no exemption applies, please provide all responsive documents.”

The only document DCPS withheld in its supplemental response with respect to Part 4 of your request is entitled, “Empowering Males of Color (EMOC): Strategic Plan.” DCPS asserts that this document was properly withheld under the deliberative process privilege. DCPS’s assertion is incorrect; this document is not deliberative. This document is filled with factual information, and is the type of “communications made after the decision and designed to explain it . . .” *N.L.R.B. v. Sears*, 421 U.S. 132, 152 (1975). For example, the document states “The Empowering Males of Color initiative was developed . . .”, “we are working to make sure [EMOC] efforts are aligned, . . .” and “This initiative utilizes . . .” The language of the document demonstrates that it is describing and explaining an already-existing program and is not contemplating or debating the merits of the program. As a result, the document is not protected by the deliberative process privilege and should therefore be disclosed.

Inter-agency Communications Applicable to your FOIA Request in its Entirety

In addition to the analysis above as to whether the withheld documents are deliberative, there remains an open question as to whether the documents may properly be considered inter or intra-agency records. This question remains open because it appears that some of the documents may have been shared with Urban Prep, among other non-governmental entities.

As we explained in DC FOIA Appeal No. 2013-11R, communications with parties outside of the government may still qualify as “inter-agency” communications for the purposes of the deliberative process privilege. *E.g. Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1 (2001).

When interpreted in light of its purpose, . . . the language of Exemption [4] clearly embraces this situation. The exemption was created to protect the deliberative process of the government, by ensuring that persons in an advisory role would be able to express their opinions freely to agency decision-makers without fear of publicity. In the course of its day-to-day activities, an agency often needs to rely on the opinions and recommendations of temporary consultants, as well as its own employees. Such consultations are an integral part of its deliberative process; to conduct this process in public view would inhibit frank discussion of policy matters and likely impair the quality of decisions.

Nat’l Inst. of Military Justice v. U.S. Dep’t of Def., 512 F.3d 677, 680 (D.C. Cir. 2008) (quoting *Ryan v. Department of Justice*, 617 F.2d 781 (D.C.Cir.1980))

Communications from consultants are not considered inter-agency communications when they are made by “an interested party seeking a Government benefit at the expense of other applicants.” *Klamath Water Users Protective Ass'n*, 532 U.S. at 12. Urban Prep is an interested party, seeking to open a new school with new funds in the District to the exclusion of other LEAs. Urban Prep is not the only entity capable of carrying out this program, and as a result everything it does is in its own best interest. Urban Prep’s interests are not perfectly aligned with the government’s. Where the government would benefit for expending less for more education services, Urban Prep would benefit from more expenditures for fewer educational services. As a result, all documents shared with Urban Prep would no longer be interagency documents and would no longer be protected by deliberative process privilege. Therefore, for all documents identified as being properly withheld in this decision, DCPS shall in an affidavit or declaration, to this Office, certify that the documents have never been shared with Urban Prep or any other non-government third party.

Emails Redacted and Withheld by DCPS

The email messages that DCPS partially redacted or withheld in response to your FOIA request consist of hundreds of pages. As we have noted in past decisions, an administrative appeal under DC FOIA is a summary process.⁴ It is not possible for us to review and analyze all of the email messages and issue a decision in a timely manner. As a result, we have reviewed approximately fifty email messages to glean the types of electronic communications DCPS redacted or withheld based on the asserted privileges. We shall address some of them in an attempt to provide guidance as to the remainder.

Inter-agency Emails

DCPS withheld or redacted a large number of emails that include communications to individuals and entities that are not affiliated with DCPS or the District government. For the reasons previously explained, none of these individuals or entities qualifies under the third-party consultant exception to the interagency document rule. For example, an email from the DC Trust for Youth to Chancellor Henderson about bringing a program to DCPS to support EMOC and other youth issues in parts of the city would not be privileged. Nor would an email to and from a DCPS official to the White House initiative on Educational Excellence for Hispanics regarding EMOC.

Emails Withheld to Protect Personal Privacy:

The only personally identifiable information in many of these emails appears to be the sender’s personal email address. These email addresses should be redacted and the remainder of the messages should be released.

Emails Exchanges Between DCPS Employees that are Neither Deliberative nor Pre-decisional:

⁴ See FOIA Appeal 2015-03.

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A number of the emails DCPS withheld consist of communications between a DCPS employee, such as a teacher, to a DCPS official expressing an interest in working on or shaping the EMOC initiative. The emails were sent after January 21, 2015, when the EMOC initiative was released. Although certain policy aspects of the EMOC initiative had not been finalized as of January 21, 2015, many of the emails we reviewed in this category pertain to EMOC decisions that were finalized at the time the email was sent. Accordingly, the messages cannot be construed as predecisional. The messages are also not deliberative in that the individuals who sent the emails were not attempting to shape policy; they were expressing an interest in participating in the EMOC program. The same can be said of one particular email from a staff member of the Mayor's Office of Community Relations and Services ("MOCRS") who wrote to a DCPS official volunteering to help recruit for a literacy program. The MOCRS has no role in creating policy or strategy for EMOC; it was simply offering assistance in making phone calls.

Some information in the withheld emails is clearly informational as opposed to deliberative (e.g., an email from a DCPS staff member to other DCPS staff saying she was inadvertently copied on a letter to Chancellor Henderson that should have been addressed to someone else.). Another example is an email from one DCPS staff member to another DCPS staff member asking to help the Chancellor prepare for an EMOC presentation she was to give at a Mayor's cabinet meeting. This is not deliberative and there is no back-and-forth; it is merely instructional.

A sample of the withheld emails we reviewed involve EMOC only tangentially and are not protected by any FOIA exemption. For example, an email from a DCPS staff member to a DCPS official telling him she enjoyed listening to a radio interview in which he discussed EMOC. There is no substantive discussion about the initiative or deliberation. Therefore, the message is not exempt from disclosure.

Conclusion

Based on the foregoing, we affirm in part and remand in part this matter to DCPS. DCPS shall, within 10 business days of the date of this decision, redact and release certain documents and provide this Office with the affidavits or declarations described in detail in this decision. DCPS shall also review all redacted and withheld email messages in accordance with the guidance in this decision to determine if they are subject to disclosure.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

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/s Ronald R. Ross

Ronald R. Ross
Deputy Director

cc: Eboni J. Govan, Attorney Advisor, DCPS (via email)

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

2016 SCHEDULE OF MEETINGS

The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to D.C. Official Code Section 2-576, of the Commission's 2016 Schedule of Meetings to consider formal case matters and other applications that require the Commission's action. The proposed agenda and time for each meeting will be posted on the Commission's website (www.dcpssc.org) and in the Commission Secretary's office not less than 48 hours before each meeting.

The meetings are scheduled to convene at 11:00 A.M. and will be held in the Commission's hearing room, at 1325 G Street, NW, Suite 800, Washington, D.C. 20005.

January 6, 2016
January 20, 2016

July 6, 2016
July 20, 2016

February 3, 2016
February 18, 2016

August 3, 2016

March 2, 2016
March 16, 2016
March 24, 2016

September 7, 2016
September 21, 2016

April 13, 2016
April 27, 2016

October 5, 2016
October 26, 2016

May 11, 2016
May 25, 2016

November 2, 2016
November 17, 2016
November 30, 2016

June 8, 2016
June 23, 2016

December 14, 2016

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 January 15, 2016.

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 December 18, 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: January 15, 2016

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Adams	Felix	Self 4273 Edson Place, NE	20019
Akinleye	Monreti	General Services, INC 3613 Georgia Avenue, NW	20010
Aleman	Ruth M.	Agriculture Federal Credit Union 1400 Independence Avenue, SW, Room SM-2	20250
Alexander	Lauren	matchboxfoodgroup 750 9th Street, NW, Suite 550	20001
Amacher	Kelly	NBC Universal 4001 Nebraska Avenue, NW	20016
Baker	Serenity	The Assistant, LLC 920 49th Street, NE	20019
Banks, Jr.	Richard D.	Self (Dual) 4906 Kansas Avenue, NW	20011
Bannister	Anne	Self 3271 I Street, SW	20024
Barnett	Leslie	Federal Labor Relations Authority, Office of Inspector General 1400 K Street, NW	20005
Bell	Tuesday T.	The Washington Post 1150 15th Street, NW	20071
Bogovich	Michelle	Public Company Accounting Oversight Board 1666 K Street, NW	20006
Brooks	Susan C.	RCM of Washington, Inc. 900 2nd Street, NE, Suite 8	20002
Burkhart	Marcie L.	Banner & Witcoff, LTD 1100 13th Street, NW, Suite 1200	20005
Butler-Campbell	Barbara	Agriculture Federal Credit Union 1400 Independence Avenue, SW, Room SM-2	20520

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Carrasco	Nicole F.	Regan Zambri & Long, PLLC 1919 M Street, NW, Suite 350	20036
Cheever	Jane Erin	Feldesman Tucker Leifer Fidell LLP 1129 20th Street, NW, Suite 400	20036
Chi	Szu Ching	Citi Bank N.A. 1000 Vermont Avenue, NW	22151
Chumley	Nathaniel	Edison Electric Intitute 701 Pennsylvania Avenue, NW	20004
Collier	Anita T.	Federal Energy Regulatory Commison 888 1st Street, NE	20426
Copeland	Siobhan Marie	Children's National Medical Center Child and Adolescent Protection Center 111 Michigan Avenue, NW	20001
Costner	Gaynelle J.	Keller and Heckman, LLP 1001 G Street, NW, Suite 500W	20001
Davis	Veronica R.	Citibank 1225 Connecticut Avenue, NW	20036
Dickinson	Sarah	The Employment Law Group, PC 888 17th Street, NW, Suite 900	20006
Dos Santos	Cecilia D.	Latin American Youth Center 1419 Columbia Road, NW	20009
Doughty	Sarah L.	Department of Treasury 1500 Pennsylvania Avenue, NW	20220
Doyle	Connor	Carr Workplaces 1701 Pennsylvania Avenue, NW, Suite 300	20006
DyTang	David	Self 555 Massachusetts Avenue, NW, Room 319	20001
Earl	Donna M.	Self 1706 E Street, SE	20003

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Eibs	Kelly M.	Self 1537 Foxhall Road, NW	20007
Elwell	Manami F.	Morgan, Lewis & Bockius, LLP 2020 K Street, NW	20006
Feist	Almaira Garcia	U.S. Department of Veterans Affairs 425 I Street, NW	20895
Fine	Jody Q.	Slevin & Hart, P.C. 1625 Massachusetts Avenue, NW, Suite 450	20036
Fortune	Shaun	PNC Bank 800 17th Street, NW	20006
Foster	Kathryn Cecilia	American University - Washington College of Law 4801 Massachusetts Avenue, NW, Suite 129	20016
Freeland	Jacqueline	Sibley Memorial Hospital 5255 Loughboro Road, NW	20007
Friel	Michael W.	Freshfields Bruckhaus Deringer, US LLP 700 13th Street, NW	20005
Fuller	Deborah R.	Neighbor Works America 999 North Capital Street, NW, Suite 900	20002
Gibson	Sherray	DC Housing Finance Agency 815 Florida Avenue, NW	20001
Glazer	Peter J.	Self (Dual) 810 Jefferson Street, NW	20011
Goldie	Carlos Andres	Banner & Witcoff, Ltd 1100 13th Street, NW	20005
Green	Charlotte A.	Market Development Group, Inc. 1832 Connecticut Avenue, NW	20009

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Greene	Tiyenne Alise	Conference of State Bank Supervisors 1129 20th Street, NW, 9th Floor	20036
Greenlee	Erin E.	Banner & Witcoff, Ltd 1100 13th Street, NW, Suite 1200	20005
Griffith	Penny L.	Bode and Fierberg 1150 Connecticut Avenue, NW, Suite 900	20036
Hamilton	Hazel A.	Self 1433 Parkwood Place, NW	20010
Haney	Cary C.	Liquidity Services 1920 L Street, NW, 6th Floor	20036
Hernandez	Cindy	Wells Fargo Bank 215 Pennsylvania Avenue, SE	20003
Hilton	Vanessa	Self (Dual) 3740 Hayes Street, NE, Apartment 6	20019
Howie	Georgetta	Self (Dual) 609 19th Street, NE, Unit B	20002
Hubal	Sarah Elizabeth	FreedomWorks 400 North Capitol Street, NW, Suite 765	20001
Hugg	Rashawn	Wells Fargo Bank, NA 2000 L Street, NW	20036
Jackson	Veronica A.	Self 1625 25th Street, SE	20020
Johansen	Janine M.	U.S. Department of Justice, Civil Division, Federal Programs Branch 20 Massachusetts Avenue, NW	20530
Johnson	Patricia Annette	Citi Bank 2101 L Street, NW	20037
Jones	Anna Frances	Skadden, Arps, Slate, Meagher & Flom, LLP 1440 New York Avenue, NW	20005

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Koh	Christina	Pascal & Weiss, P.C. 1008 Pennsylvania Avenue, SE	20003
Landis	Cindy	Promontory Financial Group 801 17th Street, NW, Suite 110	20006
Lantz	Addison K.	Self (Dual) 4444 8th Street, NW, Apartment 415	20004
Lindner	Kadrea	Akin Gump Strauu Hauer & Feld, LLP 1333 New Hampshire Avenue, NW	20036
MacLean	Hannah	WSP Parsons Brinkerhoff 1015 Half Street, SE, Suite 650	20003
Maes	Laura	Capital Reporting 1821 Jefferson Place, NW	20036
Marsh	Vincent	Wells Fargo Bank 3200 Pennsylvania Avenue, NW	20020
Mayes	Cheryl L.	National Breast Cancer Coalition 1010 Vermont Avenue, NW, Suite 900	20005
McConnell	John Bowers	M&T Bank 1420 Wisconsin Avenue, NW	20007
McDade	Cierra	BB&T 1804 14th Street, NW	20009
McLaurin	Janice	Congressional Federal Credit Union 15 Independence Avenue, SW	20515
Mitchell	Towanna D.	American Federation of Government Employees 80 F Street, NW	20001
Monteiro	Alenjandrina R.	Citadel Firm 5335 Wisconsin Avenue, NW, Suite 410	20015
Montenegro-Leon	Elvis	TD Bank, N.A. 1030 15th Street, NW	20005

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Moore	Denise B.	MedStar Washington Hospital Center 110 Irving Street, NW	20010
Morrison	Brian Frank	Treliant Risk Advisors, LLC 1255 23rd Street, NW, Suite 500	20037
Nguyen	Sierra T.	Setty & Associates International, PLLC 5185 MacArthur Boulevard, NW, Suite 220	20016
Nunez	Christian Antonio	Shearmen & Sterling 801 Pennsylvania Avenue, NW	20004
O'Donnell	Maggie Rose	Bromberg, Kohler Maya & Maschle, PLLC 2011 Pennsylvania Avenue, NW, 5th Floor	20006
Pham	Jennifer	BKV Group 1054 31st Street, NW, Canal Square Road, Suite 410	20007
Pilkerton	Kelly Lynn	Banner & Witcoff, Ltd 1100 13th Street, NW	20005
Prada	Luz N.	Bank-Fund Staff Federal Credit Union 1725 I Street, NW, Suite 400	20006
Prince	Tommi L.	DOJ/CGI 145 N Street, NE	20530
Robinson	Nikia	Office of the United States Trade Representative 600 17th Street, NW	20508
Rodriguez	Angelica	Freshfields Bruckhaus Deringer, US LLP 700 13th Street, NW	20005
Roth	Victoria A.	Raddatz Law Firm, PLLC 1212 New York Avenue, NW, Suite 850	20005
Roye	Shauna M.	Dominican House of Studies 487 Michigan Avenue, NE	20017

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Russo, Jr.	Joseph J.	Mid-Atlantic Settlement Services 3000 K Street, NW #101	20007
Saabye	Christopher	Self 117 E Street, SE, Apartment 103	20003
Saul	Polly	World Wildlife Fund 1250 24th Street, NW	20037
Sellers	Sonya	Grant Thornton, LLP 1250 Connecticut Avenue, NW, Suite 400	20036
Shawn	Jacob	Neal R. Gross & Company, Inc 1323 Rhode Island Avenue, NW	20005
Shell	Cecile	Wells Fargo Bank 215 Pennsylvania Avenue, SE	20003
Sim	Connie	TD Bank 801 17th Street, NW	20006
Simpson	Eugenia	Self (Dual) 517 Allison Street, NW	20011
Smith	Lisa Carole	Accolade Partners 1850 M Street, NW, Suite 1060	20036
Spinrad	Thalia Tsakirgis	Neal R. Gross & Company, Inc 1323 Rhode Island Avenue, NW	20005
Staton	Angela Akins	Akin Gump Strauu Hauer & Feld, LLP 1333 New Hampshire Avenue, NW	20036
Stevens	Daniel Edward	Campaign for Accountability 1201 Connecticut Avenue, NW, Suite 300	20036
Taylor	Caitlin A.	Fidelity Investments 1900 K Street, NW, Suite 110	20006
Thompson	Regina A.	Morgan Stanley 1775 Eye Street, NW, Suite 200	20006

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Thompson	Rosa L.	Williams Mullen 1668 K Street, NW	20006
Tobias	Gretchen	FreedomWorks 400 North Capitol Street, NW, Suite 765	20001
Tobin	Erin M.	Fidelity Investments 1900 K Street, NW, Suite 100	20006
Todd	Janay Austin	AARP Legal Counsel for the Elderly 601 E Street, NW	20049
Tran	Leigh	Sidley Austin, LLP 1501 K Street, NW	20005
Varipapa	Samuel	Gore Brothers Reporting 1025 Connecticut Avenue, NW	20036
Veres	Venetta	Carlton Fields Jordan Burt, P.A. 1025 Thomas Jefferson Street, NW, Suite 400 East	20007
Vollmer	John H.	PilieroMazza, PLLC 888 17th Street, NW, 11th Floor	20006
Ware-Baylor	Samirah D.	Carr Workplaces 1001 G Street, NW, Suite 800	20001
Warnhoff	Chris R.	PNC Bank 800 17th Street, NW	20006
Washington	Vanetta	Self (Dual) 3428 13th Street, SE #102	20032
Watson	Donna M.	Department of Health and Human Services 200 Independence Avenue, SW, Room 443F.9	20201
Watts Jr.	Michael I.	District of Columbia Department of Employment Services 4058 Minnesota Avenue, NE	20019
Wescott	Mary Margaret	McEneaney Associates 4315 50th Street, NW	20016

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Recommendations for appointment as DC Notaries Public****Effective: January 15, 2016
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West	Stephany Diane	The Barker Adoption Foundation 1066 30th Street, NW	20007
Whitesell	Katherine	Self (Dual) 1934 Rhode Island Avenue, NW	22101
Wilkie	Eileen	Medicaid and CHIP Payment Access Commission 1800 M Street, NW, Suite 650	20036
Williams	Teresa Tolotta	Carr Maloney P.C. 2000 L Street, NW, Suite 450	20036
Wilson	Audrey	Wilson & Associates, PC 1150 Connecticut Avenue, NW, Suite 900	20036
Wilson	Joyce M.	Self 1644 Fort Davis Place, SE	20020
Wise	Kristen	SOAR (Support Our Aging Religious) 3025 4th Street, NE, Suite 14	20017
Wong	Michelle	TD Bank 1030 15th Street, NW	20005
Young	Jessica A.	Self (Dual) 4228 19th Street, NE	20018

D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION

PUBLIC NOTICE

**APPOINTMENT OF MATTHEW A. GRAHAM AS RESEARCH ANALYST FOR
THE D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION**

The D.C. Sentencing and Criminal Code Revision Commission hereby gives notice pursuant to D.C. Code § 1-609.03(c) (2015) that Matthew Graham was appointed as Research Analyst for the D.C. Sentencing and Criminal Code Revision on November 30, 2015. This is an excepted service position.

D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION

PUBLIC NOTICE

**APPOINTMENT OF ROBEL MARU AS DATA MANAGEMENT SPECIALIST FOR
THE D.C. SENTENCING AND CRIMINAL CODE REVISION COMMISSION**

The D.C. Sentencing and Criminal Code Revision Commission hereby gives notice pursuant to D.C. Code § 1-609.03(c) (2015) that Robel Maru was appointed as Data Management Specialist for the D.C. Sentencing and Criminal Code Revision on November 16, 2015. This is an excepted service position.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT**REVISED NOTICE OF FUNDING AVAILABILITY****DSLBD Healthy Food Retail Program Grant**

The Department of Small and Local Business Development (DSLBD) is soliciting applications for the **Healthy Food Retail Program Grant**. DSLBD will award up to four grants from the \$100,000 in total available funding. The application deadline is Friday, December 4, 2015 at 2:00 p.m. **This Revised Notice of Funding Availability announces that the deadline to apply has been extended to Monday, December 14, 2015 at 2:00 p.m.**

The purpose of the Healthy Food Retail Program Grant is to expand access to healthy foods in food deserts within the District of Columbia by providing assistance to corner stores, farmers markets and other small food retailers (less than 5,000 square feet).

Eligible applicants are nonprofit organizations or businesses. For additional eligibility requirements and exclusions, please review the Request for Applications (RFA) which is currently posted at <http://dslbd.dc.gov/service/current-solicitations-opportunities>.

Eligible Use of Funds: Applicants may propose any type of project which supports corner stores or other small food retailers located in food deserts with high rates of low-income households. Funds can be used for expenses incurred during the Period of Performance, which is October 1, 2015 through September 30, 2016. For additional examples of eligible uses of funds, exclusions, and a map of the DC food deserts, please review the RFA.

If awarded a grant, grantees must be able to complete funded projects by September 30, 2016.

Application Process: Interested applicants must complete an online application by Monday, December 14, 2015 at 2:00 p.m. DSLBD will not accept applications submitted via hand delivery, mail or courier service. **Late submissions applications will not be forwarded to the review panel.** Instructions and guidance regarding application preparation can be found in the RFA, which is available at <http://dslbd.dc.gov/service/current-solicitations-opportunities>.

Selection Process: DSLBD will select grant recipients through a competitive application process. All applications will be forwarded to a review panel to be evaluated, scored, and ranked based on the selection criteria listed below.

1. Capacity and Experience of the Applicant (25 points)
2. Strength of the Project Implementation Plan (25 points)
3. Financial Viability of Applicant Organization (25 points)
4. Creativity and Innovation (25 points)

The DSLBD program team will review the panel reviewers' recommendations and the DSLBD Director will make the final determination of grant awards. DSLBD will select a grantee by January 8, 2016.

Award of Grants: Up to four grants totaling \$100,000 will be awarded.

For More Information: Attend a Pre-Application Information Session on Thursday, November 4, 2015 at 4:00 p.m. or Tuesday, November 17, 2015 at 2:00 p.m. Both sessions will be held at 441 4th Street, NW, Suite 805. This is a secure building and entrance requires government-issued identification.

Questions may be sent to Lauren Adkins at the Department of Small and Local Business Development at lauren.adkins@dc.gov or 202-727-3900.

Reservations: 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.

**THE GOODWILL EXCEL CENTER PUBLIC CHARTER SCHOOL
REQUESTS FOR PROPOSALS**

General Contractor

The Goodwill Excel Center, Public Charter School (GEC) is seeking a General Contractor for the demolition and build out of space located at 1776 G Street NW for an adult public charter high school. Essential functions and requirements are outlined in the Scope of Work section of the Request for Proposal which will be available on January 4, 2015. The deadline for responding to the RFP is January 15, 2015 at 5pm. Contact – Josh Wallish, General Counsel, 2200 South Dakota Ave NE, Washington, DC 20018, (202) 719-1235, josh.wallish@dcgoodwill.org

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

Order No. 18640-A of Barry S. Jackson, Motion for Modification, pursuant to § 3129 of the Zoning Regulations.

The original application (No. 18640) was pursuant to 11 DCMR § 3104.1 for a special exception under § 223 of the Zoning Regulations to allow a two-story rear addition and a two-story garage addition to a row dwelling not meeting the zoning requirements for lot occupancy under § 403.2 or rear yard requirements under § 404.1 in the R-4 District at 761 10th Street, S.E. (Square 950, Lot 94).

HEARING DATE (Original application):	October 29, 2013
DECISION DATE (Original application):	December 17, 2013
FINAL ORDER ISSUANCE DATE (Original application):	May 27, 2014
HEARING DATE (Modification):	October 6, 2015 ¹ and November 24, 2015
DECISION DATE (Modification):	December 1, 2015

SUMMARY ORDER ON REQUEST FOR MODIFICATION

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5 in the record of Application No. 18640.)

On December 17, 2013, the Board approved Application No. 18640 of Barry S. Jackson (“the Applicant”), pursuant to § 3104.1 for a special exception under § 223 of the Zoning Regulations to allow a two-story rear addition and a two-story garage addition to a row dwelling not meeting the zoning requirements for lot occupancy under § 403.2 or rear yard requirements under § 404.1 in the R-4 District.

REQUEST FOR MINOR MODIFICATION

On July 31, 2015, the Applicant submitted a request for minor modification of the plan approved by the Board in order to make several design changes. (Exhibit 1.) Specifically, the Applicant proposed to move the approved trellis from the south side of the property to the north side of the

¹ The motion was originally for a minor modification and was considered at the Board’s public meeting on October 6, 2015. At that time, the Board determined that the modification required a public hearing, and set the request down for a public hearing on November 24, 2015.

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property, replace and reposition the rear door, change the material of the fence from wood to brick, and change the window design. (Exhibit 8.) The Applicant submitted revised plans to demonstrate the proposed modification and additional renderings to illustrate its proposal. (Exhibits 5 and 11.)

Pursuant to § 3129.4, all parties are allowed to file comments within 10 days of the filed request for modification. The site of this application is located within the jurisdiction of Advisory Neighborhood Commission ("ANC") 6B, which is automatically a party to this application. The ANC submitted a report on September 14, 2015, which stated that at a regularly scheduled and properly noticed meeting on September 8, 2015, at which a quorum was present, the ANC considered the modification request. ANC 6B voted 9-0-0 to support some of the modifications requested, but to oppose the repositioning of the trellis to the north side of the property. (Exhibit 7.)

During the public meeting on October 6, 2015, the Board considered this request and determined that the proposed changes exceed the scope of a minor modification and that, in light of the ANC's opposition to certain elements of the proposal, the request would require a limited hearing. Accordingly, the Board set the request for modification down for a public hearing on November 24, 2015.

HEARING ON REQUEST FOR MODIFICATION

The Office of Planning ("OP") submitted a timely report recommending approval of the request, noting that the proposed changes would not unduly compromise the light, air and privacy available to neighboring properties. (Exhibit 12.) The District Department of Transportation ("DDOT") submitted a report of no objection. (Exhibit 10.)

In advance of the Board's public hearing on November 24, 2015, ANC 6B submitted a second report, dated November 16, 2015, indicating that it considered the request again at a regularly scheduled and properly noticed meeting on November 10, 2015, at which a quorum was present. The ANC voted 10-0-0 to remain in opposition to the repositioning of the trellis, but to support all other aspects of the modification request. (Exhibit 14.)

Pursuant to § 3129.8, the scope of the hearing for a request for modification shall be limited to reviewing the impact of that modification on the subject of the original application. The Board held a public hearing on November 24, 2015 on this motion, pursuant to § 3129.7, and heard the request for a modification to the approval for special exception relief.

During the public hearing on November 24, 2015, the Applicant indicated that it was willing to revise its plans to maintain the original position of the trellis on the south side of the property, at the request of the ANC and adjacent neighbor. The Board requested that the Applicant submit revised plans for its consideration and scheduled the case for decision on December 1, 2015. The Applicant submitted revised plans showing the trellis in its original location, but containing all other proposed modifications. (Exhibit 16.)

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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 for modification of approval. 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 modification to the original approval in Case No. 18640, the Applicant has met its burden of proof under 11 DCMR § 3129, that the modification has not changed any material facts upon which the Board based its decision on the underlying application that would undermine its approval. The only parties to the case were the ANC and the Applicant. Based on the revised plans submitted by the Applicant, (Exhibit 16,) the Board's decision to approve the modification is consistent with the ANC's recommendation to maintain the original position of the trellis. 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.

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 this application for modification of the Board's approval in Application No. 18640 is hereby **GRANTED, SUBJECT TO THE APPROVED MODIFIED PLANS IN EXHIBIT 16.**

In all other respects, Order No. 18640 remains unchanged.

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Marcie I. Cohen, by absentee vote, to APPROVE; Jeffrey L. Hinkle not participating and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 7, 2015

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

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

Application No. 18929-A of Saint John’s College High School, as amended,¹ pursuant to 11 DCMR §§ 3104.1, for a special exception from the private school use requirements pursuant to § 206, to renovate and expand the gymnasium area in an academic building, and for a special exception under § 411.3 to allow the relocation of some of the existing mechanical rooftop units (“RTUs”) and to add three RUTs as part of the renovations at a private school in the R-1-A District at premises 2607 Military Road, N.W. (Square 2308, Lots 804-807).

HEARING DATE: November 17, 2015

DECISION DATE: November 17, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6 – original; Exhibit 34 – revised.)

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”) 3G and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3G, which is automatically a party to this application. The ANC submitted two reports in support of the application. ANC 3G submitted its first report on October 19, 2015, noting that at a duly noticed meeting on October 19, 2015, at which a quorum was in attendance, the ANC voted 7-0 in support of the original application. (Exhibits 27 and 29C.) A second ANC report was submitted to the record after the ANC received notification from the Applicant about the additional zoning relief being requested from § 411.3. That second ANC report, dated November 10, 2015, stated that the Applicant made another presentation at the ANC’s duly noticed meeting of November 9, 2015, and with a quorum present, the ANC voted 7-0 in support of the amended application. (Exhibit 31.)

The Office of Planning (“OP”) submitted a report dated November 10, 2015 recommending approval of the application as amended. (Exhibit 30.) The D.C. Department of Transportation submitted a timely report expressing no objection to the application. (Exhibit 25.) A letter was filed from the U.S. Commission of Fine Arts (“CFA”) indicating that the CFA had reviewed and

¹ The application was amended by the Applicant to add relief under § 411.3 per the caption. (Exhibit 29.) The Board required that the Applicant submit a revised self-certification statement with the additional fee for the amended relief. (Exhibits 34 and 36.)

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approved a concept submission for the proposed expansion of the gymnasium complex with the CFA's recommendations for the development of the final design. (Exhibit 29D.)

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 §§ 206 and 411.3. 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.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 206 and 411.3, 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 APPROVED PLANS AT EXHIBITS 29B1 and 29B2 – DRAWINGS, AND THE FOLLOWING CONDITION:**

1. The Applicant shall have minor flexibility to change the location of the roof structures if required by the Commission of Fine Arts.

VOTE: **3-0-2** (Marnique Y. Heath; Frederick L. Hill, and Michael G. Turnbull to Approve; Jeffrey L. Hinkle not present, not voting; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 3, 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-

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

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

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

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

Application No. 19056 of Margaret Cheney, as amended,¹ pursuant to 11 DCMR § 3103.2, for variances from the minimum side yard width requirements under § 405.1, and the off-street parking requirements under § 2101.1, to allow the construction of a new one-family dwelling in the R-3 District at premises 3324 Dent Place N.W. (Square 1278, Lot 251).

HEARING DATES: July 28, 2015, October 6, 2015, and December 1, 2015

DECISION DATE: December 1, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 2 - original & Exhibit 44 - revised.)

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”) 2E and to owners of property within 200 feet of the site. After the amendment, the Applicant posted the property with the revised relief. (Exhibit 39.)

The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC submitted a report dated November 30, 2015, indicating that at a duly noticed public meeting on November 30, 2015, at which a quorum was in attendance, the ANC voted unanimously to adopt the resolution in support of the amended application. (Exhibit 46.)

The Office of Planning (“OP”) submitted a report dated November 24, 2015, in support of the amended application for relief from the minimum side yard requirements and off-street parking

¹ The original application was for variances from the minimum lot width requirements under § 401, and the off-street parking requirements under § 2101.1, to subdivide the property and allow the construction of two new one-family dwellings. Applications for party status were filed in the record from the Citizens Association of Georgetown and neighbors in opposition to the original proposal to construct two houses at the site. (Exhibits 26, 27, 28, and 32.) The ANC also opposed the original proposal. (Exhibit 25.) OP opposed the lot width variance, but supported the parking variance. (Exhibit 35.) After negotiations with the community, the Applicant revised the proposal to construct one dwelling instead of two, as indicated in the caption of this order above. (See Applicant’s revised statement, Exhibit 37.) On November 20, 2015, the Citizens Association of Georgetown filed a letter on its behalf and on behalf of the community members expressing support for the revised application. (Exhibit 42.) At the hearing of December 1, 2015, the Board denied the applications for party status given the neighbors’ support for the project, the neighbors’ absence from the hearing, and the fact that no withdrawal of the party status applications was submitted. OP, the ANC, and the neighbors all filed documents in opposition to the original project, however since they all support the revisions, the body of the order will only reference the documents related to the revised relief.

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requirements (Exhibit 43) and recommended approval at the hearing. The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 24.)

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 §§ 405.1 and 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 405.1 and 2101.1, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 40 AND 37-A - ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L Hill, and Robert E. Miller to Approve; Jeffrey L. Hinkle not present, not voting; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 9, 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-

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

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

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

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

Application No. 19061 of 1106 Montello LLC, as amended¹, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the floor area ratio requirements under § 771.2, the lot occupancy requirements under § 772.1, the off-street parking requirements under § 2101.1, and the nonconforming structure requirements under § 2001.3, to convert an existing two-story masonry building into a four-story, six-unit apartment house with ground floor retail in the C-2-A District at premises 1140 Florida Avenue N.E. (Square 4070, Lot 84).

HEARING DATE: October 27, 2015

DECISION DATE: October 27, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 40 (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") 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. Although there was no ANC 5D report on file at the time of the hearing, the Applicant submitted at the hearing a letter from ANC 5D's Secretary and Vice-Chair together with a Form 129 which indicated that at a regularly scheduled, duly noticed ANC meeting on October 13, 2015, at which a quorum was present, the ANC voted 4-3-0 in support of the application. The ANC requested that a condition be placed on the application stating that no Residential Permit Parking is permitted for the property. (Exhibit 36.)

The Office of Planning ("OP") submitted a timely report recommending approval of three of the four variances (§§ 772 – residential lot occupancy, 2001.3 – enlargements or additions to nonconforming structures, and 2101 – off-street parking spaces), subject to two conditions, but recommending denial of the request for floor area ratio ("FAR") relief. (Exhibit 34.) At the

¹ The Applicant amended the application by lowering the number of units to six from the original request for seven, by removing a request for special exception from the green area ratio requirements under § 3405.1 in the revised plans and pre-hearing statement (Exhibits 29-30) and at the hearing, by adding a request for a variance from the nonconforming structure requirements under § 2001.3. The Board required the Applicant to submit a revised self-certification form and additional fees. (Exhibits 39 and 40.)

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hearing, in response to the Applicant's supplemental information that was submitted, OP testified that the Applicant's economic arguments regarding FAR relief did not change its recommendation, but also noted that the project would not have a negative impact on the public good and that the height and massing of the proposed project is similar to other surrounding buildings. By its letter, dated September 8, 2015, the District Department of Transportation ("DDOT") submitted a timely report of "no objection" to the application with conditions. (Exhibit 28.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for variances from the floor area ratio requirements under § 771.2, the lot occupancy requirements under § 772.1, the off-street parking requirements under § 2101.1, and the nonconforming structure requirements under § 2001.3, to convert an existing two-story masonry building into a four-story, six-unit apartment house with ground floor retail in the C-2-A 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 ANC and OP reports filed in this case, the Board concludes that 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 requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 29 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide, as a one-time incentive, each initial purchaser a bicycle helmet, for a total of six (6) helmets).
2. The Applicant shall issue a one-time, one-year bikeshare or car share membership as part of a move-in package for the first lessee or the initial owner of each residential unit.

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3. The Applicant shall offer a preloaded \$10 SmarTrip card for each unit at the initial sale of units in the building.
4. The Applicant shall post all TDM commitments on-line for a one-year period. The source will also include links to CommuterConnections.com, goDCgo.com, WMATA Metrobus routes, DC Bicycle maps and other useful information in support of car-free urban living.
5. The Applicant shall install three long-term bicycle spaces within a secure room for use by tenants.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

VOTE: **4-0-1** (Marnique Y. Heath, Anthony J. Hood, Frederick L. Hill, and Jeffrey L. Hinkle to Approve; the third Mayoral appointee vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 3, 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

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BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THEREOF, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

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

Application No. 19094 of 28th Street Partners, LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the use requirements under § 336, to convert a residential building into a three-unit apartment house in the R-4 District at premises 64 W Street N.W. (Square 3118, Lot 52).

HEARING DATES: October 27 and November 24, 2015

DECISION DATE: November 24, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 5E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. ANC 5E filed a report dated November 16, 2015, indicating that at a regularly scheduled, duly noticed public meeting on October 20, 2015, with a quorum of Commissioners present, the ANC considered the application. The ANC voted by voice vote, with a majority of the Commissioners voting to recommend approval of the application. (Exhibit 35.)

The Office of Planning ("OP") submitted a timely report on October 20, 2015, indicating that it could not support approval of the application based on inconsistencies in the drawings submitted by the Applicant. OP noted that it did not support any modification to the front façade, including the roofline, existing dormer, and front porch. (Exhibit 27.) At the public hearing on October 27, 2015, OP testified that it was supportive of the application, based on supplemental information provided by the Applicant, but requested clearer drawings to resolve internal inconsistencies. After the Applicant made the requested submission, (Exhibit 34,) OP testified in support of the relief requested at the Board's public hearing on November 24, 2015.

The District Department of Transportation ("DDOT") submitted a timely report on October 8, 2015 indicating that it had no objection to the Applicant's request for special exception relief. (Exhibit 24.)

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In advance of the public hearing on October 27, 2015, four nearby residents submitted letters in opposition to the application. (Exhibit 17, 17, 20, and 23.) In the Applicant's supplemental submission on October 22, 2015, it indicated that it had worked with the Bloomingdale Civic Association and received the association's support after agreeing to several conditions. (Exhibit 29.) A neighbor submitted comments indicating that she supports the concessions made by the Applicant in their meetings with the Bloomingdale Civic Association. (Exhibit 30.) Another neighbor, Dr. Sharia Shanklin, testified in opposition at the public hearing on October 27, 2015, and submitted her testimony for the record. (Exhibit 31.) In advance of the hearing and decision on November 24, 2015, Dr. Shanklin filed a letter in support of the project, based on the revised plans and further outreach from the Applicant. (Exhibit 36.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the use requirements under § 336, to convert a residential building into a three-unit apartment house 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.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 336, 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. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 34.**

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Anthony J. Hood, by absentee ballot, to APPROVE; Jeffrey L. Hinkle not participating and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 3, 2015

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

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

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

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

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

Application No. 19107 of Calvin Smith, pursuant to 11 DCMR § 3104.1, for a special exception to allow a child development center (38 children and eight staff) under § 205.1, in the R-1-B District at premises 3101 Adams Street, N.E. (Square 4364, Lot 5).

HEARING DATE: November 17, 2015

DECISION DATE: November 17, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 3.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 5C and to owners of property within 200 feet of the site.¹ The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C did not file a report or appear at the hearing to participate in the application. The Applicant’s agent testified that he attempted to meet with ANC, but received no response after speaking with the ANC Commissioner.

The Office of Planning (“OP”) submitted a timely report on November 10, 2015, recommending conditional approval of the application (Exhibit 24) and testified in support of the application at the hearing. The D.C. Department of Transportation did not submit a report related to the application. There were 18 letters filed in support of the application. (Exhibit 25.)

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 § 205.1. The only parties to the application were the Applicant and the ANC which did not participate in 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.

¹ At the hearing, the Board requested that the Applicant submit into the record an affidavit of posting. The Applicant filed the affidavit of posting as requested. (Exhibit 27.)

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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 and 205.1, 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 APPROVED PLANS AT EXHIBIT 10 AND THE FOLLOWING CONDITIONS:**

1. The center shall be limited to a maximum of 38 children and eight staff.
2. No more than 12 children shall be permitted to play outdoors at any one time.
3. Outdoor play shall be limited to two days per week, between the hours of 10:00 a.m. and 11:00 a.m.

VOTE: 3-0-2 (Marnique Y. Heath; Frederick L. Hill, and Michael G. Turnbull to Approve; Jeffrey L. Hinkle not present, not voting; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 8, 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.

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

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

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

Application No. 19116 of DC Department of General Services, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure requirements under § 411.11, to allow roof structures not meeting the setback requirements under § 400.7, and the parking space requirements under § 2116.5, to permit the modernization of an existing public high school in the R-4 District at premises 4301 13th Street N.W. (Square 2915, Lot 802).

HEARING DATE: November 24, 2015
DECISION DATE: November 24, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 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”) 4C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. ANC 4C submitted a report addressed to the D.C. Department of Transportation’s (“DDOT”) Public Space Committee, noting that at a properly noticed meeting held on September 10, 2014, with a quorum present, it voted unanimously in support of the Applicant’s public space application. (Exhibit 31.) However, the ANC did not file a letter addressed to the Board pursuant to 11 DCMR § 3115, nor did a representative testify at the hearing to address the special exception relief requested.

The Office of Planning (“OP”) submitted a report recommending approval of the application. (Exhibit 28.) DDOT submitted a report expressing no objection to the application. (Exhibit 30.)

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 §§ 411.11, 400.7, and 2116.5. The only parties to the application were the Applicant and the ANC which did not file an official report in 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.

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, 411.11, 400.7, and 2116.5, 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

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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 APPROVED PLANS AT EXHIBIT 4.**

VOTE: 3-0-2 (Marcie I. Cohen, Frederick L. Hill, and Marnique Y. Heath to Approve; Jeffrey L. Hinkle, not present, not voting; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 2, 2015

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

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

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT

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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. 19117 of 1010 Irving LLC, pursuant to 11 DCMR § 3103.2, for a variance from the lot width requirements under § 401.3, to allow the construction of two one-family, semi-attached dwellings on two new record lots in the R-2 District at premises 1010 Irving Street, N.E. (Square 3877, Lot 7).

HEARING DATE: December 1, 2015

DECISION DATE: December 1, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 5B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5B, which is automatically a party to this application. The ANC submitted a report in support of the application, dated November 23, 2015. The ANC’s report indicated that at a duly noticed and scheduled public meeting on November 18, 2015, at which a quorum was in attendance, the ANC voted 4 in favor, 1 abstention to support the application. (Exhibit 44.)

The Office of Planning (“OP”) filed a timely report stating that it is unable to support the application because, in its view, the practical difficulty element has not been met. (Exhibit 46.) The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 45.)

One neighbor testified at the hearing in support of the application. Seventeen letters from neighbors in support of the application were filed in the record. (Exhibits 25, 26, 28-42.) One support letter was received from the Brookland Neighborhood Civic Association. (Exhibit 47.)

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 § 401.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

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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 § 401.3, 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, given the irregularly trapezoidal-shape of the site and the *de minimis* nature of the requested relief. Further, the Board concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7 - ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **3-0-2** (Marnique Y. Heath, Robert E. Miller, and Frederick L Hill to Approve; Jeffrey L. Hinkle not present, not voting; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 9, 2015

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

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

BZA APPLICATION NO. 19117**PAGE NO. 3**

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

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

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

Application No. 19118 of Evergreen Properties I LLC, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 772.1, the nonconforming structure requirements under § 2001.3, and the off-street parking requirements under § 2101.1, to allow the conversion of a four-unit apartment house into an apartment building containing seven units in the C-2-A District at premises 7300 Georgia Avenue, N.W. (Square 2956, Lot 40).

HEARING DATE: November 24, 2015

DECISION DATE: November 24, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original), and 26 (revised)¹.)

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”) 4A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. ANC 4A submitted a resolution dated November 3, 2015 expressing support for the application. (Exhibit 30.) The ANC’s resolution indicated that at a meeting, with a quorum present, the ANC voted to recommend support of the plan to renovate the site. However the resolution was not entitled to great weight because it did not meet the requirements of 11 DCMR § 3115.1(b), (c), (d), and (g).

The Office of Planning (“OP”) submitted a report dated November 17, 2015 stating that OP “does not oppose” the application. (Exhibit 28.) At the hearing, the Applicant submitted additional documents addressing the structural problems at the site, and OP testified in support of the application. The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 29.)

Two letters in support of the application were filed by neighbors. (Exhibits 22 and 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 variances

¹ The self-certification form was revised to reflect a slight increase in lot occupancy. However, no change in relief was requested.

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from §§ 772.1, 2001.3, and 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking variances from §§ 772.1, 2001.3, and 2101.1, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief 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 EXHIBIT 7 (ARCHITECTURAL PLANS AND ELEVATIONS), EXHIBIT 25 (PLAN OF COURT AREA), AND EXHIBIT 27 (REVISED SURVEYOR'S PLAT, INCLUDING SITE PLAN).**

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Marcie I. Cohen to Approve; Jeffrey L. Hinkle not present, not voting; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 3, 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.

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

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

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

Application No. 19122 of 1600 I Street Corporation, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the roof structure requirements under § 411.1, and the nonconforming structure requirements under § 2001.3, and a special exception from the office use requirements under § 508.1, to allow the renovation and expansion of an existing office building, in the SP-2 District at premises 1600 I Street N.W. (Square 186, Lot 39).

HEARING DATE: November 24, 2015

DECISION DATE: November 24, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application.

ANC 2B filed a report dated November 2, 2015, indicating that at a regularly scheduled, duly noticed public meeting on September 9, 2015, with a quorum of Commissioners present, the ANC considered the application. (Exhibit 24.) The ANC voted 6-0 in support of the relief requested.

The Office of Planning ("OP") submitted a timely report on November 17, 2015, recommending approval, subject to two conditions, (Exhibit 29,) and testified in support of the application at the public hearing. The Board adopted the first condition regarding the affordable housing production requirement. The Board found that the second proposed condition, requiring that the Applicant provide confirmation that the U.S. Secret Service has no objection to the proposal, had been met. An email from the U.S. Secret Service was filed to the record indicating that it has no objection to the application and requesting to be notified if any substantial revisions to the project are proposed. (Exhibit 31.) Further, the Board credited OP's report and the comments submitted by the U.S. Secret Service in finding that a habitable rooftop structure at this location would not create security concerns that would adversely affect the use of neighboring properties or result in substantial detriment to the public good.

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The District Department of Transportation ("DDOT") submitted a timely report on November 16, 2015 indicating that it had no objection to the Applicant's requests for variance and special exception relief. (Exhibit 28.)

Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from the roof structure requirements under § 411.1 and the nonconforming structure requirements under § 2001.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR §§ 411.1 and 2001.3, the Applicant has met the burden of proving under § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the office use requirements under § 508.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 508.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 27D1 – 27D12, AND SUBJECT TO THE FOLLOWING CONDITION:**

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1. The Applicant shall comply with the requirements for the production of affordable housing as stated at 11 DCMR § 414, which was adopted by the Zoning Commission on November 9, 2015, and which became effective after issuance of this order.

VOTE: 3-0-2 (Marnique Y. Heath, Marcie I. Cohen, and Frederick L. Hill, to APPROVE; Jeffrey L. Hinkle not participating and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: December 3, 2015

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

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

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

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL

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COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

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

Application No. 19126 of Timothy Turnham, as amended,¹ pursuant to 11 DCMR §§ 3103.2 variances from the lot occupancy requirements under § 403.2, the rear yard requirements under § 404, the court width requirements under § 406, and the nonconforming structure requirements under § 2001.3, to allow the construction of a one-story rear garage and deck addition to an existing one-family dwelling in the R-4 District at premises 1252 Columbia Road N.W. (Square 2853, Lot 70).

HEARING DATE: December 1, 2015
DECISION DATE: December 1, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5 (original), Exhibits 48 & 50 (revised).)

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”) 1A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a report dated November 16, 2015 stating that at a properly noticed meeting on November 12, 2015, with a quorum present, it voted 8-0-0 in support of the application. (Exhibit 30.)

The Office of Planning (“OP”) submitted a timely report recommending denial of the amended relief. (Exhibit 47.) OP testified that the property does not meet the uniqueness aspect of the variance test.

The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 29.) Seven letters were filed by neighbors in support of the application. (Exhibits 36 – 42.)

¹ The original application sought a special exception under § 223, not meeting the rear yard requirements under § 404, the court width requirements under § 406, and the nonconforming structure requirements under § 2001.3, and a special exception from the alley setback requirements under § 2300.2(b). Prior to the hearing, the Applicant amended the application to request the variance relief only, as captioned above. (See revised self-certification at Exhibits 48 and 50.)

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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 §§ 403.2, 404, 406, and 2001.3. The only parties to the case were the Applicant and the ANC, which supported 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.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 403.2, 404, 406, and 2001.3, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that with the tapering of the lot and the confluence of factors affecting the property, 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. Further, the Applicant has met the burden of proving that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 49, 32, AND 7 – REAR ELEVATION, SITE PLANS, AND FLOOR PLANS.**

VOTE: **3-0-2** (Frederick L. Hill, Robert E. Miller, and Marnique Y. Heath to Approve; Jeffrey L. Hinkle not present, not voting; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

FINAL DATE OF ORDER: December 9, 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

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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.

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