

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 21-326, Interim Eligibility and Minimum Shelter Standards Congressional Review Emergency Amendment Act of 2016
- Board of Elections proposes polling place relocations
- D.C. Public Charter School Board schedules a public hearing on new charter school applications
- Department of Health announces funding availability for School Based Health Centers
- Department of Health establishes regulations for testing patients exhibiting symptoms of synthetic cannabinoid use
- D.C. Retirement Board clarifies rules for conducting annual earned income reviews for disability annuitants
- D.C. Taxicab Commission establishes safety requirements for securing wheelchairs and other mobility equipment in wheelchair accessible vehicles
- Public Service Commission publishes Washington Gas Light Company's application to increase base rates for service

DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-323

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 3, 2016

To amend, on a temporary basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to revise the salary limitation for the Chancellor of the District of Columbia Public Schools and to authorize the provision of certain employment benefits to the Chancellor.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Chancellor of the District of Columbia Public Schools Salary and Benefits Approval Temporary Amendment Act of 2016".

Sec. 2. Section 1052(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law 12-124; D.C. Official Code § 1-610.52(b)), is amended as follows:

(a) Paragraph (2) is amended by striking the phrase "the Chancellor of the District of Columbia Public Schools Kaya Henderson (\$284,000)," and inserting the phrase "the Chancellor of the District of Columbia Public Schools Kaya Henderson (\$292,520)," in its place.

(b) Paragraph (3) is amended as follows:

(1) Designate the existing text as subparagraph (A).

(2) A new subparagraph (B) is added to read as follows:

"(B)(i) Notwithstanding subparagraph (A) of this paragraph and the Bonus and Special Pay Limitation Act of 2015, effective October 22, 2015 (D.C. Law 21-36; 62 DCR 10905), the Chancellor may be paid a recognition and renewal bonus of 5% of her annual base salary in 2016 and a performance bonus of up to 10% of her annual base salary for goals achieved by the end of the 2015-2016 school year.

"(ii) In addition to such other benefits as the Chancellor may be entitled to receive under existing law or regulation, and notwithstanding subparagraph (A) of this paragraph and section 1058, the Mayor may make a separation payment to the Chancellor of up to 24 weeks of the Chancellor's base salary if the Chancellor's contract is terminated for a reason other than criminal conduct, gross dereliction of duty, or gross misconduct, and the Mayor may make a payment to the Chancellor's executors, legal representatives, or administrators in the amount of 1/12 of the Chancellor's annual salary if the Chancellor dies during her term of employment."

ENROLLED ORIGINAL

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer 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).

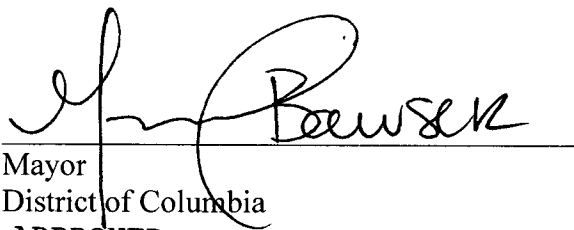
Sec. 4. Effective date.

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

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
March 3, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-324

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 3, 2016

To amend, on a temporary basis, the Protecting Pregnant Workers Fairness Act of 2014 to require an employer to make a reasonable accommodation for an employee whose ability to perform the functions of the employee's job are affected by a pre-birth complication.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Protecting Pregnant Workers Fairness Temporary Amendment Act of 2016".

Sec. 2. The Protecting Pregnant Workers Fairness Act of 2014, effective March 3, 2015 (D.C. Law 20-168; D.C. Official Code § 32-1231.01 *et seq.*), is amended as follows:

(a) Section 2(2) (D.C. Official Code § 32-1231.01(2)) is amended as follows:

(1) Subparagraph (F) is amended by striking the word "or".

(2) Subparagraph (G) is amended by striking the period and inserting the phrase "; or" in its place

(3) A new subparagraph (H) is added to read as follows:

"(H) Time off due to pre-birth complications."

(b) Section 4 (D.C. Official Code § 32-1231.03) is amended as follows:

(1) Paragraph (4) is amended by striking the word "or" at the end.

(2) Paragraph (5) is amended by striking the period and inserting the phrase "; or" in its place.

(3) A new paragraph (6) is added to read as follows:

"(6) Take an adverse action against an employee who has been absent from work as a result of a pregnancy related condition, including a pre-birth complication."

Sec. 3. 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).

ENROLLED ORIGINAL

Sec. 4. Effective date.

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

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
March 3, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-325

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 3, 2016

To amend, on a temporary basis, the Youth Employment Act of 1979 to authorize the Mayor to provide employment or work-readiness training for participants 14 through 24 years of age.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Marion S. Barry Summer Youth Employment Expansion Temporary Amendment Act of 2016".

Sec. 2. Section 2(a)(1)(A) of the Youth Employment Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-241(a)(1)(A)), is amended to read as follows:

“(A)(i) A summer youth jobs program to provide for the employment or training each summer of not fewer than 10,000 or more than 21,000 youth. Youth shall be 14 through 21 years of age on the date of enrollment in the program; provided, that for Fiscal Year 2016 and Fiscal Year 2017, the program may provide for the employment or training each summer of no more than 1000 youth 22 through 24 years of age on the date of enrollment in the program.

“(ii) Youth 14 or 15 years of age at the date of enrollment shall receive an hourly work readiness training rate of not less than \$5.25.

“(iii) Youth 16 through 21 years of age at the date of enrollment shall be compensated at an hourly rate of \$8.25 and youth 22 through 24 years of age at the date of enrollment shall be compensated at no less than the minimum wage specified in section 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003).”.

Sec. 3. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

ENROLLED ORIGINAL

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 4. 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. 5. Effective date.

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

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
March 3, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-326

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 3, 2016

To amend on an emergency basis, due to congressional review, the Homeless Services Reform Act of 2005 to authorize the Mayor to place a family that does not have a safe-housing alternative in a temporary interim eligibility placement pending a determination of eligibility for shelter and an assessment of the supportive services necessary to assist the family in obtaining sustainable permanent housing, to authorize the Mayor to provide shelter to a family in a private room meeting certain minimum standards and constructed for the purpose of closing the District of Columbia General Family Shelter, to add an expedited appeals process for a family that is denied eligibility for shelter following an interim eligibility placement, and to provide that a family may continue in an interim eligibility placement pending the outcome of an appeal of a denial of eligibility for shelter.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Interim Eligibility and Minimum Shelter Standards Congressional Review Emergency Amendment Act of 2016”.

Sec. 2. The Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 4-751.01) is amended as follows:

(1) A new paragraph (11A) is added to read as follows:

“(11A) “DC General Family Shelter replacement unit” means a private room that includes space to store and refrigerate food and is constructed by or at the request of the District for the purpose of sheltering a homeless family.”.

(2) Paragraph (25A) is redesignated as paragraph (25B).

(3) A new paragraph (25A) is added to read as follows:

“(25A) “Interim eligibility placement” means a short-term shelter placement for a family, for the purpose of conducting an in-depth assessment to facilitate an eligibility determination for shelter and appropriate supportive services pursuant to section 8(a).”.

(4) A new paragraph (28A) is added to read as follows:

ENROLLED ORIGINAL

“(28A) “Private room” means a part or division of a building that has:

“(A) Four non-portable walls that meet the ceiling and floor at the edges so as to be continuous and uninterrupted; provided, that the room may contain a window if the window comes with an opaque covering, such as blinds or shades;

“(B) A door that locks from both the inside and outside as its main point of access;

“(C) Sufficient insulation from sound so that family members sheltered in the room may have a conversation at a normal volume and not be heard from the exterior;

“(D) Lighting within the room that the occupants can turn on or off as desired; and

“(E) Access to on-site bathroom facilities, including a toilet, sink, and shower.”.

(b) Section 7(d) (D.C. Official Code § 4-753.01(d)) is amended to read as follows:

“(d)(1) Except as provided in paragraph (2) of this subsection, when the Mayor places a family in shelter pursuant to this act, the shelter shall be one or more apartment-style units, or one or more DC General Family Shelter replacement units.

“(2) If an apartment-style unit or a DC General Family Shelter replacement unit is not available when the Mayor places a family in shelter pursuant to this act, the Mayor may place that family in one or more private rooms that are not apartment-style units or DC General Family Shelter replacement units.

“(3) Buildings composed of DC General Family Shelter replacement units shall include, at minimum:

“(A) A private bathroom, including a toilet, sink, and bathtub or shower, in at least 10% of the DC General Family Shelter replacement units;

“(B) For every 5 DC General Family Shelter replacement units, one private, lockable bathroom that includes a toilet, sink, and bathtub and shall be accessible to all residents; and

“(C) At least 2 multi-fixture bathrooms per floor that shall include multiple toilets, sinks, and showers.

“(4) The Mayor shall maintain within the District’s shelter inventory a minimum of 121 apartment-style units.

“(5) Once constructed, the Mayor shall maintain within the District’s shelter inventory a minimum of 280 DC General Family Shelter replacement units.”.

(c) Section 8 (D.C. Official Code § 4-753.02) is amended by adding a new subsection (c-1) to read as follows:

“(c-1)(1) If eligibility for a family seeking shelter cannot be determined pursuant to subsection (a) of this section on the business day on which the family applies for shelter, the Mayor may place the family in an interim eligibility placement for a period not to exceed 3 days.

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“(2) The Mayor may extend an interim eligibility placement no more than 3 times; provided, that an interim eligibility placement shall not exceed a period of 12 days, except as otherwise provided in paragraph (6) of this subsection and section 9(a)(20).

“(3) The Mayor shall issue an eligibility determination pursuant to subsection (a) of this section to a family placed in an interim eligibility placement within 12 days of the start of the interim eligibility placement.

“(4) If the Mayor does not issue an eligibility determination within 12 days of the start of an interim eligibility placement, the interim eligibility placement shall conclude and the family shall be considered eligible for shelter.

“(5) If the Mayor determines that a family in an interim eligibility placement is eligible for shelter, the Mayor shall place that family in shelter, subject to the requirements of section 7(d).

“(6) If the Mayor determines that a family in an interim eligibility placement is ineligible for shelter pursuant to subsection (a) of this section, because the Mayor determines that the family has access to safe housing or for another reason, the interim eligibility placement shall conclude on the date indicated in the written notice issued pursuant to section 19(b-1), unless the family has filed a timely fair hearing request pursuant to section 26.

“(7) The Mayor may consider a family that was placed in an interim eligibility placement, but was determined to be ineligible for shelter because the family has access to other safe housing, for the same housing and case management services offered by the Department to family shelter residents.

“(8) If the Mayor determines that a family placed in an interim eligibility placement is ineligible for shelter because the family has access to safe housing, and the family subsequently loses access to that safe housing within 14 days of the Mayor’s determination, the Mayor shall place the family in shelter if the Mayor determines that:

“(A) The family is participating in prevention and diversion services; and

“(B) The family has no access to other safe housing that complies with paragraph (9) of this subsection.

“(9) For purposes of determining the eligibility of a family in an interim eligibility placement for shelter pursuant to subsection (a) of this section, safe housing, in addition to meeting the definition of “safe housing” set forth in section 2(32A), shall satisfy the following criteria:

“(A) The family shall be expected to have access to the safe housing for at least 14 days; and

“(B) To the best of the provider’s knowledge, the family’s presence in the safe housing shall not imminently jeopardize the tenancy of any household already occupying the safe housing.

“(10) Other than during a hypothermia alert, no provision under this subsection shall be construed to require the Mayor to provide shelter to a family if there is no existing

ENROLLED ORIGINAL

capacity in the shelter system or if the Department has exhausted its appropriation for family shelter services.”.

(d) Section 9 (D.C. Official Code § 4-754.11) is amended as follows:

(1) Paragraph (18) is amended by striking the phrase “suspension or termination; and” and inserting the phrase “suspension or termination;” in its place.

(2) Paragraph (19)(F) is amended by striking the phrase “expression.” and inserting the phrase “expression; and” in its place.

(3) A new paragraph (20) is added to read as follows:

“(20) Continuation of a family’s interim eligibility placement, pending the outcome of a fair hearing requested pursuant to section 26, if the family requests a fair hearing within 48 hours or before the close of the next business day, whichever occurs later, following receipt of written notice provided pursuant to section 19(b-1) of a denial of an application for shelter following an interim eligibility placement.”.

(e) Section 19 (D.C. Official Code § 4-754.33) is amended as follows:

(1) A new subsection (b-1) is added to read as follows:

“(b-1) All providers shall give to any client in an interim eligibility placement prompt oral and written notice that the Mayor has denied eligibility for shelter placement and that the interim eligibility placement will end 48 hours or at the close of the next business day, whichever occurs later, following the client’s receipt of the written notice.”.

(2) A new subsection (d-1) is added to read as follows:

“(d-1) Any written notice issued pursuant to subsection (b-1) of this section must be served upon the client and shall include:

“(1) A clear statement of the denial;

“(2) A clear and detailed statement of the factual basis for the denial, including the date or dates on which the basis or bases for the denial occurred;

“(3) A reference to the statute, regulation, policy, or Program Rule pursuant to which the denial is being implemented;

“(4) A clear and complete statement of the client’s right to appeal the denial through fair hearing proceedings pursuant to section 26 and administrative review proceedings pursuant to section 27, including the appropriate deadlines for instituting the appeal; and

“(5) A statement of the client’s right, if any, to continuation of an interim eligibility placement pending the outcome of any appeal, pursuant to section 9(20).”.

(f) Section 26 (D.C. Official Code § 4-754.41) is amended as follows:

(1) Subsection (b)(2) is amended as follows:

(A) Subparagraph (C) is amended by striking the word “or”.

(B) A new subparagraph (E) is added to read as follows:

“(E) Deny eligibility for shelter following an interim eligibility placement; or”.

(2) A new subsection (d-1) is added to read as follows:

ENROLLED ORIGINAL

“(d-1) In accordance with section 9(20), any client in an interim eligibility placement who requests a fair hearing within 48 hours or before the close of the next business day, whichever occurs later, of receipt of written notice of a denial of eligibility for shelter placement shall continue in that interim eligibility placement pending a final decision from the fair hearing proceedings.”

(3) Subsection (f) is amended as follows:

(A) Paragraph (2) is amended by striking the word “and”.

(B) Paragraph (3) is amended as follows:

(i) Subparagraph (B) is amended by striking the word “and” at the end.

(ii) Subparagraph (C) is amended to read as follows:

“(C) Except as provided in subparagraph (D) of this paragraph, the Administrative Law Judge shall issue a final decision within 15 days following the completion of the hearing; and”.

(iii) A new subparagraph (D) is added to read as follows:

“(D) The Administrative Law Judge shall issue a final decision in a review requested pursuant to subsection (b)(2)(E) of this section within 96 hours, not including weekends or holidays, following the completion of the hearing; and”.

(C) A new paragraph (4) is added to read as follows:

“(4) For a fair hearing requested from the Office of Administrative Hearings pursuant to subsection (b)(2)(E) of this section, the following additional requirements shall apply:

“(A) The fair hearing shall be held no later than 4 business days after the Office of Administrative Hearings receives an administrative review decision issued pursuant to section 27; and

“(B) If a party fails to appear, the Administrative Law Judge designated to conduct the hearing may enter a default decision in favor of the party present; provided, that the default decision may be set aside only for good cause shown, and upon equitable terms and conditions.”.

(g) Section 27 (D.C. Official Code § 4-754.42) is amended as follows:

(1) A new subsection (b-1) is added to read as follows:

“(b-1) An administrative review of a denial of an application for shelter following an interim eligibility placement, conducted pursuant to subsection (a) of this section, shall be completed and a decision rendered no later than 4 business days following receipt of the administrative review request, except upon a showing of good cause as to why such deadline cannot be met. If good cause is shown, a decision shall be rendered as soon as possible thereafter. If an extension of time for review is required for good cause, written notice of the extension shall be provided to the client or client representative prior to the commencement of the extension.”.

ENROLLED ORIGINAL

(2) A new subsection (c-1) is added to read as follows:

“(c-1) The administrative review of a denial of an application for shelter following an interim eligibility placement conducted in accordance with subsection (b-1) shall not be waived; provided, that the Office of Administrative Hearings may grant a fair hearing prior to the completion of the administrative review, on proper notice to all parties, to decide if a notice required by section 19, other than a notice of an emergency action, has not been given or is invalid on its face.”.

(3) A new subsection (e) is added to read as follows:

“(e) Each administrative review decision shall be in writing and shall contain a detailed statement of the basis for the decision. It shall include a comprehensive evaluation of the issues and clearly delineate the legal basis, if the decision upholds denial of shelter placement.”.

(h) A new section 31b is added to read as follows:

“Sec. 31b. Interim eligibility reporting requirement.

“The Department, no later than February 1 of each year, shall provide a report to the Council of the District of Columbia and the Interagency Council on Homelessness that shall include the following information:

“(1) Number of families placed in an interim eligibility placement;

“(2) Average length of stay in an interim eligibility placement;

“(3) Number of eligibility denials during and subsequent to an interim eligibility placement;

“(4) Number of appeals of eligibility determinations during and subsequent to an interim eligibility placement;

“(5) Number of interim eligibility appeals resolved via administrative review;

“(6) Average time for issuance of decision for review of interim eligibility appeal via administrative review;

“(7) Number of interim eligibility appeals brought to the Office of Administrative Hearings;

“(8) Average time for issuance of decision for review of interim eligibility appeal via the Office of Administrative Hearings; and

“(9) Final placement outcome for each family placed into an interim eligibility placement.”.

Sec. 3. The Dignity for Homeless Families Amendment Act of 2014, effective March 11, 2015 (D.C. Law 20-212; 62 DCR 4483), is repealed.

Sec. 4. Applicability.

This act shall apply as of February 28, 2016.

ENROLLED ORIGINAL

Sec. 5. Fiscal impact statement.

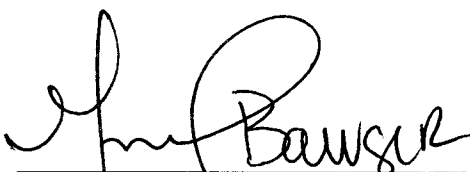
The Council adopts the fiscal impact statement in the committee report for the Interim Eligibility and Minimum Shelter Standards Amendment Act of 2015, enacted on December 29, 2015 (D.C. Act 21-251; 63 DCR 257), as the fiscal impact statement required by section 4(a) of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
March 3, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-327

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 3, 2016

To amend, on an emergency basis, the Retired Police Officer Redeployment Amendment Act of 1992 to allow for the rehiring of retired Metropolitan Police Department officers by the Department of Forensic Sciences without jeopardy to the retirement benefits of the employee.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Crime Scene Investigator Hiring Clarification Emergency Amendment Act of 2016".

Sec. 2. Section 2 of the Retired Police Officer Redeployment Amendment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761), is amended as follows:

(a) A new subsection (a-1) is added to read as follows:

"(a-1) Except for a disability annuitant, a police officer retired from the Metropolitan Police Department shall be eligible for rehire at the discretion of the Director of the Department of Forensic Sciences as a temporary full-time or temporary part-time employee without jeopardy to the retirement benefits of the employee."

(b) Subsection (b) is amended by striking the phrase "under this section" and inserting the phrase "under subsection (a) of this section" in its place.

(c) Subsection (d) is amended by striking the phrase "under this section" and inserting the phrase "under subsection (a) of this section" in its place.

(d) A new subsection (d-1) is added to read as follows:

"(d-1) A retired police officer who is rehired under subsection (a-1) of this section may be rehired in a supervisory or non-supervisory position and shall be paid a salary of no more than the highest grade available for the position assigned."

(e) Subsection (e) is amended by striking the phrase "subsection (d) of this section" and inserting the phrase "subsections (d) and (d-1) of this section" in its place.

(f) Subsection (f) is amended by striking the period and inserting the phrase "and the Department of Forensic Sciences." in its place.

ENROLLED ORIGINAL

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer 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. 4. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
March 3, 2016

ENROLLED ORIGINAL

A RESOLUTION

21-408

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 1, 2016

To declare the existence of an emergency, due to congressional review, with respect to the need to amend An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes to clarify that the posting requirement in section 5a is satisfied by posting the initial vacant or blight determination.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Nuisance Abatement Notice Congressional Review Emergency Declaration Resolution of 2016”.

Sec. 2. (a) The Nuisance Properties Abatement Reform and Real Property Classification Amendment Act of 2008, effective August, 15, 2008 (D.C. Law 17-216; 55 DCR 7500), created a requirement that all notices specified by the nuisance act be provided by mail and by posting at the subject property. Previously, posting was required only when the registration status of the subject property changed or needed to change.

(b) On October 17, 2014, a judge in the Office of Administrative Hearings dismissed a notice of infraction issued by the Department of Consumer and Regulatory Affairs because, *inter alia*, the notice failed to satisfy the posting requirement.

(c) Prior to the decision of the Office of Administrative Hearings, the Department of Consumer and Regulatory Affairs had been posting notice at the subject property only when the subject property changed or needed to change.

(d) Without clarifying that the provision should apply only to registration-status changes, the Department of Consumer and Regulatory Affairs would be required to devote considerable resources to posting duplicative notices at a subject property rather than devoting those resources to registering and monitoring other vacant properties. All notices would still be required to be provided by United States mail.

(e) The Nuisance Abatement Notice Temporary Amendment Act of 2015, effective April 30, 2015 (D.C. Law 20-252; 62 DCR 1958) (“temporary legislation”), which addressed the above-referenced issue, has expired.

(f) The Nuisance Abatement Notice Amendment Act of 2015, enacted January 12, 2016 (D.C. Act 21-260; 63 DCR 760) (“permanent legislation”), is projected to become law on March 8, 2016.

ENROLLED ORIGINAL

(g) It is important that the provisions of the temporary legislation remain effective, without interruption, until the permanent legislation is in effect.

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 Nuisance Abatement Notice Congressional Review Emergency Amendment Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-409

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 1, 2016

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Firearms Control Regulations Act of 1975 to extend to January 1, 2018 the date for implementation of the microstamping requirement for semiautomatic pistols.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Microstamping Implementation Congressional Review Emergency Declaration Resolution of 2016”.

Sec. 2. (a) D.C. Law 17-372, the Firearms Registration Amendment Act of 2008, added to the firearms law a requirement that newly-manufactured semiautomatic pistols be “microstamp-ready.”

(b) Microstamping creates microscopic markings on a cartridge after a firearm is fired that identify the make, model, and serial number of the firearm, allowing law enforcement to identify a firearm the first time it is used in a crime.

(c) In 2007, California became the first state to require microstamping on all new models sold in the state.

(d) The District’s microstamping requirement was initially to be implemented in 2011, in order to incorporate best practices learned from California’s experience. However, D.C. Law 18-377, the Criminal Code Amendment Act of 2010, delayed the applicability date from January 1, 2011, until January 1, 2013. At that time, California had only recently issued regulations on microstamping. Because California was only beginning to put microstamping into practice, the Council voted to delay the District’s implementation in order to allow the model being developed in California to be further refined.

(e) D.C. Law 19-170, the Firearms Amendment Act of 2012, again delayed—to January 1, 2014—implementation of microstamping in the District after the process faced further delay in California due to patents on the technology. Implementation was postponed because of the very small nature of the District’s market. The view was that once California, a much larger market, implemented microstamping, it would become more feasible for implementation in the District.

(f) As California continues to work toward implementation of the microstamping requirements it is necessary to again delay the implementation of the District’s microstamping requirement to allow for more time for the requirement and implementation to take hold in California.

ENROLLED ORIGINAL

(g) An emergency measure, the Microstamping Implementation Emergency Amendment Act of 2015, effective January 6, 2016 (D.C. Act 21-258; 63 DCR 530), was adopted by the Council in December 2015 to delay the implementation requirement from January 1, 2016 to January 1, 2018. That emergency measure will expire on March 31, 2016, with the corresponding temporary measure, the Microstramping Implementation Temporary Amendment Act of 2015, enacted on January 21, 2016 (D.C. Act 21-277; 63 DCR 993), not projected to become law until April 5, 2016. As such it is necessary to adopt an additional emergency 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 “Microstamping Implementation Congressional Review Emergency Amendment Act of 2016” be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately

ENROLLED ORIGINAL

A RESOLUTION

21-410

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 1, 2016

To confirm the appointment of Ms. Laine Cidlowksi as the Food Policy Director of the Office of Planning.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Food Policy Director Laine Cidlowksi Confirmation Resolution of 2016".

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

Ms. Laine Cidlowksi
36 Rhode Island Avenue, N.E.
Washington, D.C. 20002
(Ward 5)

as the Food Policy Director of the Office of Planning and a voting member of the Food Policy Council, established by section 3 of the Food Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-312), 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

21-411

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 1, 2016

To confirm the appointment of Mr. Evangelos S. “Spike” Mendelsohn as a voting member of the Food Policy Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Food Policy Council Spike Mendelsohn Confirmation Resolution of 2016”.

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

Mr. Evangelos S. “Spike” Mendelsohn
1026 16th Street, N.W.
Washington, D.C. 20036
(Ward 2)

as a voting member of the Food Policy Council, established by section 3 of the Food Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-312), for a 3-year term.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-412

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 1, 2016

To confirm the appointment of Ms. Claire Benjamin as a voting member of the Food Policy Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Food Policy Council Claire Benjamin Confirmation Resolution of 2016”.

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

Ms. Claire Benjamin
2144 California Street, N.W.
Washington, D.C. 20008
(Ward 2)

as a voting member of the Food Policy Council, established by section 3 of the Food Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-312), for a 3-year term.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-413

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 1, 2016

To confirm the appointment of Mr. Jeremiah Lowery as a voting member of the Food Policy Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Food Policy Council Jeremiah Lowery Confirmation Resolution of 2016”.

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

Mr. Jeremiah Lowery
4612 Georgia Avenue, N.W.
Washington, D.C. 20011
(Ward 4)

as a voting member of the Food Policy Council, established by section 3 of the Food Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-312), for a 3-year term.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

21-414

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 1, 2016

To confirm the appointment of Mr. Jonas Singer as a voting member of the Food Policy Council.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Food Policy Council Jonas Singer Confirmation Resolution of 2016”.

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

Mr. Jonas Singer
516 T Street, N.W.
Washington, D.C. 20001
(Ward 1)

as a voting member of the Food Policy Council, established by section 3 of the Food Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-312), for a 3-year term.

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

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****BILL**

B21-658 Extension of Time to Dispose of the Strand Theater Amendment Act of 2016

Intro. 3-1-16 by Councilmember Alexander and referred to the Committee of
the Whole

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

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

Revised and Abbreviated

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

ANNOUNCES A PUBLIC HEARING ON

**PROPOSED RESOLUTION 21-0545, THE “OFFICE OF UNIFIED COMMUNICATIONS
KARIMA HOLMES CONFIRMATION RESOLUTION OF 2016”**

**BILL 21-0506, THE “ESTABLISHMENT OF THE COMMUNITY HEALTH EMERGENCY
LINK PARAMEDICINE PILOT PROGRAM ACT OF 2015”**

AND

**BILL 21-0615, THE “NOTICE IN CASE OF EMERGENCY AMENDMENT ACT OF
2016”**

**Tuesday, March 22, 2016, 1:00 p.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Tuesday, March 22, 2016, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on the Judiciary, will hold a public hearing on Proposed Resolution 21-0545, the “Office of Unified Communications Karima Holmes Confirmation Resolution of 2016”, Bill 21-0506, the “Establishment of the Community Health Emergency Link Paramedicine Pilot Program Act of 2015”, and Bill 21-0615, the “Notice in Case of Emergency Amendment Act of 2016”. The hearing will be held in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 1:00 p.m. *Please note that this notice has been revised and abbreviated to include PR21-0545.*

The stated purpose of PR21-0545 is to confirm Karima Holmes as the Director of the Office of Unified Communications, to serve at the pleasure of the Mayor.

The stated purpose of B21-0506 is to establish a pilot community paramedicine program within the Fire and Emergency Medical Services Department. Community paramedicine involves the practice by an emergency medical services provider primarily in an out-of-hospital setting of

providing episodic patient evaluation, advice, and treatment directed at preventing or improving a particular medical condition.

The stated purpose of B21-0615 is to expand the registration and format of OUC's medical information profile program; to implement a vehicle and home decal program that alerts emergency responders that the vehicle glove department or the home contains a copy of the individual's medical information profile; and to require the Department of Motor Vehicles and OUC to develop an emergency medical information profile request form by which OUC can contact interested residents.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Diamond Wade, Legislative Aide, at (202) 727-8204, or via e-mail at dwade@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) **by close of business, March 18, 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 dwade@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee 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 April 8, 2016.**

COUNCIL OF THE DISTRICT OF COLUMBIA
CONSIDERATION OF TEMPORARY LEGISLATION

B21-637, Director of the Homeland Security and Emergency Management Agency Salary Approval Temporary Amendment Act of 2016 and **B21-641**, Supporting Normalcy and Empowering Children in Foster Care Temporary Amendment Act of 2016 were adopted on first reading on March 1, 2016. These temporary measures were considered in accordance with Council Rule 413. A final reading on these measures will occur on April 5, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA EXCEPTED SERVICE APPOINTMENTS AS OF FEBRUARY 29, 2016
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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
Smith, Joseph	Constituent Services Specialist	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. 21-174: Request to reprogram \$606,857 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 March 2, 2016. This reprogramming ensures that OSSE will be able to provide adult education services to District residents.

RECEIVED: 14 day review begins March 3, 2016

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Posting Date: **March 11, 2016
 Petition Date: **April 25, 2016
 Hearing Date: **May 9, 2016
 Protest Hearing: **July 13, 2016
 License No.: ABRA-101456
 Licensee: Hecht MRG L.L.C.
 Trade Name: Ari's Diner
 License Class: Retailer's Class "C" Tavern
 Address: 2003 Fenwick Street, N.E.
 Contact: Wendy Mineff: 202 997-7806

WARD 5

ANC 5D

SMD 5D01

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 for 1:30pm on **July 13, 2016.

NATURE OF OPERATION

New Restaurant serving American food while training individuals to work within the restaurant industry. Total Occupancy Load is 115. Sidewalk Café for 15 patrons. Live Entertainment, Dancing and Cover Charge.

HOURS OF OPERATON FOR PREMISES

Sunday through Thursday 6 am – 2 am, Friday and Saturday 6 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday 10 am – 2 am, Monday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

HOURS OF OPERATON FOR SIDEWALK CAFE

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

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

Sunday through Saturday 10 am – 1 am

HOURS OF LIVE ENTERTAINMENT, DANCING AND COVER CHARGE

Sunday 10 am – 2 am, Monday through Thursday 5 pm – 2 am, Friday 5 pm – 3 am, and Saturday 10 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: **February 26, 2016
Petition Date: **April 11, 2016
Hearing Date: **April 25, 2016
Protest Hearing: **June 22, 2016
License No.: ABRA-101456
Licensee: Hecht MRG L.L.C.
Trade Name: Ari's Diner
License Class: Retailer's Class "C" Tavern
Address: 2003 Fenwick Street, N.E.
Contact: Wendy Mineff: 202 997-7806

WARD 5

ANC 5D

SMD 5D01

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 for 1:30pm on **June 22, 2016.

NATURE OF OPERATION

New Restaurant serving American food while training individuals to work within the restaurant industry. Total Occupancy Load is 115. Sidewalk Café for 15 patrons. Live Entertainment, Dancing and Cover Charge.

HOURS OF OPERATON FOR PREMISES

Sunday through Thursday 6 am – 2 am, Friday and Saturday 6 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday 10 am – 2 am, Monday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

HOURS OF OPERATON FOR SIDEWALK CAFE

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

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

Sunday through Saturday 10 am – 1 am

HOURS OF LIVE ENTERTAINMENT, DANCING AND COVER CHARGE

Sunday 10 am – 2 am, Monday through Thursday 5 pm – 2 am, Friday 5 pm – 3 am, and Saturday 10 am – 3 am

**ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-000892

License Class/Type: C Club

Applicant: The 116 Inc.

Trade Name: 116 Club

ANC: 6C02

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

234 3RD ST NE

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	closed -	closed -
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 11 pm	11 am - 11 pm
Saturday:	closed -	closed -

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-074621

License Class/Type: C Hotel

Applicant: HHC TRS Highland LLC

Trade Name: The Churchill Hotel

ANC: 2D02

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

1914 CONNECTICUT AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	24 Hours -	10 am -2 am
Monday:	24 Hours -	10 am - 2 am
Tuesday:	24 Hours -	10 am - 2 am
Wednesday:	24 Hours -	10 am - 2 am
Thursday:	24 Hours -	10 am - 2 am
Friday:	24 Hours -	10 am - 2 am
Saturday:	24 Hours -	10 am - 2 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-077109

License Class/Type: C Hotel

Applicant: 1615 LLL, LLC

Trade Name: Beacon Hotel & Corporate Quarters

ANC: 2B05

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

1615 RHODE ISLAND AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7:30 am - 11 pm	10:30 am - 11 pm
Monday:	6:30 am - 1 am	11 am - 1 am
Tuesday:	6:30 am - 1 am	11 am - 1 am
Wednesday:	6:30 am - 1 am	11 am - 1 am
Thursday:	6:30 am - 1 am	11 am - 1 am
Friday:	6:30 am - 1 am	11 am - 1 am
Saturday:	7:30 am - 1 am	11 am - 1 am

ENDORSEMENTS: Cover Charge Dancing Entertainment Sidewalk Cafe Summer

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-060476

License Class/Type: C Multipurpose

Applicant: Circle I Productions, Inc.

Trade Name: Black Cat

ANC: 1B12

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

1811 14TH ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

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

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-008946

License Class/Type: C Restaurant

Applicant: Trattoria Alberto Inc.

Trade Name: Trattoria Alberto

ANC: 6B04

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

504 8TH ST SE

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11: 30 am - 11 pm	11:30 am -11 pm
Monday:	11:30 am - 11 pm	11:30 am - 11 pm
Tuesday:	11:30 am - 11 pm	11:30 am - 11 pm
Wednesday:	11:30 am - 11 pm	11:30 am - 11 pm
Thursday:	11:30 am - 11 pm	11:30 am - 11 pm
Friday:	11:30 am - 11 pm	11:30 am - 11 pm
Saturday:	11:30 am - 11 pm	11:30 am - 11 pm

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-026739

License Class/Type: C Restaurant

Applicant: Sizzling Express III, Inc.

Trade Name: Sizzling Express

ANC: 6B02

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

600 PENNSYLVANIA AVE SE

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	6 am - 10 pm	10 am - 10 pm
Monday:	6 am - 10 pm	8 am - 10 pm
Tuesday:	6 am - 10 pm	8 am - 10 pm
Wednesday:	6 am - 10 pm	8 am - 10 pm
Thursday:	6 am - 10 pm	8 am - 10 pm
Friday:	6 am - 10 pm	8 am - 10 pm
Saturday:	6 am - 10 pm	8 am - 10 pm

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-060001

License Class/Type: C Restaurant

Applicant: S & W D.C. LLC

Trade Name: Smith & Wollensky

ANC: 2B06

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

1112 19TH ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 2 am	11 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 2 am	11 am - 2 am
Saturday:	11 am - 2 am	11 am - 2 am

ENDORSEMENTS: Summer Garden

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-060278

License Class/Type: C Restaurant

Applicant: Khyber Pass Corp

Trade Name: Afghan Grill

ANC: 3C01

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

2309 CALVERT ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 12 am	11 am -12 am
Monday:	11 am - 12 am	11 am - 12 am
Tuesday:	11 am - 12 am	11 am - 12 am
Wednesday:	11 am - 12 am	11 am - 12 am
Thursday:	11 am - 12 am	11 am - 12 am
Friday:	11 am - 12 am	11 am - 12 am
Saturday:	11 am - 12 am	11 am - 12 am

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-060769

License Class/Type: C Restaurant

Applicant: Big Bucks, LLC

Trade Name: Buck's Fishing & Camping

ANC: 3F05

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

5031 CONNECTICUT AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10 am - 12 am	10 am -12 am
Monday:	10 am - 12 am	10 am - 12 am
Tuesday:	10 am - 12 am	10 am - 12 am
Wednesday:	10 am - 12 am	10 am - 12 am
Thursday:	10 am - 12 am	10 am - 12 am
Friday:	10 am - 1 am	10 am - 1 am
Saturday:	10 am - 1 am	10 am - 1 am

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-071154

License Class/Type: C Restaurant

Applicant: China, LLC

Trade Name: Meiwah

ANC: 2A06

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

1200 NEW HAMPSHIRE AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	12 pm - 10:30 pm	12 pm -10:30 pm
Monday:	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Tuesday:	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Wednesday:	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Thursday:	11:30 am - 10:30 pm	11:30 am - 10:30 pm
Friday:	11:30 am - 11 pm	11:30 am - 11 pm
Saturday:	12 pm - 11 pm	12 pm - 11 pm

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-072038

License Class/Type: C Restaurant

Applicant: Style Concept Studio, LLC

Trade Name: Le Chat Noir

ANC: 3E03

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

4907 WISCONSIN AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 11 pm	11 am - 11 pm
Saturday:	11 am - 11 pm	11 am - 11 pm

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-072256

License Class/Type: C Restaurant

Applicant: Maggiano's Holding Corporation

Trade Name: Maggiano's

ANC: 3E04

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

5333 WISCONSIN AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 1 am	11 am - 1 am
Tuesday:	11 am - 1 am	11 am - 1 am
Wednesday:	11 am - 1 am	11 am - 1 am
Thursday:	11 am - 1 am	11 am - 1 am
Friday:	11 am - 1 am	11 am - 1 am
Saturday:	11 am - 1 am	11 am - 1 am

ENDORSEMENTS: Entertainment Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-077797

License Class/Type: C Restaurant

Applicant: Cafe Bistro MED, LLC

Trade Name: Cafe 8

ANC: 6B04

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

424 8TH ST SE

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 11 pm	11 am -11 pm
Monday:	6 am - 11 pm	8 am - 11 pm
Tuesday:	6 am - 11 pm	8 am - 11 pm
Wednesday:	6 am - 11 pm	8 am - 11 pm
Thursday:	6 am - 11 pm	8 am - 11 pm
Friday:	6 am - 12 am	8 am - 12 am
Saturday:	6 am - 12 am	8 am - 12 am

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-079108

License Class/Type: C Restaurant

Applicant: BP Group, Inc.

Trade Name: Royal Thai Cuisine & Bar

ANC: 2C01

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

507 H ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 11 pm	11 am - 11 pm
Saturday:	11 am - 11 pm	11 am - 11 pm

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-082973

License Class/Type: C Restaurant

Applicant: Rudraaksh, LLC

Trade Name: Masala Art

ANC: 3E01

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

4441 A WISCONSIN AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 11 pm	11 am - 11 pm
Saturday:	11 am - 11 pm	11 am - 11 pm

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-086595

License Class/Type: C Restaurant

Applicant: La Morenita Restaurant, LLC

Trade Name: La Morenita

ANC: 1A08

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

3539 Georgia AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7 am - 2 am	12 pm - 1:30 am
Monday:	7 am - 2 am	11 am - 1:30 am
Tuesday:	7 am - 2 am	11 am - 1:30 am
Wednesday:	7 am - 2 am	11 am - 1:30 am
Thursday:	7 am - 2 am	11 am - 1:30 am
Friday:	7 am - 3 am	11 am - 2:30 am
Saturday:	7 am - 3 am	11 am - 2:30 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-086724

License Class/Type: C Restaurant

Applicant: Style Concept Studio, LLC

Trade Name: Le Grenier

ANC: 6C05

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

502 H ST NE

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 12 am	11 am -12 am
Monday:	11 am - 12 am	11 am - 12 am
Tuesday:	11 am - 12 am	11 am - 12 am
Wednesday:	11 am - 12 am	11 am - 12 am
Thursday:	11 am - 12 am	11 am - 12 am
Friday:	11 am - 2 am	11 am - 2 am
Saturday:	11 am - 2 am	11 am - 2 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-087556

License Class/Type: C Restaurant

Applicant: Next Door Dining, LLC

Trade Name: Unum

ANC: 2E06

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

2917 M ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11:30 am - 11 pm	11:30 am - 11 pm
Monday:	11:30 am - 11 pm	11:30 am - 11 pm
Tuesday:	11:30 am - 11 pm	11:30 am - 11 pm
Wednesday:	11:30 am - 11 pm	11:30 am - 11 pm
Thursday:	11:30 am - 11 pm	11:30 am - 11 pm
Friday:	11:30 am - 3 am	11:30 am - 3 am
Saturday:	11:30 am - 3 am	11:30 am - 3 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-089395

License Class/Type: C Restaurant

Applicant: Table DC LLC

Trade Name: Table DC

ANC: 2F06

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

903 N ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	8 am - 2 am	10 am - 2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am
Saturday:	8 am - 3 am	8 am - 3 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-090412

License Class/Type: C Restaurant

Applicant: Froggy Times Inc.

Trade Name: Froggy Bottom Pub

ANC: 2A01

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

2021 K ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11am - 2am	11am -2am
Monday:	11am - 2am	11am - 2am
Tuesday:	11am - 2am	11am - 2am
Wednesday:	11am - 2am	11am - 2am
Thursday:	11am - 2am	11am - 2am
Friday:	11am - 3am	11am - 3am
Saturday:	11am - 3am	11am - 3am

ENDORSEMENTS: Summer Garden

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-090422

License Class/Type: C Restaurant

Applicant: ROMYO LLC

Trade Name: Ambassador Restaurant

ANC: 1B02

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

1907 9th ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10 am - 2 am	10 am -2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am
Saturday:	8 am - 3 am	8 am - 3 am

ENDORSEMENTS: Entertainment

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-091608

License Class/Type: C Restaurant

Applicant: Krung-Thep Washington, LLC

Trade Name: SOI 38

ANC: 2A06

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

2101 L ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11am - 12am	11am -12am
Monday:	11am - 12am	11am - 12am
Tuesday:	11am - 12am	11am - 12am
Wednesday:	11am - 12am	11am - 12am
Thursday:	11am - 12am	11am - 12am
Friday:	11am - 12am	11am - 12am
Saturday:	11am - 12am	11am - 12am

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-092426

License Class/Type: C Restaurant

Applicant: 3566 14th Street NW LLC

Trade Name: La Dulce Noche

ANC: 1A01

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

3566 14TH ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 3 am	9 am - 2 am
Monday:	9 am - 3 am	9 am - 2 am
Tuesday:	9 am - 3 am	9 am - 2 am
Wednesday:	9 am - 3 am	9 am - 2 am
Thursday:	9 am - 3 am	9 am - 2 am
Friday:	9 am - 3 am	9 am - 3 am
Saturday:	9 am - 3 am	9 am - 3 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-094766

License Class/Type: C Restaurant

Applicant: Rudrakalash, LLC

Trade Name: Masala Art

ANC: 6D01

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

1101 4TH ST SW, UNIT# 120

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10 am - 2 am	10 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 3 am	11 am - 3 am
Saturday:	10 am - 3 am	10 am - 3 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-095700

License Class/Type: C Restaurant

Applicant: Chaplin Restaurant DC, LLC

Trade Name: Chaplin

ANC: 6E01

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

1501 9TH ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11AM - 2AM	11AM -1:30AM
Monday:	11AM - 2AM	11AM - 1:30AM
Tuesday:	11AM - 2AM	11AM - 1:30AM
Wednesday:	11AM - 2AM	11AM - 1:30AM
Thursday:	11AM - 2AM	11AM - 1:30AM
Friday:	11AM - 3AM	11AM - 2:30AM
Saturday:	11AM - 3AM	11AM - 2:30AM

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-098029

License Class/Type: C Restaurant

Applicant: Agora Inc

Trade Name: Agora

ANC: 2B05

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

1527 17TH ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11am - 2am	11am -2am
Monday:	11am - 2am	11am - 2am
Tuesday:	11am - 2am	11am - 2am
Wednesday:	11am - 2am	11am - 2am
Thursday:	11am - 2am	11am - 2am
Friday:	11am - 3am	11am - 3am
Saturday:	11am - 3am	11am - 3am

ENDORSEMENTS: Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-098740

License Class/Type: C Restaurant

Applicant: MOMOCCDC, LLC

Trade Name: Momofuku/MilkBar City Center DC

ANC: 2C01

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

1090 I ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	6 am - 2 am	8 am - 2 am
Monday:	6 am - 2 am	8 am - 2 am
Tuesday:	6 am - 2 am	8 am - 2 am
Wednesday:	6 am - 2 am	8 am - 2 am
Thursday:	6 am - 2 am	8 am - 2 am
Friday:	6 am - 2 am	8 am - 2 am
Saturday:	6 am - 2 am	8 am - 2 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-099054

License Class/Type: C Restaurant

Applicant: Tartufo, LLC

Trade Name: Tartufo

ANC: 3E03

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

4910 WISCONSIN AVE NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	11 am - 2 am	11 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 3 am	11 am - 3 am
Saturday:	11 am - 3 am	11 am - 3 am

ENDORSEMENTS: Entertainment Sidewalk Cafe

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-088476

License Class/Type: D Restaurant

Applicant: Taqueria Distrito Federal II, INC.

Trade Name: Taqueria Distrito Federal

ANC: 4D01

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

805 Kennedy ST NW

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10am - 11pm	10am - 11pm
Monday:	10am - 11pm	10am - 11pm
Tuesday:	10am - 11pm	10am - 11pm
Wednesday:	10am - 11pm	10am - 11pm
Thursday:	10am - 11pm	10am - 11pm
Friday:	10am - 11pm	10am - 11pm
Saturday:	10am - 11pm	10am - 11pm

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Posting Date: **March 11, 2016
Petition Date: **April 25, 2016
Hearing Date: **May 9, 2016
Protest Hearing: **July 13, 2016
License No.: ABRA-101455
Licensee: Fenwick MRG L.L.C.
Trade Name: La Puerta Verde
License Class: Retailer's Class "C" Tavern
Address: 2001 Fenwick Street, N.E.
Contact: Wendy Mineff: 202 997-7806

WARD 5

ANC 5D

SMD 5D01

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 for 4:30pm on **July 13, 2016.

NATURE OF OPERATION

New Restaurant serving Mexican food. Total Occupancy Load is 120. Sidewalk Café for 15 patrons. Live Entertainment, Dancing and Cover Charge.

HOURS OF OPERATON FOR PREMISES

Sunday through Thursday 6 am – 2 am, Friday and Saturday 6 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday 10am – 2am, Monday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

HOURS OF OPERATON FOR SIDEWALK CAFE

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

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

Sunday through Saturday 10 am – 1 am

HOURS OF LIVE ENTERTAINMENT DANCING AND COVER CHARGE

Sunday 10am – 2am, Monday through Thursday 5 pm – 2 am, Friday 5 pm – 3 am, and Saturday 10 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: **February 26, 2016
Petition Date: **April 11, 2016
Hearing Date: **April 25, 2016
Protest Hearing: **June 22, 2016
License No.: ABRA-101455
Licensee: Fenwick MRG L.L.C.
Trade Name: La Puerta Verde
License Class: Retailer's Class "C" Tavern
Address: 2001 Fenwick Street, N.E.
Contact: Wendy Mineff: 202 997-7806

WARD 5

ANC 5D

SMD 5D01

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 for 4:30pm on **June 22, 2016.

NATURE OF OPERATION

New Restaurant serving Mexican food. Total Occupancy Load is 120. Sidewalk Café for 15 patrons. Live Entertainment, Dancing and Cover Charge.

HOURS OF OPERATON FOR PREMISES

Sunday through Thursday 6 am – 2 am, Friday and Saturday 6 am – 3 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday 10am – 2am, Monday through Thursday 8 am – 2 am, Friday and Saturday 8 am – 3 am

HOURS OF OPERATON FOR SIDEWALK CAFE

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

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

Sunday through Saturday 10 am – 1 am

HOURS OF LIVE ENTERTAINMENT DANCING AND COVER CHARGE

Sunday 10am – 2am, Monday through Thursday 5 pm – 2 am, Friday 5 pm – 3 am, and Saturday 10 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 11, 2016
Petition Date: April 25, 2016
Hearing Date: May 9, 2016

License No.: ABRA-089011
Licensee: Moonkor Corporation
Trade Name: S.E. Market
License Class: Retailer's Class "B" Grocery
Address: 1500 Independence Avenue, S.E.
Contact: Kevin Lee: (703) 941-3133

WARD 6

ANC 6B

SMD 6B10

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 1:30pm, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Applicant has requested a Class Change from Retailer's "B" Grocery Store to Retailer's "A" Liquor Store.

CURRENT HOURS OF OPERATION

Sunday through Saturday 8 am - 9 pm

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 9 am - 9 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 11, 2016
Petition Date: April 25, 2016
Hearing Date: May 9, 2016

License No.: ABRA-079523
Licensee: Kelly's Michigan Park LLC
Trade Name: San Antonio Bar and Grill III
License Class: Retailer's Class "C" Tavern
Address: 3908 12th Street, N.E.
Contact: Jamie Vargars: (202) 832-8080

WARD 5

ANC 5B

SMD 5B05

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

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a Sidewalk Cafe with seating for 33.

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

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

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

Sunday through Saturday 11 am - 10 pm

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

Posting Date: **March 11, 2016
Petition Date: **April 25, 2016
Hearing Date: **May 9, 2016
Protest Hearing: **July 13, 2016

License No.: ABRA-101493
Licensee: Seoul Spice L.L.C.
Trade Name: Seoul Spice
License Class: Retailer's Class "C" Restaurant
Address: 145 N Street, N.E., Suite 400
Contact: Eric Shin: 808-386-4508

WARD 6

ANC 6C

SMD 6C06

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 for 1:30pm on **July 13, 2016.

NATURE OF OPERATION

New, fast-casual restaurant serving Korean-American cuisine. Total Occupancy Load of 138. Sidewalk Café with 12 seats.

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

Sunday through Saturday 11 am – 10 pm

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

Posting Date: **February 19, 2016
Petition Date: **April 4, 2016
Hearing Date: **April 18, 2016
Protest Hearing: **June 15, 2016

License No.: ABRA-101493
Licensee: Seoul Spice L.L.C.
Trade Name: Seoul Spice
License Class: Retailer's Class "C" Restaurant
Address: 145 N Street, N.E., Suite 400
Contact: Eric Shin: 808-386-4508

WARD 6

ANC 6C

SMD 6C06

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 for 1:30pm on **June 15, 2016.

NATURE OF OPERATION

New, fast-casual restaurant serving Korean-American cuisine. Total Occupancy Load of 138. Sidewalk Café with 12 seats.

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

Sunday through Saturday 11 am – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 11, 2016
Petition Date: April 25, 2016
Hearing Date: May 9, 2016

License No.: ABRA-094844
Licensee: The Big Stick, LLC
Trade Name: The Big Stick
License Class: Retailer's Class "C" Restaurant
Address: 20 M Street, S.E.
Contact: Justin Ross: (202) 750-7724

WARD 6

ANC 6D

SMD 6D02

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

NATURE OF SUBSTANTIAL CHANGE

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

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

Sunday through Saturday 10:00 am – 11:00 pm

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

Sunday through Thursday 10:00am – 1:00am, Friday and Saturday 10:00 am – 2:00 am

**ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION
ON
3/11/2016**

Notice is hereby given that:

License Number: ABRA-060462 License Class/Type: C Multipurpose

Applicant: Levy(Washington) Limited Partnership

Trade Name: The Levy Restaurants At Verizon Center

ANC: 2C01

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

601 F ST NW D

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

4/25/2016

A HEARING WILL BE HELD ON:

5/9/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	8 am - 2 am	10 am -2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 2 am	8 am - 2 am
Saturday:	8 am - 2 am	8 am - 2 am

ENDORSEMENTS:

FOR FURTHER INFORMATION CALL: (202) 442-4423

DEPUTY MAYOR OF EDUCATION

NOTICE OF PUBLIC MEETINGS REGARDING
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE §10-801

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

Properties: Square 3702, Lot0806 – 33 Riggs Road, NE (“Keene School Building”)

Date: March 23, 2016

Time: 6:30 p.m.

Location: *Keene School Auditorium*
33 Riggs Road, NE
Washington, DC 20011

Contact: Althea O. Holford
Deputy Mayor for Education
202.727.4036 or althea.holford@dc.gov

DEPUTY MAYOR OF EDUCATION

NOTICE OF PUBLIC MEETINGS REGARDING
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE §10-801

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

Properties: Square 6204, Lot0801 – 4600 Livingston Road, SE (“PR Harris School Building”)

Date: March 24, 2016

Time: 6:30 p.m.

Location: *PR Harris School*
4600 Livingston Road, SE
Washington, DC 20032

Contact: Althea O. Holford
Deputy Mayor for Education
202.727.4036 or althea.holford@dc.gov

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**NOTIFICATION OF NEW SCHOOL APPLICATIONS**

The District of Columbia Public Charter School Board (DC PCSB) hereby gives notice of its intent to hold a Public Hearing on all new charter school applications received by the March 7, 2016 deadline at the board meeting on April 19, 2016. DC PCSB will hold a vote on the applications during the board meeting on May 16, 2015. A second notice will be published which will include a list of all charter school applicants. For questions, please contact 202-328-2660 or email applications@dcpcsb.org.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, APRIL 26, 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 ONE

19242
ANC-1C **Appeal of ANC 1C**, pursuant to 11 DCMR §§ 3100 and 3101, from November 16, 2015 and December 15, 2015 decisions by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permit Nos. B1412288 and B1601746, to permit two parking spaces in the rear yard of a residential lot in the R-5-B District at premises 1828 Ontario Place N.W. (Square 2583, Lot 438).

WARD SIX

19250
ANC-6A **Application of 920 H LLC**, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 1324.4, the off-street parking requirements under § 2101.1, and the parking space size requirements under § 2115.1, to allow the construction of a mixed-use building with a restaurant and nine residential units in the HS-R/C-2-A District at premises 920-922 H Street N.E. (Square 933, Lots 57 and 803).

WARD SIX

19252
ANC-6B **Application of Susan Hillberg**, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the court requirements under § 406, to construct a rear addition to an existing one-family dwelling in the R-5-B District at premises 605 G Street S.E. (Square 878, Lot 154).

WARD FIVE

19253
ANC-5E **Application of Shaed School DC**, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking space requirements under § 2101.1, to continue operation of an existing public charter school in the R-4 District at premises 200 Douglas Street N.E. (Square 3552, Lot 816).

BZA PUBLIC HEARING NOTICE

APRIL 26, 2016

PAGE NO. 2

THIS CASE WAS POSTPONED FROM THE PUBLIC HEARING OF DECEMBER 8, 2015 AT THE APPLICANT'S REQUEST, AND CONTINUED BY THE BOARD FROM MARCH 1, 2016:

WARD FIVE

19141 **Application of Janis C. Gross**, pursuant to 11 DCMR § 3103.2, for variances
ANC-5A from the lot occupancy requirements under § 403.2, and the carport requirements
 under § 2300.8, to permit a detached carport structure in the R-2 District at
 premises 4608 Sargent Road N.E. (Square 3916, Lot 8).

**THIS CASE WAS POSTPONED FROM THE PUBLIC HEARING OF MARCH 8, 2016
AT THE APPLICANT'S REQUEST:**

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. 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,

BZA PUBLIC HEARING NOTICE

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441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

**Note that party status is not permitted in Foreign Missions cases.*

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.

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

NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-211(b)(2012 Supp.) and Mayor's Order 2001-96 (June 28, 2001), as revised by Mayor's Order 2001-102 (July 23, 2001), hereby gives notice of the adoption of amendments to Chapter 16 (Contested Hearings, Non-Contested Hearings, Protest Hearings and Procedures) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

By way of background, the first Notice of Proposed Rulemaking (1st NOPR) seeking to amend Chapter 16 was originally adopted by the Board on October 15, 2014, by a six (6) to zero (0) vote, and was published in the *D.C. Register* on December 26, 2014 at 61 DCR 13160 for a thirty (30) day comment period.

On November 13, 2014, the Board held a hearing pursuant to D.C. Official Code § 25-354 (2012 Repl.) to receive public comment on the proposed rules. At the public hearing, and during the comment period, the Board received valuable comments and testimony from the public, including members of the industry, ANC Commissioners, D.C. residents and Citizens and Civic Associations. Below is a summary of the testimony presented at the public hearing, as well as written comments received.

Denis James, President of the Kalorama Citizens Association

Mr. James addressed §§ 1602.5 and 1612.2 regarding protest petitions. He believes those sections reference a former process whereby protestant groups could canvass their neighborhoods to solicit signatures on a petition. Because this form of protesting is no longer recognized by statute, the reference in the regulations should be deleted too.

Additionally, Mr. James would like to see Groups of Three in moratorium zones restored to the proposed rules. Under the existing rules, protestants only need to form Groups of Three in moratorium zones and he believes that language should be retained.

Thirdly, Mr. James objected to the proposed rule regarding the requirement that Groups of Five or More Individuals would be defined by the members set forth in the protest petition. He does not think protest groups should be closed as to its membership at the time the protest is filed. He believes there are times when a neighbor or two may simply appear at a Roll Call Hearing without having previously joined a protest group. Those persons should be permitted to join the already constituted protest group, and the Board's Agent should be given the authority to permit non-protestants to join an already formed group at Roll Call. The Board should not adopt any rule that suppresses citizen participation!

Milton Grossman, Resident of Glover Park

Mr. Grossman raised concerns regarding the Board's interpretation of § 1605.2 which states that

protests should state the grounds for the protest under one or more of the appropriateness standards. He believes the Board has taken the position that if the protest fails to list one of the appropriateness standards, the protest fails. This interpretation conflicts with D.C. Official Code § 25-601 which does not require a protestant to raise an appropriateness standard in order to have a valid protest.

Mr. Grossman argues that the Board should look to D.C. Official Code § 25-301 regarding general qualifications where there is a requirement that the Applicant is of good character and generally fit for the responsibilities of licensure. These requirements should also be permitted by the Board as a basis for a protest. Nothing in the statutes or the D.C. Court of Appeals decisions supports the Board's interpretation that the only basis for a protest is the appropriateness objection. To that end, Mr. Grossman requests that the Board delete language in § 1605 that limits protests to appropriateness grounds.

Written Comments

In addition to the testimony received by those in attendance at the public hearing, the Board also received written comments from several parties.

Ramon Estrada of the Dupont Circle Citizens Association (DCCA) does not believe the proposed regulations go far enough, and suggests that the Board undertake a comprehensive effort to improve the protest process to include administrative hearings. The DCCA believes that applicants should be required to file a new application rather than get a second opportunity to file their renewal application when their first renewal application is dismissed and not reinstated by the Board. The DCCA also requested that the Board permit officers of Condominium Associations to form the Group of Five Protestants, rather than require five member condo units to form the Group of Five Protestants.

Skip Coburn on behalf of the D.C. Nightlife Association believes that the list of reasons constituting "good cause" should include lack of notice by ABRA when the applicant fails to attend a hearing and the Board dismisses his application. Mr. Coburn also suggests that parties submit their list of issues to be addressed by the mediator in order to limit the language in the Settlement Agreement to only those matters that need to be resolved.

The Shaw Dupont Citizens Alliance (SDCA) requested that the Board issue Cease and Desist Orders when applications are dismissed, that the word "may" be changed to "shall" in a number of references to Chapter 16, and asked the Board to yoke Applications to Renew Licenses with Petitions to Terminate a Settlement Agreement when both are filed by a licensee at renewal.

Chris Young of the Meridian Hill Neighborhood Association (MHNA) agreed with SDCA regarding the removal of the Board's discretion so that actions required of the Board would be mandatory. MHNA also commented that the overall proposed rules are deficient and that the language places residents at a disadvantage because when applicants are dismissed, they only need to pay a fee and re-file, whereas there is no recourse for Protestants who are dismissed from the protest process.

In response to the comments received at the public hearing, and in writing, the Board adopted the Notice of Second Proposed Rulemaking (2nd NOPR). The 2nd NOPR drew from the 1st NOPR, and included a few amendments suggested by the public. The 2nd NOPR was published on May 1, 2015, at 62 DCR 5499. The Board did not receive any comments from the public concerning the rulemaking at either the public hearing or during the comment period.

In accordance with D.C. Official Code § 25-211(b)(2), the 2nd NOPR was transmitted to the Council of the District of Columbia (Council) for a mandatory ninety (90) day period of review. *See* PR21-309 (ABRA Procedural Amendment Approval Resolution of 2015). On December 1, 2015, the Council unanimously voted to approve the 2nd NOPR. *See* R21-313 (ABRA Administrative and Procedural Regulations Approval Resolution of 2015), published at 62 DCR 16035 (December 18, 2015).

On January 6, 2015, the Board voted five (5) to zero (0) to adopt these final rules. The rules shall take effect five (5) days after publication of this Notice of Final Rulemaking in *the D.C. Register*.

Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended by replacing Chapter 16 in its entirety with the following:

**CHAPTER 16 CONTESTED HEARINGS, NON-CONTESTED HEARINGS,
PROTEST HEARINGS, AND PROCEDURES**

1600 General Provisions

Subchapter I. Protest Provisions

1601 Administrative Review
1602 Filing a Protest
1603 Roll Call Hearing
1604 Protest Status Hearing
1605 Party Standing
1606 Party Dismissal
1607 Establishment of Geographic Boundaries
1608 Settlement Conferences
1609 Mediation
1610 Settlement Agreements

Subchapter II. Contested Hearings

1611 Show Cause Hearings
1612 Protest Hearings
1613 Summary Suspension and Summary Revocation Hearings

Subchapter III. Non-Contested Hearings

- 1614 Fact-Finding Hearings
- 1615 Moratorium Hearings

1600 GENERAL PROVISIONS

1600.1 The provisions of this chapter shall govern the following items:

- (a) Roll call hearings, mediations, or status hearings regarding the issuance, transfer, or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;
- (b) Protest hearings regarding the issuance, transfer or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;
- (c) Fact-finding hearings on any matter governed by the Act regarding an applicant for a license or a licensee; and
- (d) Show cause hearings, summary suspension hearings or summary revocation hearings regarding the revocation or suspension of a license issued under the Act.

1600.2 The Board may, for good cause shown and in the interest of justice or to prevent hardship, waive any provision of this chapter which is not required by the Act in any proceeding after duly advising the parties of its intention to do so.

1600.3 The following hearings held before the Board shall be considered to be contested cases:

- (a) Protest hearings;
- (b) Show cause hearings;
- (c) Summary suspension or summary revocation hearings;
- (d) Cease and desist hearings; and
- (e) Safekeeping hearings.

1600.4 The following hearings held before the Board shall not be considered to be contested cases:

- (a) Fact-finding hearings; and
- (b) Moratorium hearings and other rulemaking hearings.

1600.5 The provisions of this chapter are intended to be consistent with the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*). If there is any conflict between this chapter and the District of Columbia Administrative Procedure Act, the District of Columbia Administrative Procedure Act shall govern.

1600.6 If there is any conflict within this chapter, provisions of specific application shall supersede those of general application.

[SUBCHAPTER I. PROTEST PROVISIONS]

1601 ADMINISTRATIVE REVIEW

1601.1 The phrase “administrative review” found in Title 25 of the D.C. Official Code shall be considered synonymous with the phrase “roll call hearing” and shall have the same meaning in these regulations.

1602 FILING A PROTEST

1602.1 Only those individuals or entities listed in D.C. Official Code § 25-601 may file a protest against:

- (a) The issuance of a new license;
- (b) The renewal of an existing license;
- (c) The transfer of a license to a new location;
- (d) Substantial changes to the nature of the operations of a licensed establishment; and
- (e) Changes in license classes.

1602.2 All protests shall be in writing, shall be received by the Board prior to the end of the protest period, and shall state, as grounds for the protest, why the matter being objected to is inappropriate under one (1) or more of the appropriateness standards set out in D.C. Official Code §§ 25-313 and 25-314 and § 400 of this title.

1602.3 All protests shall be signed by the protestant and contain the protestant's full name, email address if one exists, and mailing address.

1602.4 The Board may require protestants to appear in person before the Board for the purpose of determining that a sufficient number of individuals exist to have standing pursuant to D.C. Official Code § 25-601.

1603 ROLL CALL HEARING

- 1603.1 The roll call hearing is a non-adversarial hearing conducted by the Board's agent to identify timely filed protests received during the protest period, confer standing to protestant groups, and to set a date for mediation, the status hearing, and the protest hearing. For purposes of this section, the Board's agent shall be defined as an ABRA Office of the General Counsel employee at or above the Grade 12 level, excluding the ABRA General Counsel.
- 1603.2 Each applicant and each person or group submitting a protest shall attend the roll call hearing in person or appear through a designated representative.
- 1603.3 The ANC may designate any member or every member of its Commission to participate in the protest process.
- 1603.4 Failure to appear in person or through a designated representative at the roll call hearing may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear: Examples of good cause for failure to appear include, but are not limited to:
- (a) Sudden, severe illness or accident;
 - (b) Death or sudden illness in the immediate family, such as spouse, partner children, parents, siblings;
 - (c) Incarceration;
 - (d) Severe inclement weather; or
 - (e) Arriving after the roll call hearing has concluded.
- 1603.5 A recommendation by the Board's Agent to dismiss a license application or dismiss a protest for failure to attend the roll call hearing shall be forwarded to the Board for issuance of a written Order. A request for reinstatement of the license application or the protest must be filed with the Board within ten (10) days after receipt of the Order. In reviewing the request for reinstatement of the license application or the protest, the Board shall consider whether, in the discretion of the Board, the party has shown good cause for his or her failure to appear at the roll call hearing.
- 1603.6 At the roll call hearing, the Board's agent shall have the authority to:
- (a) Regulate the course of the hearing;

- (b) Request the persons appearing at the hearing to identify themselves, and provide contact information including email addresses;
- (c) Request or accept written documentation from the parties including letters of representation;
- (d) Identify the parties with standing and the filed protest issues, if undisputed;
- (e) Approve a joint request from the parties to schedule mediation;
- (f) Adjourn a hearing and establish the date when the hearing will be continued; and
- (g) Take any other action authorized by, or necessary under, this section.

1603.7 At the roll call hearing the parties shall be required, on a form prescribed by the Board, to provide their name, address, email address, and telephone numbers, as well as the same information for any attorney or non-attorney representative representing the parties. The parties shall also indicate on the form their consent to service by electronic means to his or her email address or to the email address of his or her attorney or representative.

1603.8 Upon the scheduling of the roll call hearing, all parties shall be prohibited from participating in any ex parte communication with the Board's agent relevant to the merits of the proceeding. This shall include any oral or written communication not in the public hearing record with respect to which reasonable prior notice is not given to all parties to the proceeding.

1603.9 The roll call hearing shall be open to the public and transcribed by a certified court reporter.

1604 PROTEST STATUS HEARING

1604.1 The protest status hearing is a proceeding held by the Board at which the parties address any unresolved legal issues from the Roll Call hearing or address motions or pleadings previously filed with the Board.

1604.2 At the protest status hearing, the parties also inform the Board of their progress in reaching a settlement agreement. The Board in its discretion may set another status hearing if the Board determines that the parties are close to reaching a settlement agreement or that mediation might be helpful.

1604.3 The protest status hearing shall be open to the public and transcribed by a certified court reporter.

1605 PARTY STANDING OF A GROUP OF FIVE OR MORE RESIDENTS OR PROPERTY OWNERS

- 1605.1 A protestant group of five or more residents or property owners of the District sharing common ground, or in a moratorium zone established under § 25-351, a group of no fewer than three residents or property owners of the District, will be granted standing once five or more individuals of the group have appeared at either the roll call hearing or at the protest status hearing. Notwithstanding § 1603.2, at least five (5) individuals of the Group of Five or More Individuals must appear in person at either the roll call hearing or the protest status hearing.
- 1605.2 Members of a protestant group of five (5) or more residents or property owners, or a protestant group of three or more residents located in a moratorium zone, may submit written statements of designation of a representation. A member of a protestant Group of Five or More Individuals may be represented by a designated representative before the Board once the protestant Group of Five or More Individuals has been granted standing.
- 1605.3 A Group of Five or More Individuals will be defined by the members set forth in the protest or protest petition.

1606 PARTY DISMISSAL

- 1606.1 In the event that an applicant or a protestant is dismissed and not reinstated by the Board for good cause after failing to appear at a roll call hearing, status hearing, or protest hearing, the Board may deny the license application and/or dismiss the protest.
- 1606.2 In the event that an applicant's request to renew its license is dismissed and not reinstated by the Board for good cause, the applicant shall be permitted to submit a second renewal application upon the filing of a late fee of one thousand dollars (\$1,000).
- 1606.3 The re-filed second renewal application shall be submitted to ABRA within ten (10) calendar days of receipt of the Board's order dismissing the license application or not reinstating the license application in the event that a request for reinstatement was filed by the applicant. In the event that the applicant fails to resubmit its second renewal application within ten (10) calendar days, the Board shall issue a cease and desist order to the applicant notifying the business to immediately cease the sale and/or service of alcoholic beverages.
- 1606.4 In the event that a second renewal application is re-filed by an applicant within ten (10) calendar days, any protestant that appeared at the roll call hearing or status hearing where the applicant was dismissed for failure to appear shall not be required to refile a previously submitted valid protest letter.

1606.5 In the event that an applicant's re-filed second renewal application is dismissed for failure to appear at a hearing and not reinstated by the Board for good cause, the license renewal application shall be denied. The applicant shall be required to file a new license application, unless prohibited by a liquor license moratorium, and shall not be permitted to file a third license renewal application. The Board shall issue a cease and desist order to the applicant notifying the business to immediately cease the sale and/or service of alcoholic beverages. The cease and desist order shall be sent to the applicant after ten (10) calendar days of the applicant's receipt of the Board's order dismissing the license application or not reinstating the license application in the event that a request for reinstatement was filed by the applicant.

1606.6 In the event that an applicant's request to terminate or amend its settlement agreement is dismissed and not reinstated by the Board for good cause, the applicant shall not be permitted to file a subsequent request to terminate or amend its settlement agreement until the next three-year renewal period.

1607 ESTABLISHMENT OF GEOGRAPHIC BOUNDARIES

1607.1 Upon recognition by the Board of a properly filed protest at a roll call hearing, the applicant shall be required to select one of the geographic areas listed below that the applicant proposes be considered in determining the appropriateness of the establishment. The applicant shall submit the proposed boundaries to the Board and the protestants no later than ten (10) calendar days after the roll call hearing.

1607.2 Upon recognition by the Board of a properly filed protest at a roll call hearing, the applicant shall be required to select one of the geographic areas listed below that the applicant proposes be considered in determining the appropriateness of the establishment. The applicant shall submit the proposed boundaries to the Board and the protestants no later than ten (10) calendar days after the roll call hearing. The applicant shall be deemed to have selected the "section" geographic area if it fails to submit boundaries to the Board within the ten (10) calendar day period.

1607.3 Any protestant may object to the area and boundaries proposed by an applicant by filing a written objection with the Board no later than thirty (30) calendar days after receipt of the applicant's proposed boundaries. The objection shall also be served on the applicant by any of the means set forth in § 1703. The objection shall state in detail the following:

- (a) The reasons for objecting to the boundaries proposed by the applicant;
- (b) The boundaries proposed by the objector; and
- (c) The reasons why the objector's boundaries should be adopted by the Board.

- 1607.4 The applicant's submission shall be served on the objector by any of the means set out in § 1703 and received by the Board no later than eight (8) calendar days after receipt of the applicant's submission.
- 1607.5 Any objector or applicant who makes a submission to the Board pursuant to §§ 1607.1, 1607.2, 1607.3, or 1607.4, may forward written argument or documentary evidence to the Board in support of the boundaries he or she proposes.
- 1607.6 The Board, pursuant to D.C. Official Code § 25-312(b), shall determine, on a case-by-case basis, the size of the area relevant for the appropriateness review. In making this determination, the Board shall consider the overall characteristics of the area, including population, density, and general commercial and residential activities.
- 1607.7 For the purpose of determining the appropriateness of a license, the geographic areas to be considered by the Board shall be measured pursuant to § 101.1 and shall be as follows:
- (a) A “locality,” which shall be the immediate neighborhood of the establishment and whose boundary shall be at a distance of six hundred feet (600 ft.) from the establishment;
 - (b) A “section,” whose boundary shall be at an area larger than the immediate neighborhood and whose boundary shall be at a distance of twelve hundred feet (1,200 ft.) from the establishment; and
 - (c) A “portion,” whose boundary shall be at an area larger than a “section” and whose boundary shall be at a distance of eighteen hundred feet (1,800 ft.) from the establishment.
- 1607.8 In determining the area to be considered, the Board shall consider the report of the Board's investigators concerning the overall characteristics of the alternative areas, including the following:
- (a) The population and density of the areas surrounding the establishment;
 - (b) The general commercial and residential activities in the areas surrounding the establishment; and
 - (c) Geographical factors, such as parks, rail lines, major thoroughfares, bodies of water, cemeteries, and unimproved or unused property, which may tend to define physically an area to be considered.
- 1607.9 In determining the area to be considered, the Board shall also consider the evidence and testimony of a party proposing a particular area of consideration, when the proposal is based on an assertion of:

- (a) Historical patterns of commercial or residential activity leading to an identification of a given area as a distinct, generally-recognized neighborhood, or larger area; or
- (b) Any other reason not included in § 1607.2.

1607.10 The Board shall make a final decision on the boundaries without a hearing and based on the submissions received from the applicant and the objector.

1607.11 The Board's final decision shall be made and announced at the first status hearing for the application at issue.

1608 SETTLEMENT CONFERENCES

1608.1 The phrase “settlement conference” found in Title 25 of the D.C. Official Code shall be considered synonymous with the phrase “mediation” and shall have the same meaning in these regulations.

1609 MEDIATION

1609.1 Whenever a protest is filed, all parties shall attend mediation on a mutually convenient date prior to the scheduled protest status hearing or the protest hearing. The date of the mediation may be arranged at the roll call hearing or may be arranged at any other time.

1609.2 The parties at a mediation may enter into a settlement agreement pursuant to § 1610, and shall submit the settlement agreement to the Board for approval on or before the date of the scheduled protest status hearing or the protest hearing.

1609.3 If the parties fail to reach a settlement agreement on one or more of the protest issues, they shall so inform the Board at the scheduled protest status hearing or the protest hearing and the Board shall proceed with a protest hearing as to all unresolved issues of fact.

1610 SETTLEMENT AGREEMENTS

1610.1 The terms of a settlement agreement submitted by the parties shall be consistent with District of Columbia law and shall be in compliance with D.C. Official Code §§ 25-446.01 and 25-446.02.

1610.2 The Board may initiate a “Notice to Show Cause Hearing” upon evidence that the holder of a license has violated the material terms of its settlement agreement. Upon a determination that the licensee has materially violated its settlement agreement, the Board may impose any penalty authorized by the Act or this title.

- 1610.3 A request to amend a settlement agreement shall be considered by the Board pursuant to the substantial change and notice procedures set forth in D.C. Official Code §§ 25-404 and 25-762.
- 1610.4 Upon finding that a licensee has materially violated its settlement agreement, the Board may also fine a licensee pursuant to the range of fines set forth in D.C. Official Code § 25-830.
- 1610.5 If the Board determines that a settlement agreement submitted by the parties does not comply with all applicable laws and regulations, or otherwise exceeds the Board's expertise to enforce, the Board may condition approval of the settlement agreement on the parties' acceptance of modifications of the agreement proposed by the Board. If the parties reject the modifications proposed by the Board, they may submit a new settlement agreement for Board review that complies with D.C. Official Code §§ 25-446.01 and 25-446.02 and is within the Board's expertise to enforce, or proceed to a protest hearing.
- 1610.6 Settlement agreements must be submitted by the parties to the Board for the Board's consideration no later than ninety (90) days after the execution of the settlement agreement by parties who are signatories to the settlement agreement.

[SUBCHAPTER II. CONTESTED HEARINGS]

1611 SHOW CAUSE HEARINGS

- 1611.1 Whenever the Board has reasonable cause to believe that any license or permit should be fined, revoked, or suspended pursuant to Chapter 8 of Title 25 of the D.C. Official Code, it shall notify the person to whom the license or permit was issued by personal service or certified mail at the last address recorded by that person with the Board, citing that person to appear before the Board not less than thirty (30) days thereafter. The notice shall state the time and place set by the Board for the hearing.
- 1611.2 The licensee or permittee shall appear in his or her defense in person and may have representation by counsel or other designated representative, and shall be entitled to offer evidence before the Board with respect to the charges.
- 1611.3 If the person whose license or permit is sought to be fined, revoked, or suspended waives the hearing or fails to appear at the time and place set for the hearing, the Board may proceed ex parte, unless the Board extends the time for the hearing.
- 1611.4 The Board shall make its findings of fact based upon the evidence which has been presented to it.
- 1611.5 The Board may, in its discretion, accept from both (1) the licensee or permittee and (2) the Office of the Attorney General or the prosecuting entity an offer in

compromise and settlement to resolve the charges brought at the show cause hearing by the District of Columbia against the licensee. An offer in compromise and settlement may be tendered to the Board at any time prior to the issuance of a decision by the Board on the contested matter.

- 1611.6 An offer submitted by the parties and accepted by the Board shall constitute a waiver of appeal and judicial review.
- 1611.7 Any fines collected by the Board shall be paid forthwith, unless otherwise ordered by the Board, to the D.C. Treasurer and credited to the General Fund.
- 1611.8 The issuance of an advisory opinion by the Board pursuant to § 1902 of this title may also result in the issuance of a show cause notice under this section.

1612 PROTEST HEARINGS

- 1612.1 Whenever any objection is filed to any of the licensing actions set out in § 1602.1, whether by protest or by submission of Protest Petitions, the Board shall hold an adjudicatory proceeding, known as a “protest hearing,” for the purpose of receiving evidence and testimony regarding the appropriateness of the licensing action.
- 1612.2 The parties to a protest hearing shall be the applicant or licensee and the protestants. For the purpose of this section, “protestant” shall mean any eligible person, group, ANC, government agency or organization with standing under D.C. Official Code § 25-601 that has submitted a written protest.
- 1612.3 At the protest hearing, an applicant or licensee may give a brief opening statement summarizing the evidence and testimony he or she intends to produce regarding the appropriateness of the application or license at issue. Thereafter, the protestant may give a brief opening statement summarizing the evidence he or she intends to present to rebut or overcome the evidence and argument presented by the applicant or licensee.
- 1612.4 At the conclusion of the opening statements, the Board shall call its own witnesses, if any, who shall testify to the results of their investigation into the appropriateness of the establishment.
- 1612.5 At the conclusion of testimony by the Board's witnesses, if any, the applicant shall call its witnesses to give testimony and present evidence regarding the appropriateness of the establishment, as set forth in § 400 of this title.
- 1612.6 At the conclusion of testimony by the applicant's witnesses, the protestant shall call witnesses to give testimony and present evidence.

1612.7 All witnesses shall testify under oath and shall be subject to questioning by the Board and to cross-examination by the opposing party.

1612.8 In any case where there is more than one (1) protestant, the Board, in its discretion, may request that the protestants designate one (1) person to conduct the protestants' case, to give the opening and closing statements, and to cross-examine the applicant's witnesses.

1613 SUMMARY SUSPENSION AND SUMMARY REVOCATION HEARINGS

1613.1 In rendering a decision on a summary suspension hearing, the Board may suspend or restrict the license of the licensee. Additionally, the Board may keep the licensee in the summary suspension proceeding to monitor the licensee to make a determination if the conditions placed by the Board on the licensee are effective.

1613.2 In rendering a decision on a summary revocation hearing, the Board may revoke, suspend, or restrict an applicant's license if it determines that the operations of the licensee present an imminent danger to the health and safety of the public pursuant to D.C. Official Code §§ 25-826 and 25-827.

[SUBCHAPTER III. NON-CONTESTED HEARINGS]

1614 FACT-FINDING HEARINGS

1614.1 Prior to rendering a final decision on a licensing request or an ABRA Investigative Report, the Board may hold a fact-finding hearing to obtain further information from an applicant or licensee.

1614.2 A licensee shall not be fined, suspended, or revoked at a fact-finding hearing. However, information provided at a fact-finding hearing may result in the issuance of a show cause notice pursuant to § 1611 or other enforcement action permitted under the Act or this title.

1615 MORATORIUM HEARINGS

1615.1 The Board shall hold moratorium hearings pursuant to the requirements set forth in D.C. Official Code §§ 25-353 and 25-354.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health (“DOH”), pursuant to the authority set forth in Section 5(a) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 (“Act”), effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-504(a) (2012 Repl. & 2015 Supp.)), and in accordance with Mayor’s Order 98-137, dated August 20, 1998, hereby gives notice of the adoption of a final rulemaking that adds a new Section 2039 to Chapter 20 (Hospitals) of Title 22 (Health), Subtitle B (Public Health and Medicine), of the District of Columbia Municipal Regulations (“DCMR”).

The rulemaking (1) requires hospitals to collect urine samples from patients who present and have symptoms consistent with having taken a synthetic cannabinoid; (2) recommends that hospitals collect blood samples from patients who present and have symptoms consistent with having taken a synthetic cannabinoid; (3) requires that the urine and blood samples be stored in accordance with protocols provided by the Department of Health; and, (4) requires that the hospitals turn over the urine and blood samples for testing by the Office of the Chief Medical Examiner.

No comments were received after the Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on August 7, 2015 at 62 DCR 10747 and after the Notice of Second Emergency and Proposed Rulemaking was published in the *D.C. Register* on December 4, 2015 at 62 DCR 15715. A Notice of Emergency Rulemaking was published in the *D.C. Register* on February 26, 2016 at 63 DCR 2259. No substantive changes have been made to the Notice of Final Rulemaking.

The Notice of Second Emergency and Proposed Rulemaking was submitted to the Council of the District of Columbia on November 24, 2015 under Proposed Resolution 21-0448 (Testing for Synthetic Cannabinoid Surveillance Regulation Approval Resolution of 2015), and was deemed approved on February 17, 2016.

The rules were adopted as final on February 24, 2016 and will become effective upon publication in the *D.C. Register*.

Chapter 20, HOSPITALS, of Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended by adding the following new Section 2039 as follows:

2039 TESTING FOR SYNTHETIC CANNABINOID SURVEILLANCE

2039.1 When a patient presents to a hospital with a reported or witnessed use of a synthetic cannabinoid and with signs and symptoms of overdose for which the treating clinician would otherwise order a standard urine drug screen, the hospital shall require the treating clinician to order a urine sample to be taken from the patient at or near the time of arrival at the emergency room.

- 2039.2 When a patient presents to a hospital with a reported or witnessed use of a synthetic cannabinoid and with signs and symptoms of overdose for which the treating clinician would otherwise order a standard urine drug screen, the hospital may require the treating clinician to order a blood sample taken from the patient at or near the time of arrival at the emergency room.
- 2039.3 The hospital shall label each urine sample or blood sample collected pursuant to Subsection 2039.1 or 2039.2 with the following patient identifying information:
- (a) Name;
 - (b) Date of birth;
 - (c) Observed race and gender;
 - (d) Hospital name or hospital number; and
 - (e) Medical record number.
- 2039.4 The hospital shall complete a Public Health Sample Submission Form created by the Office of the Chief Medical Officer for each urine sample or blood sample collected pursuant to Subsection 2039.1 or 2039.2.
- 2039.5 The hospital shall keep the Public Health Sample Submission Form with the urine sample or blood sample collected pursuant to Subsection 2039.1 or 2039.2.
- 2039.6 The hospital shall store each urine sample or blood sample arising from Subsection 2039.1 or 2039.2 according to protocols provided to the hospitals by the Department.
- 2039.7 The hospital shall make each urine sample or blood sample collected pursuant to Subsection 2039.1 or 2039.2 available for pickup by an employee or authorized agent of the District who presents proper credentials or authorization from an appropriate District of Columbia official.
- 2039.8 The hospital providing the patient's urine sample or blood sample arising from Subsection 2039.1 or 2039.2 shall have no responsibility for testing the sample or for advising the patient of the results of the test of the sample that was provided to the District.
- 2039.9 The hospital providing the patient's urine sample or blood sample may request from the District the test results for a patient treated by the hospital.
- 2039.10 Nothing in this rule restricts the ability of the hospital to conduct other testing on the patient.
- 2039.11 These rules will expire on March 31, 2016.

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF FINAL RULEMAKING

The District of Columbia Retirement Board (DCRB), pursuant to the authority set forth in § 121(e) of the District of Columbia Retirement Reform Act (Reform Act), approved November 17, 1979 (Pub. L. 96-122, 93 Stat. 866; D.C. Official Code § 1-711(e) (2014 Repl.)), and § 12(j)(c)(5) of the Policemen and Firemen's Retirement and Disability Act, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-714(c)(5) (2012 Repl.)), hereby gives notice of the adoption of final rulemaking to amend the annual income review rule under Chapter 17 (District of Columbia Retirement Board Benefits Rules) of Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the final rule is to clarify when the annual earned income review conducted by DCRB for disability annuitants under the District of Columbia Police Officers and Firefighters' Retirement Plan ends, and to clarify that basic pay includes longevity pay and technical pay.

DCRB stated its intent to adopt the proposed rule as final in the Notice of Proposed Rulemaking published in the *D.C. Register* on January 22, 2016 at 63 DCR 000900. No comments were received and no substantive changes were made to the proposed rulemaking. These rules were adopted as final on December 17, 2015 and will become final upon publication in the *D.C. Register*.

Chapter 17, DISTRICT OF COLUMBIA RETIREMENT BOARD BENEFITS RULES, of Title 7 DCMR, EMPLOYMENT BENEFITS, is amended as follows:

Section 1701, ANNUAL INCOME REVIEW, Subsections 1701.1, 1701.2, 1701.3, 1701.6(d), and 1701.8(a), are amended to read as follows:

1701.1 Annual Income Review for Teacher Disability Annuitants. Any teacher disability annuitant who retired under D.C. Official Code § 38-2021.04(a) and who is under the eligibility requirements for voluntary retirement as defined in D.C. Official Code § 38-2021.03 must file annually with DCRB by May 15th a notarized statement of employment and earnings and any additional information as requested by DCRB to verify employment income beginning for the first calendar year after retirement up to and including the last calendar year in which the annuitant is under the eligibility requirements for voluntary retirement as of December 31st.

1701.2 Annual Income Review for Police Officer and Firefighter Disability Annuitants Under Age 50. Any police officer or firefighter annuitant who was hired on or after February 15, 1980, retired under D.C. Official Code § 5-709 or § 5-710, and who is under age fifty (50), must file annually with DCRB by May 15th a notarized statement of employment and earnings and any additional information as requested by DCRB to verify employment income beginning for the first

calendar year after retirement up to and including the last calendar year in which the annuitant is under age fifty (50) as of December 31st.

1701.3 Notarized Annual Earnings Statement. DCRB will notify annuitants in March of each calendar year if they are required to file an annual income report, what they must file, when they must file, and the forfeiture of annuity payments for failure to file. Information required to be filed may include, but is not limited to, tax returns, Forms W-2 and 1099, proof of non-filing of a tax return or extension of time to file a tax return, Form 4506-T Request for Transcript of Tax Return, or Form 1040 Schedule C or C-EZ.

...

1701.6

...

(d) [REPEALED].

1701.8 Current Rate of Pay for the Position Occupied Immediately Before Retirement.

(a) A disability annuitant’s earned income for a calendar year is compared to the gross annual rate of basic pay in effect on December 31st of that year for the position occupied immediately before retirement. The earned income for disability annuitants is based on the rate for the grade and step which reflects the total amount of basic pay (both the grade and step and any additional basic pay such as longevity and technical pay) in effect on the date of retirement.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(2), (3), (5), (7), (12), (15), and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(2) (3), (5), (7), (12), (15), and (19), 50-313, and 50-319 (2014 Repl. & 2015 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2015 Repl.), hereby gives notice of the adoption of amendments to Chapter 5 (Taxicab Companies, Associations, Fleets, and Independent Owners) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking clarifies the existing rule in § 517, which is not intended by the Commission to provide a basis for the civil liability of a taxicab company or association to any person. No substantive change is intended by this clarification. This rulemaking also changes the title of this chapter.

A proposed rulemaking was adopted by the Commission on August 12, 2015 and published in the *D.C. Register* on November 6, 2015, at 62 DCR 014357. The Commission did not receive any comments during the comment period, which expired on December 6, 2016, and no substantial changes have been made.

The Commission voted to adopt these rules as final on January 20, 2016, and they will become effective upon publication in the *D.C. Register*.

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

The title of Chapter 5 is amended to read as follows:

TAXICAB COMPANIES AND ASSOCIATIONS

Section 517, LIABILITY FOR CONDUCT OF EMPLOYEES, is amended to read as follows:

517 LIABILITY FOR CONDUCT OF ASSOCIATED PERSONS

517.1 For purposes of enforcement of and compliance with this title, each taxicab company and association shall be responsible for the conduct of its employees, contractors, agents, associated operators (where applicable), and associated owners (where applicable). The conduct for which each taxicab company and association shall be responsible includes ensuring that taxicabs are operated:

- (a) With the licenses required by this title and other applicable law;
- (b) With the insurance required by this title and other applicable law;
- (c) In a safe and lawful manner; and
- (d) By an operator who is not impaired by lawful or unlawful intoxicants.

DISTRICT OF COLUMBIA TAXICAB COMMISSION**NOTICE OF FINAL RULEMAKING**

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (3), (4), and (19), 14, and 20f of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c) (3), (4), and (19), 50-313, and 50-525 (2014 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 8 (Operating Rules for Public Vehicles-for-Hire) and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends Chapter 8 to establish requirements to safely secure wheelchairs and other mobility equipment in wheelchair accessible vehicles. The amendments to Chapter 99 would add a necessary definition for “wheelchair securement system”.

An emergency and proposed rulemaking was adopted by the Commission on October 14, 2015 and published in the *D.C. Register* on December 11, 2015 at 62 DCR 015944. The emergency rules remained in effect for one hundred and twenty (120) days after the date of adoption (expiring February 11, 2016). The Commission did not receive any comments during the comment period, which expired on January 10, 2016, and no substantial changes have been made.

The Commission voted to adopt these rules as final on January 20, 2016, and they will become effective upon publication in the *D.C. Register*.

Chapter 8, OPERATING RULES FOR PUBLIC VEHICLES-FOR-HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 819, CONSUMER SERVICE AND PASSENGER RELATIONS, is amended as follows:

A new Subsection 819.11 is added to read as follows:

819.11 Each operator of a wheelchair accessible vehicle shall ensure that wheelchair passengers are properly secured using the vehicle’s wheelchair securement system, by providing assistance as necessary or if requested by the passenger. Notwithstanding the provisions of § 819.10, no operator shall be required to transport a wheelchair passenger who refuses to be properly secured by the vehicle’s wheelchair securement system.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows:

Subsection 9901.1, is amended to add a new definition as follows:

“Wheelchair securement system” – a system which meets the requirements of 49 C.F.R. Part 38 § 38.23(d) to safely secure a wheelchair in a wheelchair accessible vehicle.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(2), (3), (5), (7), (12), (15), and (19), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(2) (3), (5), (7), (12), (15), and (19), 50-313, and 50-319 (2012 Repl. & 2015 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Repl. & 2015 Supp.), hereby gives notice of its intent to adopt amendments to Chapter 10 (Public Vehicles for Hire) and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles-for-hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking deletes the regulations in Chapter 10 which authorize the issuance of DCTC transferable taxicab vehicle licenses. These licenses function similarly to medallions, allowing licensees to perpetually maintain vehicle licenses from the Commission, without regard to active participation in the industry, current District licensing policy, and current industry best practices. A related definition in Chapter 99 is also deleted.

Proposed rulemaking was adopted by the Commission on October 14, 2015 and published in the *D.C. Register* on December 4, 2015 at 62 DCR 015693. The Commission did not receive any comments during the comment period, which expired on January 3, 2016 and no substantial changes have been made.

The Commission voted to adopt these rules as final on January 20, 2016, and they will become effective upon publication in the *D.C. Register*.

Chapter 10, PUBLIC VEHICLES FOR HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

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

- 1010.1 Nothing in this chapter shall be construed as creating a right of action against the District of Columbia based on the loss or diminution in value of, or in the loss of transferability of, any legal right or property interest which was due, in whole or in part, to action or inaction by any person in violation of the provisions of this title or other applicable law, including any person not subject to the jurisdiction of the District or the Office.
- 1010.2 Nothing in this chapter shall be construed to alter the legal rights or obligations of any person under any provision of the D.C. Municipal Regulations other than the rules and regulations of the Commission in this title.
- 1010.3 Each owner of a public vehicle-for-hire prior to operating in the District shall obtain a DCTC vehicle license from the Office, except as provided in § 1010.4.

- 1010.4 A DCTC vehicle license is not required for the following vehicles:
- (a) Sightseeing vehicles owned by a school, school board, or similar body;
 - (b) Sightseeing vehicles transporting passengers to the District from a point outside the District, if the total operation of the vehicle does not exceed fifteen (15) days during any license year (April 1st through March 31st); and
 - (c) Sightseeing vehicle registered elsewhere than in the District which does not operate for more than fifteen (15) days during any license year (April 1st through March 31st).
- 1010.5 The owner of the vehicle (“applicant”) shall file an application for a license with the Office, which shall determine whether or not the vehicle shall be registered in the District, as required by all applicable provisions of this title, DMV regulations and other applicable laws. The Office’s determination shall be noted on the application.
- 1010.6 If the Office determines that a vehicle need not be registered in the District, the applicant shall meet the requirements of § 1010.13.
- 1010.7 Each applicant shall submit the application to the Office of the Chief Financial Officer (“OCFO”) for a determination of applicable taxes. OCFO shall note compliance with any applicable tax requirements upon the application.
- 1010.8 Each applicant whose vehicle is registered in the District shall present evidence that the vehicle has been inspected by DMV and is in compliance with all other provisions of this title relating to vehicle safety and passenger comfort.
- 1010.9 Each applicant shall present evidence satisfactory to the Office that the vehicle is insured under the provisions of Chapter 9. The Office shall act as agent for the purpose of enforcing insurance regulations and shall maintain records necessary to perform that function.
- 1010.10 Each application shall be made on a form provided by the Office, and shall state the owner’s full name, place of residence and business addresses, and any other information and documentation required by the Office.
- 1010.11 DMV, acting as agent for the Office, shall inspect taxicabs to ensure compliance with the equipment requirements of the Commission’s regulations, including authorized vehicle type, paint color(s), trade name, insignias, rate and passenger rights signs, meter seals, dome lights, upholstery condition, sanitation, and other provisions of this title.

- 1010.12 The Office shall determine from its own records whether a taxicab owner is in compliance with the color and insignia requirements with respect to company, association, or independent taxicab status.
- 1010.13 The Office, upon receipt of an application for a public vehicle-for-hire and evidence satisfactory to the Office that all requirements of this title have been met, and upon receipt of the proper fee, shall issue the appropriate vehicle license to the owner.
- 1010.14 The Office shall collect the prescribed fees for each DCTC vehicle license sought by the applicant.
- 1010.15 Each vehicle license shall be in form prescribed by the Office and shall contain any information which the Office deems appropriate.
- 1010.16 The Office shall record and maintain records of assignments made by licensees to whom licenses have been issued under this chapter. Each assignment shall be made in the form prescribed by the Office.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows:

The following definition is hereby deleted:

“DCTC transferable taxicab vehicle license” - A DCTC taxicab vehicle license which may be transferred from its owner to any person by any lawful means, without reapplication, and which provides its owner with a corresponding privilege to apply to DMV for registration and tags, as stated in § 1010 and subject to all DMV rules and regulations and other applicable laws. A DCTC transferable taxicab vehicle license shall not guarantee its holder's privilege to be issued DMV vehicle registration or tags where the issuance of registration or tags would be inconsistent with DMV rules or regulations or other applicable laws.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF FINAL RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c) (1),(2),(3), (4) (7), (10), (11), (14), (16), (18), (19) and (20), 14, 15, and 20j of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986, as amended by the Vehicle-for-Hire Innovation Amendment Act of 2014 (“Vehicle-for-Hire Act”), effective March 10, 2015 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(1),(2),(3), (4) (7), (10), (11), (14), (16), (18), (19) and (20), 50-313, 50-314, and 50-329 (2014 Repl. & 2015 Supp.)), hereby gives notice of its intent to adopt amendments to Chapter 16 (Dispatch Services and District of Columbia Taxicab Industry Co-op) and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends Chapter 16 to modify the requirements for the D.C. Universal Taxicab App (“DC TaxiApp”) and the D.C. Taxicab Industry Co-op (“Co-op”).

An emergency and proposed rulemaking was adopted by the Commission on May 29, 2015 and published in the *D.C. Register* on August 28, 2015 at 62 DCR 011955. The emergency rulemaking took effect immediately and remained in effect for one hundred and twenty (120) days after the date of adoption (expiring September 26, 2015). The Commission did not receive any comments during the comment period, which expired on September 27, 2015. Non-substantial changes were made by the Commission, including the following: (1) changing the title of Chapter 16, the title of § 1613, and editing the first sentence of § 1613.1; (2) allowing the implementation date in § 1612.1 to be set by the Office in an administrative issuance, and deleting the dates in § § 1613.4 and 1613.10 for actions which have been taken as of the date of this rulemaking; (3) clarifying § 1613.2 to ensure that meaningful opportunities to participate in the management of the Co-op are given to all persons eligible to participate; (4) clarifying § 1613.8(a) by defining “preferential treatment” as denying persons eligible to participate meaningful opportunities to participate in the management or ownership of the Co-op; (5) modifying § 1613.8(j)(2) to delete from eligible members those persons holding DCTC transferable taxicab vehicle licenses, as no such licensees exist; and (6) adding § 1613.16 to allow the Co-op to use a name or trade name other than the “District of Columbia Taxicab Industry Co-Op” and a name or trade name for the DC TaxiApp other than the “District of Columbia Taxicab App”. Additional changes were also made to correct grammar, clarify initial intent, clarify proposed procedures, or lessen the burdens established by the proposed rules. No substantial changes were made.

A second emergency rulemaking was adopted by the Commission on October 14, 2015, and was published in the *D.C. Register* on November 27, 2015 at 62 DCR 015410. The second emergency rulemaking took effect immediately and remains in effect for one hundred and twenty (120) days after the date of adoption, or publication of this final rulemaking in the *D.C. Register*.

The Commission voted to adopt these rules as final on November 18, 2015, and they will become effective upon publication in the *D.C. Register*.

Chapter 16, DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

The title of Chapter 16 is amended to read as follows:

Chapter 16 DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB APP

Sections 1612 and 1613 are amended to read as follow:

1612 DISTRICT OF COLUMBIA TAXICAB APP

- 1612.1 Not later than September 1, 2015 or such later date as identified in an administrative issuance (“implementation date”), each DCTC taxicab operator shall provide service only when signed in to the District of Columbia Taxicab App (“DC TaxiApp”). A violation of this subsection shall subject the operator to a civil fine of twenty five dollars (\$25).
- 1612.2 Each taxicab owner shall ensure that all of its vehicles are equipped, if necessary, to allow its associated taxicab operators to comply with the provisions of § 1612.1. A violation of this subsection shall subject the owner to a civil fine of fifty dollars (\$50) per vehicle.
- 1612.3 For purposes of this section and § 1613, the term “app” and “application” shall mean a piece of software designed to fulfill a particular purpose, which is downloadable by a user to a mobile device, such as a tablet or smartphone. Unless otherwise stated, an app’s purpose is the digital dispatch, or the digital dispatch and digital payment, of trips by vehicles-for-hire.
- 1612.4 Nothing in this title shall be construed to prevent any person from using an app provided by a registered digital dispatch service other than the Co-op.
- 1612.5 The Commission shall enact no rule or regulation setting the rates and charges, if any, for trips booked through the DC TaxiApp. Such rates and charges shall be determined by the Co-op, as provided in § 1613.
- 1612.6 Any person developing an app (“app developer”) for taxicab service may engage in live field testing in the District provided the app developer meets the following requirements.
 - (a) Prior to commencing live field testing in the District:

- (1) The app developer shall submit an application using a form made available by the Office, executed under oath, consisting of the following information and documentation:
 - (A) The app developer is licensed to do business in the District;
 - (B) The app developer maintains a registered agent in the District;
 - (C) The rates and charges to be used during the testing;
 - (D) The app developer is, or prior to commencing testing will be, in compliance with the provisions of paragraph (b) of this subsection;
 - (E) An initial inventory of all owners, operators, and vehicles that would participate in the testing;
 - (F) Such other information and documentation which the Office determines to be necessary and appropriate;
 - (G) A bond of fifty thousand dollars (\$50,000) effective during the period of testing and twelve (12) months thereafter, to cover claims by the Office for documented violations of this section; and
 - (H) Be accompanied by an application fee of two thousand five hundred dollars (\$2,500).
 - (2) The Office shall review the application within ten (10) days, and issue a decision in writing. If the decision grants the application, it may include terms and conditions for the live field testing relating to safety, consumer protection, the passenger surcharge, or any other provision of this title or other applicable law. The testing period shall not exceed one hundred twenty (120) days but may be extended by the Office pursuant to the same requirements for a new application under this subsection. The app developer shall not conduct live field testing if the Office does not grant the application.
- (b) Following the Office's approval, the app developer shall:
- (1) Use only:
 - (A) The DCTC-licensed vehicles listed on the inventory required by § 1612.6(b)(7);

- (B) The DCTC-licensed taxicab owners and operators listed on the inventory required by § 1612.6(b)(7), who volunteer to participate; and
 - (C) Passengers who volunteer to participate in the testing, who are informed of the rates and charges used by the app, and are provided with an estimated fare;
- (2) Not interfere with the collection or payment to the District of the passenger surcharge;
 - (3) Comply with §§ 1604.3, 1604.5, 1604.6, 1604.8, 1604.11, 1604.12, 1604.14, and 1605.9 (as promulgated on an emergency basis in the Notice of Emergency and Proposed Rulemaking approved on March 11, 2015, or in the corresponding provisions of any final rulemaking), to the same extent as if the app developer were a digital dispatch service;
 - (4) Provide passengers with contact information for the Office and for the app developer;
 - (5) Promptly inform the Office of a security breach requiring a report under the Consumer Personal Information Security Breach Notification Act of 2006, effective March 8, 2007 (D.C. Law 16-237, D.C. Official Code §§ 28-3851, *et seq.*), or other applicable law;
 - (6) Be subject to the provisions of Chapter 7, and shall cooperate with the Office to promptly resolve an issue relating to the testing, such as interference with a person's ability to comply with a provision of this title or other applicable law, or a passenger's complaint about the app;
 - (7) Maintain with the Office a current and accurate inventory of all owners, operators, and vehicles participating in the testing;
 - (8) Maintain its business records for two (2) years following the conclusion of the testing, which shall be subject to inspection by the Office;
 - (9) Comply with all applicable provisions of this title for enforcement and compliance to the same extent as if the app developer were a taxicab company or association;

- (10) File a public complaint with the Office against any person who engages in conduct which constitutes a clear threat to public safety or consumer protection, or which constitutes grounds for immediate suspension of a vehicle operator's license under § 706; and
- (11) Promptly reimburse any participant in the testing for a documented loss resulting from the testing, such as a miscalculation of a fare.

1612.7 The Office, by written notice upon the app developer, may suspend or revoke its approval for live field testing where the testing:

- (a) Is conducted in violation of § 1612.6 (including violation of any terms or conditions stated in the Office's approval under § 1612.6(a)(2));
- (b) Threatens safety, consumer protection, or the payment to the District of the passenger surcharge; or
- (c) Interferes with the Office's ability to enforce any provision of this title or other applicable law.

1612.8 An app which is the subject of approved live field testing shall not be launched in the District unless and until it is provided by a digital dispatch service registered as required by this chapter and other applicable law.

1612.9 No person shall conduct or participate in live field testing of an app for the dispatch of taxicabs in the District except as provided in this section. An entity which conducts or participates in live field testing in violation of this section shall be subject to a civil fine not to exceed one thousand dollars (\$1,000) per day based on the circumstances. An operator who knowingly participates in live field testing that violates this section shall be subject to a civil fine of twenty five dollars (\$25) for each trip booked through the app.

1612.10 Each taxicab company required by D.C. Official Code § 50-329.02 to provide dispatch services shall participate in live field testing of the DC TaxiApp as directed by the Office.

1613 DISTRICT OF COLUMBIA TAXICAB APP LICENSEE

1613.1 There shall be a licensee of the DC TaxiApp which shall be a cooperative association or other business entity ("Co-op") authorized by the Business Corporation Act of 2011, D.C. Official Code §§ 29-301.01, *et seq.*, which allows the Co-op and all of its members to meet all the requirements of this section, § 1612, and other applicable laws, provided however, that if the Co-op is not a cooperative association, it shall be organized to comply with all applicable

provisions of this section, to the maximum extent feasible, as determined by the Office in connection with its review of the draft bylaws pursuant to § 1613.12.

- 1613.2 The Co-op shall be owned and operated for the mutual benefit of all of its members, for the purpose of promoting the use of available DCTC-licensed taxicabs, including wheelchair accessible vehicles, by the residents of and visitors to the District, and such other purposes as stated in this section and § 1612. Consistent with the foregoing, no category of persons identified in § 1613.8(j) shall be excluded from meaningful opportunities to participate in the management of the Co-op through a representative on the board of directors or other common means, and no person shall be excluded from meaningful opportunities to participate in the ownership of the Co-op through stock ownership or other common means, provided however, that a member may be excluded for a bona fide business purpose such as the lack of a capital contribution or material non-compliance with applicable provisions of this title or other applicable law.
- 1613.3 Unless otherwise provided in a license agreement with the Office, the Co-op shall provide all necessary management, service, and support for the DC TaxiApp in the manner prescribed by this section and § 1612, and by the license agreement.
- 1613.4 Any two or more persons who are permitted or required by § 1613.8(j) to be members of the Co-op shall incorporate the Co-op.
- 1613.5 Following incorporation of the Co-op, the incorporators shall:
- (a) Promptly obtain a physical place of business for the Co-op within the District;
 - (b) Cooperate with the Office to conduct any necessary testing of the DC TaxiApp;
 - (c) Take or facilitate all actions required by this chapter and other applicable law to ensure that the Co-op is ready and able to begin full operations not later than the implementation date; and
 - (d) Schedule a meeting to be held within thirty (30) to sixty (60) days after the issuance of public notice to all prospective members of the Co-op, to:
 - (1) Elect a board of directors,
 - (2) Adopt the Co-op's bylaws following their approval by the Office; and
 - (3) Engage in such other business as necessary to begin full operation of the Co-op and to enable the use of the DC TaxiApp by all taxicab operators not later than the implementation date.

- 1613.6 The Co-op shall be governed by its bylaws, as approved by the Office pursuant to § 1613.12.
- 1613.7 Draft bylaws shall be prepared by a bylaw drafting advisory group whose members shall be:
- (a) Representatives of each taxicab company with current operating authority required by D.C. Official Code § 50-329.02 to provide dispatch services as of May 29, 2015; and
 - (b) An equal number of individuals selected at random by the Office from among those who volunteer to participate, each of whom shall either:
 - (1) Be permitted but not required to be members of the Co-op pursuant to § 1613.8(j)(2); or
 - (2) Represent a group of individuals each of whom is permitted but not required to be members of the Co-op pursuant to § 1613.8(j)(2).
- 1613.8 The draft bylaws filed with the Office pursuant to § 1613.6 shall include terms and conditions providing that:
- (a) The Co-op shall not give preferential treatment to any person or group of persons in the taxicab industry through its operations, through the marketing, availability, or functionality of the DC TaxiApp, through the rates and charges which the Co-op sets for trips booked through the DC TaxiApp, or through the revenue generated by the DC TaxiApp.
 - (b) The Co-op shall establish and maintain a digital dispatch service, registered and operated in compliance with this chapter, which at all times, maintains integration between the DC TaxiApp and each PSP in a manner consistent with § 408.16, to ensure that:
 - (1) Each passenger who books a ride through the DC TaxiApp may choose to make either an in-vehicle payment (cash or payment card) or a digital payment;
 - (2) The passenger surcharge is collected from the passenger and paid to the District for each trip; and
 - (3) The PSP is able to comply with all obligations under Chapters 4 and 6.

- (c) The provisions of § 1613.8(b) shall not apply if the DC TaxiApp does not provide the functionality needed for integration;
- (d) The Co-op shall establish competitive, market-based rates and charges for trips booked through the DC TaxiApp;
- (e) The Co-op shall execute any necessary license agreement with the District for the use of the DC TaxiApp, shall comply with all terms and conditions thereof, and shall not use, acquire, license, test, market, develop, or otherwise be associated with any other app without the written approval of the Office;
- (f) The Co-op shall develop, distribute, and require the acceptance of terms of service for the use of the DC TaxiApp by taxicab operators and passengers;
- (g) The Co-op shall ensure that operators receive the revenue they generate through the use of the DC TaxiApp within twenty four (24) hours or one (1) business day;
- (h) The Co-op shall promote the availability of wheelchair accessible taxicab service, and may use incentives to owners and operators to support such availability;
- (i) The Co-op shall carry such commercial insurance as necessary in connection with the use of the DC TaxiApp;
- (j) The Co-op's membership shall be limited to:
 - (1) Persons required to be members: each taxicab company with current operating authority that is required by D.C. Official Code § 50-329.02 to provide dispatch services and who pays the required capital contribution; and
 - (2) Persons allowed but not required to be members:
 - (A) Each individual who holds a current DCTC taxicab operator's license (Face card);
 - (B) Each individual who holds a current DCTC taxicab vehicle license other than a DCTC transferable taxicab vehicle license;
 - (C) Each taxicab company with current operating authority, other than a taxicab company required to be a member under § 1613.8(j)(1); and

- (D) Each taxicab association with current operating authority;
- (k) Each Co-op member shall make a capital contribution as determined by the board of directors, which shall be consistent with the provisions of this section and other applicable laws;
- (l) Notwithstanding any other provision of this section, the Co-op may allow a fair return to members who choose to make additional capital contributions to fund the establishment and/or operations of the Co-op, and to investors;
- (m) The Co-op shall maintain a fair, reasonable, and non-discriminatory system which allows the passenger to rate the operator based on the quality of service received;
- (n) The Co-op shall establish standards for its operations, including standards for the safe and prompt provision of service through the DC TaxiApp;
- (o) The Co-op may suspend an operator from using the DC TaxiApp for not more than two (2) hours total during any seven (7) calendar day period based on material violations of the standards established by the Co-op, provided the Co-op promptly notifies the operator of the basis of the suspension and allows the operator to respond in writing;
- (p) The Co-op may suspend an operator from using the DC TaxiApp for more two (2) hours total during any seven (7) calendar day period based on violations of the standards established by the Co-op, provided the Co-op maintains a system of discipline which gives operators the following minimum procedural protections:
- (1) Written notice of a suspension accompanied by relevant documentation, which shall be provided in advance of the suspension except in the event of a clear threat to safety or consumer protection;
 - (2) Representation by an attorney or other individual, at the operator's expense;
 - (3) An opportunity to respond to the notice;
 - (4) One (1) level of review of the Co-op's decision;
 - (5) No suspension shall exceed thirty (30) calendar days; and

- (6) An operator's suspension shall not be considered for purposes of determining the appropriate length of a subsequent suspension more than three (3) years thereafter.
- (q) The Co-op may file a public complaint with the Office against any person in connection with a violation of this section or § 1612. The Co-op shall file a public complaint with the Office against any person who engages in conduct which constitutes a clear threat to public safety or consumer protection, or which constitutes grounds for immediate suspension of a vehicle operator's license under § 706;
- (r) Each member of the board of directors shall possess the qualifications required for an industry member of the Commission under D.C. Official Code § 50-305;
- (s) The Co-op shall annually publish a report which containing:
 - (1) A summary of the Co-op's major activities for the prior twelve (12) months;
 - (2) The names of the Co-op's members and their taxicab company or taxicab association affiliations, if any;
 - (3) The names of the Co-op's principal officers and members of the board of directors;
 - (4) The name and address of each entity in which the Co-op has a legal or equitable interest, or with which it conducts a business activity in a partnership or joint venture;
 - (5) The name and address of each entity with which the Co-op transacts business in excess of ten thousand dollars (\$10,000) per calendar year; and
 - (6) Such other information as the Co-op deems appropriate;
- (t) No person or associated group of persons shall:
 - (1) Control more than forty percent (40%) of the membership of the board of directors;
 - (2) Hold legal or equitable title to more than forty percent (40%) of the par value of the Co-op's total debt obligations, if any; or

- (3) Hold legal or equitable title to more than forty percent (40%) of the par value of any single class of the Co-op's stock, if any, or the par value of all combined classes of the Co-op's stock, if any;
- (u) Each of the following individuals ("filers") shall be required to file a confidential disclosure statement with the Co-op annually, and at the time of the filer's association with the Co-op or at the time of the filer's association with an entity in which the Co-op has a legal or equitable interest:
- (1) Each member of the board of directors and each principal officer of the Co-op;
 - (2) Each member of the board of directors and each principal officer of an entity in which the Co-op has a substantial legal or equitable interest; and
 - (3) Each person with which the Co-op transacts or proposes to transact business in excess of twenty five thousand dollars (\$25,000) in any calendar year;
- (v) Each form which the Co-op intends to be use as a confidential disclosure statement form shall be reviewed by the Office prior to its use. The form shall be substantially similar in substance to the confidential disclosure statement required by the D.C. Board of Ethics and Government Accountability for employees, excluding matters not relevant to the Co-op. The form shall require the filer to disclose under oath each the following matters, and to provide a written explanation and documentation where necessary, as the Co-op deems appropriate:
- (1) The filer, and the filer's spouse, domestic partner, and dependent children, have filed and paid all income and property taxes owed to the Federal government and each jurisdiction where the filer is required to pay such taxes;
 - (2) The filer, and the filer's spouse, domestic partner, and dependent children, have not received anything of value, such as a credit, offset, gift, favor, service, loan, gratuity, discount, meals, hospitality, contribution, employment, or a promise of the receipt of anything of value in the future, exceeding a total of one hundred dollars (\$100) from all sources, based on any understanding that the filer's official actions or judgment or vote while associated with the Co-op would be influenced;
 - (3) The filer, and the filer's spouse or domestic partner, have not been arrested for, charged with, or convicted of any of the following

- criminal offenses: bribery, tax evasion, insurance fraud, a violation of or a predicate offense under a Racketeer Influenced and Corrupt Organizations Act (Federal or state), any criminal offense which involves dishonesty or violence, or any criminal offense punishable by incarceration of one (1) year or more or a fine of ten thousand dollar (\$10,000) or more;
- (4) The filer, and the filer's spouse or domestic partner, have not been sued for, had a judgment entered against him or her for, entered into a settlement admitting liability for, or paid a civil fine for any of the following civil violations and causes of action: tax evasion, insurance fraud, a violation of or a predicate offense under a Racketeer Influenced and Corrupt Organizations Act (Federal or state), any civil violation or cause of action which involves dishonesty or violence, or any civil violation which is punishable by a civil fine payable to a government agency of ten thousand dollars (\$10,000) or more;
- (5) The filer, the filer's spouse or domestic partner, and dependent children, and the persons with whom the filer has a legal relationship such employment, independent contractor, and partnership, are not involved in a scheme or conspiracy to violate the Co-op's bylaws, or to violate any Federal, District or state law concerning or related to the Co-op or its activities, any entity in which the Co-op has a legal or equitable interest, or any member of the Co-op's board of directors or its principal officers; and
- (6) The filer, or the filer's spouse or domestic partner, has not had a business or professional license suspended or revoked by a government agency.
- (w) Matters subject to disclosure under §§ 1613.8(v)(1)-(6), whether or not disclosed in a confidential disclosure statement, shall be treated as the Co-op deems appropriate, provided however that no individual shall serve as a member of the board of directors or a principal officer of the Co-op, own shares of the Co-op's stock, own debt issued by the Co-op, if any, or directly or indirectly control any interest in the Co-op other than as a member pursuant to § 1613.8(j) if:
- (1) The individual willfully provides false, misleading, or materially incomplete information in a confidential disclosure statement or to the Office, or in connection with a civil or criminal investigation concerning or related to the Co-op or its activities by any government agency;

- (2) The individual, the individual's spouse or domestic partner, or the individual's children, have received items of value exceeding a total of one hundred dollars (\$100) from all sources as enumerated in § 1613.8(v)(2);
 - (3) The individual, or the individual's spouse or domestic partner, has been convicted of a crime enumerated in § 1613.8(v)(3);
 - (4) The individual, or the individual's spouse or domestic partner, has had a judgment entered against him or her for, has entered into a settlement admitting liability for, or has paid a civil fine for a civil violation or cause of action enumerated in § 1613.8(v)(4);
 - (5) The individual, the individual's spouse or domestic partner, the filer's dependent children, or a person with whom the filer has a legal relationship, are involved in a scheme or conspiracy as enumerated in § 1613.8(v)(5); or
 - (6) The individual, or the individual's spouse or domestic partner, has had a business or professional license suspended or revoked by a government agency within the prior five (5) years.
- (x) The Co-op shall not associate with, transact business with, or form a legal or equitable relationship with:
- (1) An individual who is restricted by § 1613.8(w); or
 - (2) An entity, where an individual who is restricted by § 1613.8(w) serves as an owner, manager, partner, member of the board of directors, principal officer, stockholder, or lender.
- (y) The Co-op shall maintain its business records for five (5) years, provided however that each executed confidential disclosure statement shall be maintained throughout its filer's association with the Co-op and for ten (10) years thereafter;
- (z) The Co-op shall allow the Office to inspect and copy its business records, but the Office shall not copy an executed confidential disclosure statement. This provision shall not apply to the Attorney General of the District of Columbia;
- (aa) A designee of the Office shall be permitted to attend, and be provided with the minutes of, each Co-op event, including a meeting of the board of directors, except at such times when an event is closed in order to consider a confidential matter such as a litigation or personnel issue. At such events, the designee may observe, ask questions, and provide information,

and shall receive copies of the documents made available to other attendees, but shall have no vote on any Co-op business;

- (bb) The Co-op shall enact no change to its bylaws which conflicts with a material provision of this title or other applicable law, without a prior amendment to this chapter authorizing such change, and shall promptly correct any errors or omissions in its bylaws;
- (cc) The Co-op shall comply with all applicable District and federal laws and regulations, and shall engage only in fair and lawful competition;
- (dd) The District may enforce the requirements of this section and § 1612 through an appropriate action at law or in equity, including an action by the Attorney General of the District of Columbia in *parens patriae*;

1613.9 The draft bylaws filed with the Office pursuant to § 1613.7 may:

- (a) Allow the Co-op to apply for and accept any necessary grants made available by the Office, and shall comply with all terms and conditions thereof; and
- (b) Allow the Co-op to engage in any activity which is authorized by law, not inconsistent with the required terms and conditions for its bylaws set forth in § 1613.8, and in the interest of its members, including:
 - (1) Offering insurance, such as life, health, dental, disability, and vehicle;
 - (2) Providing retirement and savings plans, and other benefits;
 - (3) Offering discounts on goods and services of interest to members; and
 - (4) Operating a subsidiary which engages only in activities related to the authorized activities of the Co-op; and
- (c) Contain such additional terms and conditions as are necessary and appropriate to establish, support, and maintain the Co-op, which are not inconsistent with the required terms and conditions for its bylaws set forth in this subsection or with other applicable laws.

1613.10 The bylaw drafting advisory group shall file the draft bylaws with the Office for its approval.

1613.11 The draft bylaws shall include the names of the bylaw drafting advisory group members who agree to the draft, and alternative text and comments, if any, from

any member of the bylaw drafting advisory group who does not concur with the text agreed to by the other members.

- 1613.12 The Office shall review the draft bylaws to determine whether they comply with this section and § 1612, and shall issue a written decision within ten (10) days of receiving draft bylaws which appear to comply with this section and § 1612. If the Office does not approve the draft bylaws, it shall state the basis of its decision in writing. Thereafter, the bylaw drafting advisory group shall revise the draft bylaws to address the issues identified in the Office's decision and shall re-file the draft bylaws within ten (10) days.
- 1613.13 During the first twenty four (24) months after the effective date of this section, the Office may make one or more grants to the Co-op in an amount not to exceed twenty five thousand dollars (\$25,000), to defray the documented expenses to establish or operate the Co-op pursuant to the provisions of this section, § 1612, and other applicable laws, upon such terms and conditions as may be contained in the grant. Each grant shall be made pursuant to all applicable laws, regulations, and guidelines, and any administrative issuance of the Office.
- 1613.14 The Office shall develop and test the DC TaxiApp, which is and shall remain the intellectual property of the District Government. The Office shall grant to the Co-op an exclusive right to use the DC TaxiApp for taxicab service in the District. The District Government shall retain all other rights to the DC TaxiApp, including the right to license the DC TaxiApp for any other purpose, including for use outside the District.
- 1613.15 The Co-op's decision to suspend an operator's use of the DC TaxiApp shall not be admissible to establish that a provision of this title or other applicable law was violated by the operator.
- 1613.16 The Co-op may use a name or trade name other than the "District of Columbia Taxicab Industry Co-Op", provided the name or trade name is not misleading or confusing to the public. The Co-op may use a name or trade name for the DC TaxiApp other than the "District of Columbia Taxicab App", provided the name or trade name is not misleading or confusing to the public.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act), effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a); 38-1202.06)(3),(13) (2012 Repl. & 2015 Supp.)), hereby gives notice of the amendment of Chapter 2 (Administration and Management) of Title 8 (Higher Education), Subtitle B (University of the District of Columbia) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the proposed rule is to update the administrative structure of University Personnel. The substance of the rules adopted herein was published in the *D.C. Register* on January 8, 2016 at 63 DCR 429, for a period of public comment of not less than thirty (30) days, in accordance with D.C. Official Code § 2-505(a) (2012 Repl.). No public comment was received by the Board within the public comment period.

The rules were adopted as final on February 9, 2016 and will become effective upon publication of these rules in the *D.C. Register*.

Chapter 2, ADMINISTRATION AND MANAGEMENT, of Title 8-B DCMR, UNIVERSITY OF THE DISTRICT OF COLUMBIA, is amended as follows:

200 THE PRESIDENT OF THE UNIVERSITY

- 200.1 The Chief Executive Officer of the University, appointed by the Board of Trustees (the "Board") pursuant to D.C. Official Code § 38-1202.06(10), shall be the President of the University of the District of Columbia (the "President"). The President shall report directly to the Board.
- 200.2 Whenever a vacancy exists in the position of the President, or whenever the Board has notice that a vacancy will exist, the Board shall appoint a committee to be Chaired by a voting member of the Board to conduct an orderly search for candidates for appointment to the position of President. When the position of the President is vacant, the Board shall appoint an individual to serve as Interim President or Acting President within thirty (30) days of the vacancy.
- 200.3 Appointment of the President, including the renewal of an existing appointment, shall be by affirmative vote of a majority of the Board.
- 200.4 The terms and conditions of the appointment of the President, including compensation and benefits, shall be set forth in a contract of employment which shall be negotiated with the appointee in a manner directed by the Board and shall be subject to ratification by an affirmative vote of the majority of the Board.

200.5 A housing allowance or a University residence in the District of Columbia may be provided for the President.

201 [REPEALED].

202 GENERAL AUTHORITY AND DUTIES OF THE PRESIDENT

202.1 The President shall have authority and responsibility for the academic and administrative affairs and operations of the University and the components thereof established under Subsection 100.3, subject to the provisions of this title and applicable law.

202.2 The President may delegate to his or her subordinates any of the duties and authority of the office of President, except the following:

- (a) Service as a nonvoting ex officio member of the Board; and
- (b) Responsibilities reserved solely to the President under the provisions of this subtitle or other applicable law or regulation.

202.3 The President shall fix the calendar of the University.

202.4 Upon the recommendation of the faculty, the President shall, in the name of the Board, award degrees to candidates who meet all of the requirements and prerequisites for the respective degree or concentration.

202.5 The President shall provide for awarding fellowships, scholarships, and academic prizes from appropriations, gifts, or endowments approved for these purposes.

202.6 Subject to the provisions of this title and applicable law, the President may appoint, promote, demote, and dismiss University employees. The President may also determine compensation for all administrators and non-administrators at pay grade level 2A and below. The President shall recommend for approval by the Board through the Executive Committee, or committee determined by the Board Chair the compensation of all administrators and non-administrators at pay grade level 1A and above.

203 FUND-RAISING AND GIFTS

203.1 The President shall develop, initiate, implement, and approve fund-raising campaigns for the benefit of the University.

203.2 The President may determine, consistent with any expressed intent of the donor, if applicable:

- (a) The purpose(s) for which the gift shall be used; and

(b) Whether income or principal amount, or both, shall be used.

203.3 The President may utilize gifts to support established University programs or to fund new or special programs, in accordance with the provisions of this subtitle.

203.4 The President shall determine whether any condition on the receipt of a gift, or the purpose(s) for which the gift will be used, will require expenditure of additional or supplementary funds by the University and shall provide for inclusion of required expenditures in the University financial plan subject to Board approval. In no event shall the acceptance of any gift by the University constitute a commitment requiring expenditures in excess of budgeted items.

203.5 The President may return to the donor all or any unused portion of a gift of personal property when the purposes of the gift have been fulfilled or fulfillment has become impossible or impractical and alternative uses are precluded.

204 BUDGET AND FINANCIAL ADMINISTRATION

204.1 The President shall annually prepare a budget for the University, including a plan for operating and capital expenditures and shall provide the Board copies of the proposal and all necessary back up documentation not less than five (5) business days prior to any Board or Committee on Budget and Finance for review and consideration of approval. As part of the budget process, the President shall prepare a request to the Mayor and Council for District appropriations for the support of the University subject to approval by the Board prior to submission to the Mayor or the Council of the District of Columbia of a final budget.

204.2 Prior to the beginning of each fiscal year, the President shall prepare a financial plan for control of expenditures by the University. Upon approval of the financial plan by the Board, the President shall manage the expenditures of the University in accordance with the financial plan. All modifications of the financial plan including shifting or reallocations of funds within programs or other areas over two hundred fifty thousand dollars (\$250,000) must be approved by the Budget and Finance Committee and reported to the Board. Cumulative modifications during the fiscal year of the financial plan that are one million dollars (\$1,000,000) and over must be approved by the Board.

204.3 During the fiscal year, the President shall recommend to the Board for its approval modifications of the financial plan based on changes in the District appropriation, actual or projected revenues, cost of programs and operations, academic program needs, or other factors. Reprogramming of appropriated budget authority shall be in accordance with applicable District law.

- 204.4 The President shall make timely recommendations to the Board for the establishment or modification of tuition, fees, and other assessments to be paid by students of the University.
- 204.5 The President shall make recommendations to the Board for a capital improvement program, including recommendations for the addition of a new project or a deletion, substantial modification, or change in the priority of an approved project for Board approval and shall provide all necessary back up documentation necessary not less than five (5) business days prior to any Board or Committee on Budget and Finance for review and consideration of approval.
- 204.6 The President may negotiate and approve indirect cost rates to be applied to contracts and grants. The use of indirect cost funds shall be included in the annual financial plan.
- 204.7 The President may approve the write-off of debts owed to the University deemed uncollectible, subject to ratification by the Board as part of the financial plan. The President shall ensure that adequate reserves are maintained to allow for uncollectible debts.
- 204.8 The President may write off routine disallowed claims under grants and contracts against funds received from the federal government in reimbursement of indirect costs.

205 EXECUTION OF CONTRACTS AND OTHER DOCUMENTS

- 205.1 Except as otherwise specifically provided in this section or in this title, the President may execute on behalf of the University all contracts and other documents, including documents to solicit and accept pledges, gifts, and grants.
- 205.2 Notwithstanding any provision of this section to the contrary, the President may execute all documents necessary in the exercise of the President's duties when an emergency precludes prior submission to the Board; Provided, that in all cases the President shall submit to the Board within forty-eight (48) hours a written justification for actions taken, the impact, including fiscal, of the actions and a request for ratification of the action(s) by majority vote of the Board.
- 205.3 The President may provide for execution claims against debtors in bankruptcy, in receivership, or in liquidation, and against estates of deceased persons.
- 205.4 Specific authorization by the Board shall be required for the following documents or any transaction that would establish an exception to the University Rules as set forth in this subtitle:
- (a) Any commitment for more than seven (7) years; or

- (b) All Capital Procurements as presented in the Capital Budget on annual basis;
- (c) Each transaction that would require any of the following:
 - (1) Modification of the financial plan in excess of the reprogramming authority delegated to the President;
 - (2) Modification of the Capital Budget; or
 - (3) Obligating the University to expenditures or costs for which there is no established funding source.
- (d) Any contracts and change orders/modifications, other than those already approved in the Capital Budget, resulting in a commitment of greater than four million dollars (\$4,000,000) in a single fiscal year for any Capital Procurement; and
- (e) Any commitment greater than one million dollars (\$1,000,000) in a single fiscal year for all other University Procurements.

205.5 Specific authorization by the Board shall be required for any of the following:

- (a) Acceptance of any pledge or gift in excess of one million dollars (\$ 1,000,000) in cash or estimated value;
- (b) Agreements for the provision of employee group insurance benefits;
- (c) Affiliation agreements involving direct financial obligations or commitments by the University to programs or projects not included in the financial plan;
- (d) Applications for licenses to operate radio or television broadcast equipment; and
- (e) Agreements under which the University assumes liability for the conduct of persons other than University officers, employees, agents, students, invitees, and guests. This restriction shall not apply to agreements under which the University assumes responsibility for the condition of property in its custody.

206 [REPEALED].

207 [RESERVED]

208 COMPENSATION OF ADMINISTRATORS

208.1 The Board shall determine compensation for administrators and non-administrators at Grade level 1A and above, including initial compensation upon appointment and subsequent changes in compensation, upon recommendation of the President through the Executive Committee or appropriate committee determined by the Board Chair.

208.2 The President shall determine compensation for each executive appointment at grade level 2A and below, including initial compensation upon appointment and subsequent changes in compensation, in accordance with the level of responsibility of the position, the experience and qualifications of the appointee, and other factors, in accordance with the administrative pay scale approved by the Board.

209 [RESERVED]

210 EXECUTIVE APPOINTMENTS: GENERAL PROVISIONS

210.1 In order to allow the President to appoint highly qualified and experienced executive talent to senior administrative positions, as well as to provide flexibility in making top administrative appointments, the President is authorized to make executive appointments to designated positions in the Educational Service, in accordance with the provisions of §§ 210 through 212 subject to the provisions of this title and applicable law.

210.2 Except as required under § 212, an executive appointment may be made on a noncompetitive basis. Each executive appointee shall be qualified based on job description submitted by the President and approved by the Executive Committee for the position to which he or she is appointed. The Executive Committee shall also review the qualifications of the appointee being considered prior to the appointment being made.

210.3 Executive appointments are "at will" appointments and executive appointees shall serve at the pleasure of the President. A person serving under an executive appointment shall not have any job tenure or protection in that position. An executive appointment may be terminated at any time without appeal or right to compensation.

210.4 A University employee who is a permanent incumbent and who is serving in a position designated to be filled by executive appointment shall retain all the rights and benefits of his or her permanent employment status and shall not be converted to an executive appointment. However, once the incumbent vacates the position (due to reassignment, resignation, or other reason), the person subsequently appointed to fill the position shall be subject to the executive appointment provisions of this section.

210.5 The President shall not enter into any agreements with interim/acting executive appointees that grant tenure or right of employment in any faculty, administrative or other University position unless such person holds permanent or tenured faculty rank at the University or approved by the Executive Committee.

211 EXECUTIVE APPOINTMENTS: NON-ACADEMIC ADMINISTRATORS

211.1 The following administrative positions shall be filled by executive appointment and shall be ratified by the majority vote of the Board:

- (a) Chief Operating Officer (COO): The COO has university wide authority over business operations. The COO reports to the President.
- (b) Chief Student Development and Student Success Officer (CSDSSO): The CSDSSO has university wide authority over student support and student success. The CSDSO reports to the President.
- (c) Provost of the Community College: The University of the District of Columbia Community College is a Branch campus of the University. It offers courses in educational programs leading to an associate's degree or certificate. The administrative head of the Community College is titled the Provost of the Community College, and reports to the President.
- (e) Chief of Staff: The Chief of Staff has authority over external affairs, coordinates the activities of the Offices of the Board and President, as well as the work of the Cabinet. The Chief of Staff reports to the President.
- (f) General Counsel: The General Counsel provides advice and counsel to the University stakeholders on all legal matters, and directs the activities of outside counsel working on behalf of the University. The General Counsel reports to the President with a dotted line to the Board.
- (g) Internal Auditor: The Internal Auditor is responsible for conducting internal audits of the University's operations. The Internal Auditor reports to the President with a dotted line to the Board.

211.2 The President may designate any position which reports directly to the President or any senior management or legal position of Administrative Salary Grade Level of 2B or higher which reports directly to a vice president to be filled by executive appointment.

211.3 The President, in his or her discretion, may conduct a formal or informal search or provide for a recruitment process to fill a position by executive appointment under this section, except that the President shall provide for a formal search and selection process, including active faculty and Board participation, to fill the position of Provost of the Community College.

211.4 An employee of the University with permanent status who accepts an executive appointment under this section shall not have reversionary rights to return to the same position upon termination of the executive appointment. However, upon termination of the executive appointment, the former executive appointee shall retain his or her employment status at the University and shall be assigned to a position at the same level that he or she held at the time of the executive appointment.

211.5 A person newly hired under this section may, upon termination of the executive appointment, apply for competitive appointment to a position in the Educational Service for which he or she is qualified.

212 EXECUTIVE APPOINTMENTS: ACADEMIC ADMINISTRATORS

212.1 The following positions shall be filled by executive appointment:

(a) Chief Academic Officer (CAO): The Chief Academic Officer has university wide authority over academic program coordination and quality. The CAO reports to the President.

(b) Deans of academic colleges.

212.2 The appointment of faculty members to serve in administrative positions which report directly to the CAO or a Dean shall be an executive appointment.

212.3 The President shall provide for a formal search and selection process, including active faculty and Board participation, to fill the positions of CAO and Academic Dean. If the CAO or an Academic Dean position is vacated, the President shall name an acting for a period not to exceed one (1) year from the date of the vacancy, and administrative leave shall not be considered time in the position.

212.4 A person newly hired for the position of CAO or Academic Dean may be granted academic title and rank with tenure in the department in which he or she is qualified at the recommendation of the President and approval by the Board through the Executive Committee or Committee designated by the Chair.

212.5 A person who holds permanent or tenured faculty rank at the University and who accepts an appointment to an academic administrative position under this section shall not be required to resign from his or her faculty position and shall have the right to return to his or her faculty position upon termination of the executive appointment.

212.6 During a simultaneous appointment to an academic administrative position under this section, a faculty member shall be subject to the terms and conditions of employment set forth in the executive appointment. The faculty member shall be

deemed to be on leave of absence from his or her faculty position, but shall retain simultaneous faculty title and rank.

- 212.7 When a person holding faculty rank accepts an executive appointment to an academic administrative position, he or she shall be a full-time, twelve (12) month employee and shall receive compensation and benefits as set forth in the executive appointment, in accordance with the provisions of § 208.2, until termination of the executive appointment.

213 ACTING APPOINTMENTS

- 213.1 The President may appoint a current employee to serve in an "acting" status in a position designated to be filled by executive appointment without requiring that employee to resign from his or her current position.

- 213.2 Compensation of appointees with "acting" status shall be determined in accordance with the provisions of §§ 208, 210, 211, 212 and other applicable subsections of this chapter.

- 213.3 Service in an "acting" status in a position designated to be filled by executive appointment shall be limited to one (1) year. The President shall seek Board approval for an extension forty five (45) days prior to the year ending if he/she determines and can demonstrate that additional time is needed. Should an extension be approved by the Board, the President shall provide the Board immediately with a plan and time line for making the permanent appointment within ninety (90) days of the end of the one (1) year period should the appointment be necessary. The Board may approve an extension or renewal of an acting appointment for no more than one (1) additional year due to extenuating circumstances as determined by the Board.

214 APPOINTMENT AND REMOVAL OF DEPARTMENT CHAIRS

- 214.1 Subject to the approval of the CAO, the Dean shall appoint the chair of each department. Each appointee shall serve at the pleasure of the Dean, and shall be subject to annual review and evaluation by the Dean.

- 214.2 The Dean shall consult with the members of the faculty of a department on the appointment of the department chair, pursuant to a uniform process approved by the CAO.

- 214.3 To be eligible to serve as a chair, a person shall be a member of the department faculty who holds the rank of Associate Professor or Professor. A Dean may appoint a faculty member who does not meet the requirements of this subsection to be "acting" chairperson for a term of not more than one (1) year.

- 214.4 Each department chair shall be paid his or her regular faculty salary for services performed during the academic year. If the services of the department chair are required for all or part of a summer term, compensation for those services shall be determined by the President in consultation with the CAO and the Deans.
- 214.5 A department chair shall not be required to provide services as chair beyond the academic year. If a chair is not available to provide services needed beyond the academic year, the Dean may appoint an "acting" chair to serve during the interim period.
- 214.6 The faculty of a department may petition the Dean for the removal of the department chair by two-thirds (2/3) majority vote of the regular, full-time faculty of the department. The decision to remove or retain the chair shall be at the discretion of the Dean after consultation with the CAO.
- 214.7 Reduced teaching loads requirements for each department chair shall be determined by the Dean and approved by the CAO.

DISTRICT OF COLUMBIA RETIREMENT BOARD**NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Retirement Board (the Board), pursuant to the authority set forth in § 121(e) of the District of Columbia Retirement Reform Act (Reform Act), approved November 17, 1979 (Pub. L. 96-122, 93 Stat. 866; D.C. Official Code § 1-711(e) (2014 Repl.)), hereby gives notice of its intent to adopt the following proposed Board Rules under Chapter 15 (District of Columbia Retirement Board) of Title 7 (Employment Benefits) 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 Board was established by the Reform Act as an independent agency of the District of Columbia. DCRB is responsible for managing and controlling the Police Officers and Fire Fighters' Retirement Fund and the Teachers' Retirement Fund, as well as implementing and administering the retirement and post-employment benefit programs (the Retirement Program) for members and officers of the Metropolitan Police Department and the Fire and Emergency Medical Services Department of the District of Columbia and the teachers in the public day schools of the District of Columbia covered under the Police Officers and Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 (Replacement Plan Act), approved September 18, 1998 (D.C. Law 12-152; D.C. Official Code §§ 1-901.01 *et seq.* (2014 Repl.)). The Reform Act provides the Board with authority to promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business, and perform other functions necessary to carry out its responsibilities under the Reform Act and the Replacement Plan Act.

Rules which currently comprise Chapter 15 of Title 7 DCMR set forth the Board's organizational structure and operational components. Based on a comprehensive review by the Board of these structural and operational components, the Board determined that adjustments are appropriate and necessary to improve performance, accomplish the Board's mission, and enable the Board to better fulfill its fiduciary obligations to participants and beneficiaries of the Retirement Program. The Board approved the proposed rules on February 18, 2016.

Upon adoption, these rules will repeal and replace the current rules in Chapter 15 of Title 7 DCMR.

Chapter 15, DISTRICT OF COLUMBIA RETIREMENT BOARD, of Title 7 DCMR, EMPLOYMENT BENEFITS, is amended as follows:

Repeal Chapter 15 in its entirety and replace with a new Chapter 15 to read as follows:

1500 ESTABLISHMENT AND ORGANIZATION OF THE BOARD

1500.1 The District of Columbia Retirement Board (the Board) was established as an independent agency of the government of the District of Columbia pursuant to §

1-121(a) of the District of Columbia Retirement Reform Act of 1979, as amended (93 Stat. 866, Public Law 96-122; D.C. Official Code § 1-711(a)).

- 1500.2 The Board shall have exclusive authority to manage and control the District of Columbia Police Officers and Fire Fighters' Retirement Fund and the District of Columbia Teachers' Retirement Fund (collectively, the Funds) established by of the District of Columbia Retirement Reform Act (D.C. Official Code § 1-711(a)), and to administer the retirement benefits under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, as amended (D.C. Law 12-152; D.C. Official Code §§ 1-901.01 *et seq.*).

1501 BOARD MEMBERS

- 1501.1 The Board shall consist of twelve (12) members, whose terms of office, qualifications, and compensation are mandated by statute (D.C. Official Code § 1-711(b), (c)). The members are fiduciaries to the Funds.
- 1501.2 The Board shall conduct elections for elected members (D.C. Official Code § 1-711(b)(2)).
- 1501.3 In case of notification of a vacancy on the Board of an elected member, action shall be initiated to fill the vacancy no more than thirty (30) business days after the Board's receipt of the written vacancy notification.
- 1501.4 Individual Board members sued in their capacity as Board members shall be represented by independent counsel, if appropriate, at the Board's expense.
- 1501.5 The Chief Financial Officer of the District of Columbia, or his or her designee, shall be a non-voting *ex officio* member (D.C. Official Code § 1-711(b)(11)).
- 1501.6 The Board shall elect one (1) member to be Chairperson who shall serve for a term of one (1) year unless removed by the Board (D.C. Official Code § 1-711(b)(10)). The Board may elect other officer positions at its discretion.

1502 STAFF

- 1502.1 Assignments to, removal from, and the remuneration of the staff of the Board shall be determined by the Board's appointed Executive Director, consistent with applicable provisions of the Retirement Reform Act and the Comprehensive Merit Personnel Act. (D.C. Official Code §§ 1-711(g)(2), (k); §§ 1-601.01 *et seq.*).

1503 COMMITTEES

- 1503.1 The Board shall establish standing or special committees at its discretion.

1504 REGULAR MEETINGS

1504.1 The Board shall conduct statutorily mandated quarterly meetings each calendar year to consider, conduct and transact official Board business (regular meeting). The transaction of official Board business requires a majority of current voting members. The Board holds regularly scheduled meetings the third Thursday of each month, except August, beginning at 10 a.m. unless otherwise scheduled by the Board.

1504.2 The Board may schedule special or emergency meetings at its discretion.

1504.3 All meetings of the Board shall be held in the office of the Board unless otherwise designated by the Board.

1505 NOTICE OF MEETINGS

1505.1 Public notice shall be given in advance of a Board meeting or closed session in accordance with the District of Columbia Open Meetings Act (OMA, D.C. Law 18-350; D.C. Official Code § 2-576).

1506 OPEN MEETINGS

1506.1 All meetings of the Board, whether regular, special, or emergency, at which official action is taken shall be open to the public as required by the Retirement Reform and Replacement Plan Acts (D.C. Official Code §§ 1-736(c), 1-909.05(e)) and OMA. No Board rule, regulation, resolution, or other official Board action shall be effective unless taken in an Open Meeting.

1506.2 Members of the public wishing to attend an Open Meeting should contact the Board's office at least one (1) business day prior to the scheduled meeting to confirm the meeting is still scheduled.

1507 EXECUTIVE SESSION

1507.1 Any Board meeting, or portion of a meeting, may be closed to the public as permitted by the Retirement Reform and Replacement Plan Acts and the OMA upon a majority vote of the Board.

1507.2 The Board may close a meeting, or any portion of a meeting, for the following reasons:

(a) A law or court order requires that a particular matter or proceeding not be public (D.C. Official Code § 2-575(b)(1)):

(1) Deliberations, tentative or final decisions on investments or other financial matter that would jeopardize the Board's ability to

- implement an investment decision or to achieve investment objectives (D.C. Official Code §1-909.05(e) and (f));
- (2) Personnel matters (D.C. Official Code §§1-736(c) and 1-909.05(e); *see also* D.C. Official Code §§ 2-575(b)(9) and (10) below); and
 - (3) Individual Plan participant benefit information (D.C. Official Code §§ 1-736(b) and 1-909.05(d));
- (b) To discuss, establish, or instruct the Board's staff or negotiating agents concerning the position to be taken in negotiating the price and other material terms of a contract, including an employment contract, if an open meeting would adversely affect the Board's bargaining position or negotiating strategy (D.C. Official Code § 2-575(b)(2));
 - (c) To consult with an attorney to obtain legal advice and preserve the attorney-client privilege, or to approve settlement agreements (mere participation of the Board's general counsel at a Board meeting does not warrant closure) (D.C. Official Code § 2-575(b)(4));
 - (d) To discuss disciplinary matters (D.C. Official Code § 2-575(b)(9));
 - (e) To discuss the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of Board members or staff (D.C. Official Code § 2-575(b)(10));
 - (f) To discuss trade secrets and commercial or financial information obtained from outside the government to the extent disclosure would result in substantial harm to the outside party's competitive position (D.C. Official Code § 2-575(b)(11));
 - (g) To discuss trade secrets and commercial or financial information obtained from outside the government to the extent disclosure would result in substantial harm to the outside party's competitive position (D.C. Official Code § 2-575(b)(11));
 - (h) To train and develop members of the Board and staff (D.C. Official Code § 2-575(b)(12));
 - (i) To discuss investigations of alleged criminal or civil misconduct or violations of law or regulations if disclosure would harm the investigation (D.C. Official Code § 2-575(b)(14)).

1507.3

All materials and records of a closed meeting or executive session shall not be subject to disclosure under the OMA.

1508 RECORD OF MEETINGS

- 1508.1 All Board and committee meetings shall be recorded by electronic means if possible. The Board shall maintain written minutes of each meeting.
- 1508.2 Unapproved draft minutes of the regular Board meetings shall be made available to the public via the Board's website at <http://dcrb.dc.gov> no later than three (3) business days after the meeting. Approved final minutes of the Board meetings and related materials shall be made available within seven (7) business days after approval.
- 1508.3 Records of closed meetings or executive sessions shall not be disclosed to the public.

1509 FILING AND PUBLICATION OF ADOPTED MEASURE

- 1509.1 Rules and regulations adopted by the Board that affect legal rights, duties, or privileges of specific parties other than Board members and its staff shall be filed in the District of Columbia Office of Documents, and non-emergency rules and regulations shall not become effective until after they are published in the *District of Columbia Register*, unless otherwise provide by law.

Comments on this proposed rulemaking should be submitted in writing to Erie. F. Sampson, General Counsel, District of Columbia Retirement Board, 900 7th Street, N.W., 2nd Floor, Washington, D.C. 20001, or by email to erie.sampson@dc.gov, within thirty (30) days of the publication of this notice in the *D.C. Register*. Additional copies of this proposed rulemaking are available on the Board's website: <http://www.dcrb.dc.gov>.

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

NOTICE OF EMERGENCY RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in Title 25, D.C. Code Enactment and Related Amendments Act of 2001, effective May 3, 2001 (D.C. Law 13-298; D.C. Official Code § 25-351(a) (2012 Repl.)), and Section 307 of Title 23 of the District of Columbia Municipal Regulations (, hereby gives notice of the adoption of emergency rules that amend Section 307 (West Dupont Circle Moratorium Zone) of Chapter 3 (Limitations on Licenses) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

In summary, these emergency rules renew the existing West Dupont Circle Moratorium Zone (WDCMZ) with certain modifications for a period of three (3) years. Specifically, the rules amend Section 307 to maintain the current limit on the number of retailer's Class CN and DN licenses, and remove the previous limitation on all other retailer class licenses in the WDCMZ.

These emergency rules extend proposed amendments previously adopted by the Board on August 12, 2015 and published in the *D.C. Register* at 62 DCR 12241(September 4, 2015), to the existing WDCMZ with certain modifications for a period of three (3) years.

By way of background, the existing moratorium expired on May 17, 2015. Prior to the expiration, on February 23, 2015, the Board received a request from Advisory Neighborhood Commission (ANC) 2B for a one hundred twenty (120) day extension of the existing moratorium. The ANC requested the extension in order to analyze the impact of a potential request for renewal of the moratorium on the peace, order and quiet of the neighborhood.

Earlier this year, the ANC formed a working group tasked with engaging the public and receiving feedback on the future of the moratorium. The working group consisted of current commissioners, one former commissioner, and the ANC's liquor liaison for ANC 2B06. The working group held three public meetings from January through April 2015, and published an on-line questionnaire for additional public comments. The working group voted to allow the existing moratorium to expire across all licenses. This recommendation was not adopted by the full ANC and a resolution to support a modified moratorium was forwarded to the Board on a 4-2-1 vote.

On May 13, 2015, the Board adopted emergency rules to preserve the existing moratorium for one hundred and twenty (120) days in order to maintain the moratorium's status quo while the Board considered the ANC proposal and take testimony from members of the community who had a different view.

On July 22, 2015, the Board held a public hearing on the request of ANC 2B to renew a modified moratorium. ANC 2B was represented by Commissioner Daniel Warwick who testified in support of the renewal of a modified moratorium for a three (3) year period. The ANC resolution proposal retains the cap on retailer class CN licenses at zero (0) and eliminates the cap

on all other retailer's class licenses. Furthermore the ANC recommended that it works collaboratively with ABRA, the Joint Noise Force Task Force, MPD, DCRA, the DC Zoning Commission, neighbors, businesses and other stakeholders to codify a city-wide restriction on locating nightclubs next to residential buildings.

Commissioner Warwick testified to the history of West Dupont Circle and noted that his ANC first petitioned the Board for a moratorium on all liquor-selling establishments over twenty (20) years ago. Over the intervening years, the moratorium has renewed, and many of the renewals have loosened the restrictions to fit the changing needs of the neighborhood. By way of example, in 2006 the total number of licenses increased from twenty-nine (29) to thirty (30) and in 2008, the number increased to thirty-four (34). In 2009, the moratorium zone carved out the 1500 block of Connecticut Avenue N.W., and in 2011, the restrictions on restaurants was lifted.

Commissioner Warwick described West Dupont Circle as a thriving, mixed-use historic neighborhood where many businesses and thousands of residents are located. While the amenities of late-night retail and entertainment contribute to the livelihood of the neighborhood, problems also stem from late-night activity. For example, the neighborhood has taverns located next to residential buildings which can be heard in residential units.

Commissioner Warwick noted that not all businesses are appropriate for the neighborhood, and thus the ANC seeks to retain the cap on nightclub licenses. Lifting the moratorium in its entirety, as the working group suggested, would be disruptive to the peace, order and quiet of any mixed-use neighborhood. It would also impair the public safety of the neighborhood for residents and other pedestrians. He further noted that of the six (6) permitted CT/DT licenses located in the moratorium zone, two (2) continue to present problems so that retaining the cap on tavern licenses will not eliminate the concerns.

He explained that the current moratorium limits healthy competition for existing businesses and it restricts new licenses for art galleries, distilleries, breweries, wineries or multi-purpose facilities. The only way for new businesses to enter into the neighborhood is to purchase existing licenses and those may not be available. The ANC is concerned that this type of structure leads to the creation of a secondary market that serves as a barrier to entry for new businesses.

The ANC desires to create and maintain a vibrant mixed-use neighborhood that offers amenities to businesses and residents alike. However, leaving the restrictions on certain licenses in place impairs the ANC's ability to review the merits of new applications on a case by case basis, which may drive good businesses away.

Karyn Siobhan Robinson is a former ANC Commissioner who has lived at the corner of 22nd and O Streets NW since 1991. She also served on the ANC's working group. She supports eliminating the moratorium in its entirety, to include the cap on nightclub licenses, because the existing moratorium has outlived its usefulness.

Specifically, Ms. Robinson addressed the concerns of peace, order and quiet, and noted that noise from night life activity comes with living in the city and is a part of an urban environment.

She further noted that urban living is not for everybody. It is her belief that the Board and the neighborhood should not bend to the whims of a small vocal minority. The neighborhood brings in many different people and businesses, and noise is a part of that life. She acknowledged that streets adjacent to 22nd and P Streets N.W. are where many of the patrons park and congregate, but she is willing to drive around the neighborhood to find available parking.

Ms. Robinson also supports eliminating the cap on nightclubs because market forces make it unrealistic for a nightclub to locate to West Dupont. She also noted that maintaining the moratorium keeps rents artificially high and chokes out viable retailers who can't afford to enter the neighborhood.

She believes that concerns regarding peace, order, quiet, and public safety can be adequately addressed in individual settlement agreements. Furthermore, she points out that ANC 2B and the Board are well equipped and experienced to handle ABC licensed establishments on a case by case basis should there be any concerns regarding their operations.

Mr. Pellegrini testified as a resident of Dumbarton Place located at 1414 22nd Place N.W., and on behalf of the other thirty six (36) residents in his building. He stated that his fellow residents enjoy living in a vibrant neighborhood, but there are a couple of existing establishments that affect their quality of life. The residents are not concerned with routine noise from living in the city nor are they concerned with the noise produced in the interior of the establishments.

Mr. Pellegrini stated that the problems in the neighborhood that concern the residents the most stem from the patrons who congregate outside after closing time. The drinking continues in and outside the parked vehicles, the patrons are disorderly and verbally abusive to the residents, and the encounters can be alarming. Additionally, residents wake up to litter, garbage, broken bottles, used condoms tossed in common areas and the smell of human urination.

Residents spend their weekends cleaning up after the establishments and their patrons. The residents call MPD who try to be responsive, but by the time MPD arrives, the behavior has curtailed or moved onward. He also appreciates that enforcement by ABRA investigators may be difficult. He believes that stricter enforcement of the settlement agreements and employment of MPD Reimbursable Detail would help to mitigate the bad patron behavior. A third measure of enforcement would be monitoring by the United States Park Police.

Additionally, Mr. Pellegrini does not believe that it is necessary to lift the cap on tavern licenses when the existing cap has not been reached. Of the six (6) permitted licenses, only four (4) are in use. There is no logic to compounding the already challenging issue of tavern licenses by allowing more of them to locate in the neighborhood. Moreover, he argues that there is little distinction between nightclubs and taverns, especially those taverns that offer entertainment.

Mr. Pellegrini suggested that the Board take a pragmatic approach and lift the moratorium on all license classes with the exception of taverns and nightclubs. The residents of his condominium building fully support the removal of the cap on CX and off-premises licenses. With this incremental modification, the community and ABRA can continue to work together for better solutions over the next moratorium period to mitigate or minimize the illegal behavior that stems

from the bad operators. This compromise solution would be a win-win for the neighborhood and the businesses.

Judith Snyder appeared on behalf of Dupont West Condominium located at 2141 P Street N.W., Jonathan Padget is also a resident of Dupont West, and stated that about 150 to 175 residents live in the condominiums. He listed Westpark Apartments, located at 2130 P Street N.W., with its 200 to 300 residents, and Georgetown Gate Condominiums, located 1511 22nd Street N.W. as nearby residences. He also noted that hotel guests are affected by the disorderly nightlife generated by some of the establishments and their patrons.

Jessie Vasquez is also a resident of Dumbarton Place Condominium. She testified regarding the noncompliance of the establishments with the terms of their settlement agreements. One establishment in particular is required to have a doorman who is supposed to traverse the area and encourage patrons to disperse once they've left the club. She has observed the doorman's presence but she has not observed that he carries out his duties as set forth in the settlement agreement.

Mr. Padget further noted that the residents have difficulty with the patrons' use of the alleyways that serve as a part of the residential space. His balcony overlooks one alleyway and he has witnessed patrons using illegal drugs, urinating, and fornicating outside his window. He believes that the taverns contribute to this detrimental behavior, and that eliminating the cap on tavern licenses is not the answer.

Indeed, all of the representatives from the condominium associations noted that the tavern licenses are the primary source of problems for the neighborhood. Maintaining the existing cap on these license classes would help to ensure that these problems are not exacerbated. They urged the Board to leave the cap on the six (6) tavern licenses and the prohibition on nightclub licenses.

In addition to the testimony received by those in attendance at the public hearing, the Board also received written comments from several parties.

Robert Oaks, President of the Dupont West Condominium (Dupont West) located at 2141 P Street N.W., submitted written comments on behalf of the Board of Directors who voted unanimously to recommend continuation of the West Dupont Circle Moratorium. It strongly urges the Board to do the same. Dupont West is a 95-unit building whose owners and residents appreciate the thriving neighborhood, but are regularly disturbed by the patrons of a few licensed establishments. Dupont West actively supports the settlement agreements and cooperates with MPD, ABRA and other civic organizations to no avail. The taverns in the neighborhood operate in reality as nightclubs. They serve alcohol but not food, offer entertainment at levels that can be heard outside their premises, and release patrons in large rowdy crowds onto the streets in the early morning hours. For these reasons, Dupont West does not support the ANC Resolution to lift the cap on tavern licenses.

Glenn M. Engelmann resides at 1412 Hopkins Street N. W. He requested that the Board leave the existing moratorium in place because the neighborhood is currently vibrant with a good

mixture of restaurants and other retail establishments. He credits the moratorium with enabling a strong business climate while preserving the significant residential character of the neighborhood. At a minimum, Mr. Engelmann asks the Board to maintain the moratorium on prohibiting nightclubs as the ANC proposes.

Skip Perry has resided at 1400 20th Street N.W. for six (6) years. He supports Ms. Robinson and working group's position that the moratorium should expire in its entirety. He believes the vibrancy and attractiveness of the neighborhood has atrophied and continues to do so. There is a noticeable decline in foot traffic and former ABC licensed locations sit empty. Mr. Perry observes that the moratorium has loosened since its inception over the years with no apparent negative impact on the neighborhood. It is his opinion that new businesses should be permitted to apply and then be vetted by ABRA for their appropriateness.

Alan Rueckgauer has been President of the Westpark Tenant Association (WTA) since 2007. He has resided at the Westpark Apartments, located at 2130 P Street N. W. for over 25 years. The Westpark has 250 units containing 300-350 individual residents. The WTA surveyed its members in April 2015 and more than 85% of the membership supported maintaining the current moratorium. The unanimous concern is the demonstrated inability of the District to address complaints, public safety issues, and the ongoing problems with bad operators. There are countless altercations, fights and assaults, some with deadly weapons, centered on the corner of 22nd and P Streets N.W. The WTA has been actively engaged with the ANC, MPD and ABRA for many years to address these concerns, yet the noise and bad, if not illegal behavior, continues. For these reasons, the WTA urges the Board to maintain the moratorium on tavern and nightclub licenses.

The Georgetown Gate Condominium located at 1511 22nd Street N.W. offered similar written comments, requesting the Board to keep the moratorium on taverns and nightclubs intact. Their members have had their fill of fights, vandalism, rowdy and unsavory behavior, all of which is carried out on public and private property. The Georgetown Gate is concerned that the attitude of the ANC and District officials appears to favor the business interests over the residential interests.

Lastly, residents of Dumbarton Place Condominium supplemented the testimony of Mr. Pellegrini and Ms. Vazquez with written comments. The residents requested the Board to keep the existing moratorium in place for taverns and nightclubs. They raise three points in support of their position: 1) the existing taverns cause disorderly conduct, public safety issues, and excessive noise in the neighborhood; 2) the owners of the taverns have exhibited no interest in being good neighbors; and 3) the ANC's recommendation is inconsistent with the will and desire of the greater residential neighborhood. The residents support allowing the moratorium to expire for restaurants and multi-purpose facilities.

Decision of the Board

The Board took the views of ANC 2B and all other witnesses and written comments into consideration. The Board determined that the ANC proposal to lift the moratorium on all license classes with the exception of CN/DN licenses constitutes a reasonable, measured, and appropriate solution for the West Dupont neighborhood.

In reaching its decision, the Board gave great weight to the written recommendations of ANC 2B as required by Section 13(d)(3) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3) (2014 Repl. & 2015 Supp.), and D.C. Official Code § 25-609 (2012 Repl. & 2014 Supp.)). After evaluating all of the testimony and comments, the Board finds that ANC 2B's proposal is appropriate. Specifically, the Board agrees that maintaining the current cap on nightclub licenses is warranted to ensure that problems in the neighborhood are not exacerbated.

The Board also based its decision upon the appropriateness standards. Pursuant to D.C. Official Code § 25-351 (2012 Repl. & 2015 Supp.), the Board determined that it was in the public interest to renew the moratorium with certain modifications, and in doing so, the Board based its decision upon the appropriateness standards set forth in D.C. Official Code §§ 25-313 (b)(2) and (b)(3) (2012 Repl. & 2015 Supp.). In reviewing a moratorium request, the Board must "consider the extent to which the testimony and comments show that the requested moratorium is appropriate under at least two of the appropriateness standards set forth in subchapter II of this chapter." D.C. Official Code § 25-354(d) (2012 Repl. & 2015 Supp.); see also D.C. Official Code § 25-351(a) (2012 Repl. & 2015 Supp.).

With regard to peace, order and quiet, the testimony presented at the hearing as well as the proposal submitted by ANC 2B revealed that there are significant problems in the West Dupont neighborhood with regard to peace, order, and quiet, particularly with regard to late night noise, litter, and public urination.

Additionally, the Board concluded that issues with vehicular and pedestrian safety continue to exist in the WDMZ. Specifically, the testimony of Mr. Pellegrini revealed that patrons are drinking inside and outside of parked vehicles and congregating outside the establishment after closing time. Thus, the Board concluded that maintaining a modified moratorium is in the public interest as determined by the appropriateness standards set forth in D.C. Official Code §§ 25-313 (b)(2) and (b)(3) (2012 Repl. & 2015 Supp.).

As noted above, the Board agrees with and adopts the ANC proposal. Specifically, the Board agrees to: (1) renew a modified moratorium; (2) lift the restrictions on all license classes with the exception of the number of Retailer Class CN/DN licenses; (3) retain the existing language pertaining to the transfer of ownership; (4) retain the prohibition on the transfer of Retailer Class CN/DN from outside the moratorium zone to inside the moratorium zone; and (5) retain the prohibition restricting the change of license class to all CN/DN licenses.

The Board rejects modifications to the ANC proposal suggested by the various condominium residents regarding retaining the cap on tavern licenses. The Board believes that there are enough safeguards in place to protect the neighborhood as discussed more fully below. The Board also

notes that the current cap on tavern licenses has not been reached so clearly the demand to locate new taverns in the neighborhood may be overestimated.

While it is sympathetic to their concerns about the social ills that accompany a vibrant nightlife, the Board would encourage the condominium residents to participate fully in the protest process when the tavern licenses are scheduled for renewal in 2016. Additionally, the Board would encourage the neighborhood to utilize the ABRA hotline in the evenings and early morning hours. The agency has recently deployed additional investigators whose duty hours now cover seven nights of the week. Lastly, the residents are encouraged to access the ABRA electronic complaint form on the agency website anytime they witness a breach in the establishments' settlement agreements. The Board assures the community that complaints submitted telephonically or electronically will be investigated.

The Board also believes that limiting the modified moratorium to three years will allow the Board, the ANC, and the community to assess the effectiveness of the proposed changes. Additionally, this timeframe allows the community the greatest degree of flexibility to adapt and adjust the moratorium to respond to the changing needs of the neighborhood. The Board too, will have an opportunity to reevaluate the effectiveness of the limited moratorium, and to explore solutions that will balance, not inhibit, the neighborhood's ability to pursue economic opportunities.

In removing the cap on tavern licenses, the Board makes clear that it will not tolerate tavern licensees who operate in such a manner that their operations create a nightclub atmosphere. It cautions all licensees to understand that West Dupont is a unique neighborhood. As such, the Board will give great scrutiny to any licensing request that profoundly changes the nature and character of the neighborhood.

Additionally, the Board recognizes that enforcement and compliance efforts both safeguard and enhance neighborhoods. In any regulatory environment, some licensees will comply voluntarily, some will not comply, and some will comply only if they see that others receive a sanction for non-compliance. The Board's recent expansion of the Civil Penalty Schedule gives greater discretion to the Board and to ABRA investigators with regard to enforcing laws and regulations. Investigators can now issue Warnings for a greater range of offenses, thus ensuring that their response to violations is immediate and predictable. The civil penalty regulations also grant the Board more appropriate sanctions that are commensurate with the offense, so where Warnings put licensees on notice for a first offense, the Board can now levy a heavier penalty for second and third offenses.

The Board appreciates the balance that must be struck between the interests of the residents in the neighborhood, and the interests that promote a nightlife economy. The Board recognizes that a diverse, dynamic and safe dining and entertainment environment is part of the fabric of the District, and yet, nightlife activity needs to be carefully managed in order to reduce antisocial behavior, noise, public disturbance and other problems.

The Board applauds the ANC's efforts to solicit the community members' perspectives on positive steps to transform the West Dupont's neighborhood and improve urban vibrancy. Like

the ANC, the Board believes that if managed properly, a thriving and safe nightlife can act as an economic engine by attracting new businesses and restaurants, diversifying the range of cultural offerings, creating employment opportunities, and increasing tourism. To this end, the Board is in agreement with the ANC that a new direction for the West Dupont moratorium that allows for responsible growth is warranted.

The statements set forth above reflect the written reasons for the Board's decision as required by 23 DCMR § 303.1.

Emergency rulemakings are used only for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR § 311.4(e). The emergency action is necessary for the preservation of the health, safety and welfare of the District residents in order to ensure that the prohibitions provided in the modified moratorium are maintained.

Emergency and proposed rules were initially adopted by the Board on August 12, 2015, by a six (6) to zero (0) vote and became effective on that date. A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* at 62 DCR 12241 (September 4, 2015). The rules were in effect for up to one hundred twenty (120) days, and expired December 12, 2015.

Because the emergency and proposed rules adopted on August 12, 2015, were not superseded by a final rulemaking, it was necessary for the Board to re-adopt them on an emergency basis to avoid the expiration of the proposed rules prior to their submission and review by the Council of the District of Columbia. These emergency rules were re-adopted by the Board on December 9, 2015, by a five (5) to zero (0) vote and became effective on that date. This adoption of the emergency rules is necessary to preserve the existing WDMZ until final rules are adopted. The rules will remain in effect for up to one hundred twenty (120) days, expiring April 9, 2016, unless earlier superseded by final rulemaking.

There have been no changes to the proposed rules originally adopted by the Board on August 12, 2015.

The Board gives notice of its intent to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Repl. & 2015 Supp.), proposed rules are also being transmitted to the Council of the District of Columbia, and the final rules may not become effective until their approval by Council resolution during the ninety (90) day period of Council review.

Chapter 3, LIMITATIONS ON LICENSES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Section 307 is amended to read as follows:

307 WEST DUPONT CIRCLE MORATORIUM ZONE

- 307.1 A limit shall exist on the number of retailer's licenses issued in the area that extends approximately six hundred feet (600 ft.) in all directions from the intersection of 21st and P Streets, N.W., Washington, D.C., as follows: Class CN or DN - Zero (0). This area shall be known as the West Dupont Circle Moratorium Zone.
- 307.2 The West Dupont Circle Moratorium Zone is more specifically described as the area bounded by a line beginning at 22nd Street and Florida Avenue, N.W.; continuing north on Florida Avenue, N.W., to R Street, N.W.; continuing east on R Street, N.W., to 21st Street, N.W.; continuing south on 21st Street, N.W., to Hillyer Place, N.W.; continuing east on Hillyer Place, N.W., to 20th Street, N.W.; continuing south on 20th Street, N.W., to Q Street, N.W.; continuing east on Q Street, N.W., to Connecticut Avenue, N.W.; continuing southeast on Connecticut Avenue, N.W., to Dupont Circle; continuing southwest around Dupont Circle to New Hampshire Avenue, N.W.; continuing southwest on New Hampshire Avenue, N.W., to N Street, N.W.; continuing west on N Street, N.W., to 22nd Street, N.W.; and continuing north on 22nd Street, N.W., to Florida Avenue, N.W. (the starting point).
- 307.3 All hotels, whether present or future, shall be exempt from the West Dupont Circle Moratorium Zone. The 1500 block of Connecticut Avenue, N.W., shall be exempt from the West Dupont Circle Moratorium Zone. Establishments located in, or to be located in, the New Hampshire side of One Dupont Circle, N.W., shall be exempt from the West Dupont Circle Moratorium Zone.
- 307.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class A, B, CR, CT, CX, DR, DT, or DX located within the West Dupont Circle Moratorium Zone, subject to the requirements of the Act and this title.
- 307.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the West Dupont Circle Moratorium Zone to a new location within the West Dupont Circle Moratorium Zone.
- 307.6 A CN/DN license holder outside the West Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the West Dupont Circle Moratorium Zone.
- 307.7 Subject to the limitation set forth in subsection 307.8, nothing in this section shall prohibit the filing of a license application or a valid protest of any transfer or change of license class.
- 307.8 No licensee in the West Dupont Circle Moratorium Zone shall be permitted to request a change of license class to CN, or DN.

- 307.9 A current holder of a retailer's license Class A, B, C, or D within the West Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, unless:
- (a) The prior owner or occupant has held within the last five (5) years a retailer's license Class A, B, C, or D; or
 - (b) The applicant is a Class CR or DR licensee and the prior owner or occupant has held during the last three (3) years, and continues to hold at the time of application, a valid restaurant license from the Department of Consumer and Regulatory Affairs.
- 307.10 The number of substantial change applications approved by the Board for expansion of service or sale of alcoholic beverages into an adjoining or adjacent space, property, or lot, as allowed under Subsection 307.9, shall not exceed three (3) during the three (3) year period of the West Dupont Circle Moratorium Zone.
- 307.11 Nothing in this section shall prohibit holders of a retailer's license Class C or D from applying for outdoor seating in public space.
- 307.12 This section shall expire three (3) years after the date of publication of the notice of final rulemaking.

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING****Motor Vehicle and Mobile Equipment
Non-Assembly Line Coating Operations Regulations**

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in 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.)); Sections 5 and 6 of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06 (2013 Repl. & 2015 Supp.)); and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 7 (Air Quality – Volatile Organic Compounds and Hazardous Air Pollutants) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking establishes higher emission standards for automobile paint spray booth operations. Specifically, the rulemaking sets automotive coating and cleaning solvent volatile organic compound (VOC) limits, mandates the use of certain automotive coating application methods, prescribes work practices and other requirements to reduce emissions, includes stack requirements for new and existing automobile paint spray booths, requires manufacturers and repackagers to include certain information on product data sheets and containers of automotive coating and cleaning solvents, prescribes recordkeeping requirements for those who use particular automotive coating and cleaning solvents and related emission control systems, and details the test methods to determine compliance with various limits and standards. This emergency rulemaking also amends and adds applicable definitions and revises cross references to this section.

Emergency action is necessary for the immediate preservation of the health, safety and welfare of District residents adversely affected by the pollutants from already existing automobile paint spray booth operators. This emergency rulemaking is promulgated in accordance with the Ward 5 Paint Spray Booth Conditional Moratorium Temporary Act of 2015, effective on November 23, 2015 (D.C. Act 21-210; 62 DCR 15605 (December 4, 2015)), which declare the existence of an emergency, institute a moratorium of permits for the construction or operation of automobile paint spray booths in Ward 5, and temporarily raise emission standards for automobile paint spray booths, until promulgation of rules revising Section 718 of Title 20 DCMR.

This emergency rulemaking was adopted on February 9, 2016, and became effective on that date. This emergency rulemaking shall expire one hundred twenty (120) days after the date of adoption, expiring on June 8, 2016, or upon earlier amendment or repeal by the Director or publication of a final rulemaking in the *D.C. Register*, whichever occurs first.

The Department also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice of

proposed rulemaking in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 7, AIR QUALITY – VOLATILE ORGANIC COMPOUNDS AND HAZARDOUS AIR POLLUTANTS, of Title 20 DCMR, ENVIRONMENT, is amended as follows:

Section 714, CONTROL TECHNIQUE GUIDELINES (CTGs), is amended as follows:

By amending the text in subparagraph § 714.3(a)(1) to read as follows:

- (1) VOC emissions addressed by § 718 (Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations), to the extent the coatings are used to repair and refinish mobile equipment components; and

Section 718, MOBILE EQUIPMENT REPAIR AND REFINISHING, is repealed in its entirety and amended to read as follows:

718 MOTOR VEHICLE AND MOBILE EQUIPMENT NON-ASSEMBLY LINE COATING OPERATIONS

718.1 This section applies to any person or automotive refinishing facility that sells, supplies, offers for sale, distributes, manufactures, blends, or repackages for sale an automotive coating or associated cleaning solvent for use within the District of Columbia, as well as any person or automotive refinishing facility that uses, applies, or solicits the use or application of an automotive coating or associated cleaning solvent within the District, except as provided in § 718.2.

718.2 This section does not apply to:

- (a) An automotive coating or associated cleaning solvent that is offered for sale, supplied, sold, distributed, blended, repackaged for sale, or manufactured for use outside of the District, except for § 718.26 (relating to recordkeeping);
- (b) An automotive coating or associated cleaning solvent that is shipped to other manufacturers for reformulation or repackaging;
- (c) A nonrefillable aerosol coating product;
- (d) An automotive coating that is sold, supplied, or offered for sale in one half (0.5) fluid ounce or smaller containers intended to be used by the general public for automotive touch-up or repair for small surface imperfections;

- (e) A coating applied to motor vehicles or mobile equipment or their associated parts and components during original equipment manufacture on an assembly line;
- (f) An automotive coating applied to motor vehicles or mobile equipment or their associated parts and components in a non-commercial automotive refinishing facility by a person who does not receive compensation for the application of the coating; or
- (g) A locally prepared mix of solvent and some amount of film forming solids solely used to blend in spot repairs made to a discrete body panel, except that the application of cleaning solvent to a spot repair is not exempted.

718.3 A person may not supply, sell, offer for sale, distribute, manufacture, blend, or repackage for sale an automotive coating or associated cleaning solvent for use in the District, nor may a person use or apply to a motor vehicle, mobile equipment, or associated parts and components, an automotive coating with a VOC regulatory content calculated in accordance with § 718.6(a) that does not meet the VOC content requirements of Table I.

Table I. Allowable VOC Content in Automotive Coatings for Motor Vehicle and Mobile Equipment Non-Assembly Line Refinishing and Recoating

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Adhesion promoter	4.5	540
Automotive pretreatment coating	5.5	660
Automotive primer	2.1	250
Clear coating	2.1	250
Color coating, including metallic/iridescent color coating	3.5	420
Multicolor coating	5.7	680
Other automotive coating type	2.1	250
Single-stage coating, including single-stage metallic/iridescent coating	2.8	340
Temporary protective coating	0.50	60
Truck bed liner coating	1.7	200
Underbody coating	3.6	430
Uniform finish coating	4.5	540

*VOC regulatory limit as applied = Weight of VOC per Volume of Coating (prepared to manufacturer’s recommended maximum VOC content, minus water and non-VOC solvents)

718.4 Each cleaning solvent present at an automotive refinishing facility or non-assembly line automotive coating operation shall not exceed a VOC content of

twenty-five (25) grams per liter (twenty-one one-hundredths (0.21) pound per gallon), calculated in accordance with the requirements of § 718.6(c), except for:

- (a) Cleaning solvent used as bug and tar remover if the VOC content of the cleaning solvent does not exceed three hundred fifty (350) grams per liter (two and nine-tenths (2.9) pounds per gallon), where usage of cleaning solvent used as bug and tar remover is limited as follows:
 - (1) Twenty (20) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with four hundred (400) gallons or more of coating usage during the preceding twelve (12) calendar months;
 - (2) Fifteen (15) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with one hundred fifty (150) gallons or more of coating usage during the preceding twelve (12) calendar months; or
 - (3) Ten (10) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with less than one hundred fifty (150) gallons of coating usage during the preceding twelve (12) calendar months;
- (b) Cleaning solvents used to clean plastic parts just prior to coating or VOC-containing materials for the removal of wax and grease provided that non-aerosol, hand-held spray bottles are used with a maximum cleaning solvent VOC content of seven hundred eighty (780) grams per liter and the total volume of the cleaning solvent does not exceed twenty (20) gallons per consecutive twelve-month (12) period per automotive refinishing facility;
- (c) Aerosol cleaning solvents if one hundred sixty (160) ounces or less are used per day per automotive refinishing facility; or
- (d) Cleaning solvent with a VOC content no greater than three hundred fifty (350) grams per liter may be used at a volume equal to two-and-one-half percent (2.5%) of the preceding calendar year's annual coating usage up to a maximum of fifteen (15) gallons per calendar year of cleaning solvent.

718.5 An automotive refinishing facility in operation as of February 9, 2016, may, for three (3) calendar months after that date:

- (a) As an alternative to § 718.3, use an automotive coating with a VOC regulatory content calculated in accordance with § 718.6(a) that contains VOCs at or below the limits specified in Table II; and

Table II. Alternative Allowable Content of VOCs in Automotive Coatings for Motor Vehicle and Mobile Equipment Non-Assembly Line Refinishing and Recoating

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Single stage-topcoat	5.0	600
2 stage basecoat/clearcoat	5.0	600
3 or 4-stage basecoat/clearcoat	5.2	625
Automotive multicolored topcoat	5.7	680
Automotive specialty coating	7.0	840

*VOC regulatory limit as applied = Weight of VOC per Volume of Coating (prepared to manufacturer’s recommended maximum VOC content, minus water and non-VOC solvents)

- (b) As an alternative to § 718.4, use the cleaning solvents already purchased and in use at the automotive refinishing facility as of February 9, 2016.

718.6 The VOC content of an automotive coating, automotive coating component, or cleaning solvent subject to this section shall be calculated in accordance with the following, where:

VOC = VOC content in grams per liter

Wv = Weight of total volatiles, in grams;

Ww = Weight of water, in grams;

Wec = Weight of exempt compounds, in grams;

Vm = Volume of material (coating or cleaning solvent, as applicable, including water, exempt compounds, and added solvent), in liters;

Vw = Volume of water, in liters; and

Vec = Volume of exempt compounds, in liters; and

To convert from grams per liter to pounds per gallon multiply the result (VOC regulatory content) by 8.345×10^{-3} (pounds per gallon/grams per liter).

- (a) For VOC regulatory content for coatings, the weight of VOC per volume of coating, less water and exempt compounds, shall be calculated by the following equation:

$$\begin{array}{l} \text{VOC} \\ \text{regulatory} \\ \text{content} \end{array} = \frac{(W_v - W_w - W_{ec})}{(V_m - V_w - V_{ec})}$$

- (b) For VOC actual content for coatings, the weight of VOC per volume of material, including the volume of water, exempt compounds and VOC solvent, shall be calculated by the following equation:

$$\begin{array}{l} \text{VOC} \\ \text{actual} \\ \text{content} \end{array} = \frac{(W_v - W_w - W_{ec})}{V_m}$$

- (c) For VOC content for cleaning solvents, the weight of VOC per volume of material shall be calculated by the following equation:

$$\begin{array}{l} \text{VOC} \\ \text{content} \end{array} = \frac{(W_v - W_w - W_{ec})}{V_m}$$

718.7 To determine the physical properties of a coating to perform the calculations in § 718.6, the coating shall be analyzed in accordance with the methods specified in § 718.28 (relating to coating analysis).

718.8 If on the container of an automotive coating, or a label or sticker affixed to the container, or in sales, advertising, technical, or product literature, a representation is made that indicates that the coating meets the definition of or is recommended for use for more than one (1) of the coating categories listed in § 718.3 (relating to coating VOC content limits), then the lowest applicable VOC content limit shall apply.

718.9 A person may not possess either of the following at a non-assembly line motor vehicle or mobile equipment coating operation:

- (a) An automotive coating that is not in compliance with § 718.3 (relating to coating VOC content limits); and
- (b) A cleaning solvent that does not meet the requirements of § 718.4 (relating to cleaning solvent VOC content limits).

718.10 A person may not solicit or require the use of, or specify the application or use of, a coating, solvent, or cleaning solvent on a motor vehicle or motor equipment, or associated parts and components, if the use or application results in a violation of this section.

718.11 A person may not apply an automotive coating to a motor vehicle, mobile equipment, or associated parts and components, unless one (1) or more of the following application methods is used:

- (a) Flow/curtain coating;
- (b) Dip coating;
- (c) Roller coating;
- (d) Brush coating;
- (e) Cotton-tipped swab application;
- (f) Spray-applied coatings limited to:
 - (1) High-volume low-pressure (HVLP) spraying;
 - (2) Electrostatic application;
 - (3) Airless spray; and
 - (4) Air-assisted airless spray;
- (g) An alternative spray equipment coating application method, which the person has demonstrated to the Department, achieving a transfer efficiency equivalent to, or higher than, HVLP or electrostatic spray application methods, using the spray equipment transfer methods under §§ 718.32 and 718.33. A demonstration shall include:
 - (1) The manufacturer's published technical material on the design of the spray equipment;
 - (2) The operation of the spray equipment using an air pressure tip gauge from the manufacturer of the spray equipment;
 - (3) The report of the demonstration shall be submitted to the Department in writing; and
 - (4) The Department shall approve the use of the alternative spray equipment technology in writing; or
- (h) An alternative coating application method that has been approved by the California Air Resources Board (CARB) or a California Air District for use in applying non-assembly line automotive coatings for motor vehicle and mobile equipment operations, which shall also meet the standards in § 718.14 (relating to alternative application technology or method demonstrations).

- 718.12 The application requirements of § 718.11 (relating to coating application methods) do not apply to the following:
- (a) Graphic arts operations;
 - (b) A coating use of less than one (1) fluid ounce (twenty-nine and six tenths (29.6) milliliters);
 - (c) The application of underbody coatings; and
 - (d) The application of truck bed liner coatings.
- 718.13 If a spray equipment coating application technology is used, the end user shall demonstrate that the equipment meets one of the following:
- (a) The definition of HVLP in § 799 in design and use, where a satisfactory demonstration shall comply with (b) or be based on:
 - (1) The manufacturer's published technical material on the design of the equipment; and
 - (2) A demonstration of the operation of the equipment using an air pressure cap test gauge from the manufacturer of the equipment; or
 - (b) The alternative spray coating application method transfer efficiency requirement of § 718.11(g), where a satisfactory demonstration shall include the following:
 - (1) Written determination of the transfer efficiency in accordance with the test methods in § 718.32 and § 718.33 (relating to spray equipment transfer efficiency and spray equipment HVLP equivalency); and
 - (2) Written documentation that the alternative spray coating application method has been approved by the Department for use in the District.
- 718.14 If an alternative spray or non-spray coating application technology or method is used, pursuant to § 718.11(h), the end user shall demonstrate the following:
- (a) The approval is currently in effect in the issuing California Air District; and
 - (b) The manufacturer of the alternative coating application technology or method has submitted to the Department all of the following:

- (1) A statement that it intends to comply with this section under an alternative coating application technology or method approval;
- (2) A copy of the documents submitted to the California Air Resources Board (CARB) or California Air District for approval of the alternative coating application technology or method;
- (3) A copy of the approval documentation issued by CARB or California Air District;
- (4) A copy of the conditions of approval issued by CARB or California Air District; and
- (5) A copy of documents that subsequently modify or terminate its conditions of approval issued by CARB or California Air District.

718.15 Spray guns used to apply automotive coating components or automotive coatings shall be cleaned by one (1) or a combination of the following:

- (a) A fully enclosed spray gun cleaning system that is kept closed when not in use, where the active and passive solvent losses from the use of the system shall be determined in accordance with the requirements of § 718.34 (related to active and passive solvent loss determinations for spray gun cleaning systems);
- (b) An unatomized discharge of cleaning solvent into a paint waste container that is kept closed when not in use; or
- (c) Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use.

718.16 The owner and operator of an automotive refinishing facility or non-assembly line coating operation shall ensure that:

- (a) Fresh and used automotive coating components, automotive coatings, solvents, and cleaning solvents are stored in vapor-tight, nonabsorbent, nonleaking containers that are kept closed at all times except when filling or emptying;
- (b) Cloth and paper, or other absorbent applicators, moistened with automotive coating components, automotive coatings, solvents, or cleaning solvents are stored in vapor-tight, nonabsorbent, nonleaking containers that are kept closed at all times except when filling or emptying;

- (c) Handling and transfer procedures minimize spills during the transfer of automotive coating components, automotive coatings, solvents, and cleaning solvents;
- (d) A person who uses or applies automotive coating components, automotive coatings, solvents, or cleaning solvents is trained in the proper use and handling of the automotive coating components, automotive coatings, solvents, cleaning solvents, and waste products in order to minimize the emission of air contaminants and to comply with this section; and
- (e) Ensure that all training is in compliance with the requirements of 40 C.F.R. §§ 63.11173(e)-(g), which is adopted in § 1409.

718.17 The owner and operator of an automotive refinishing facility shall:

- (a) Close all paint spray booth openings while a coating is applied, during the time period required for drying of the coating, and while any other operation may release emissions;
- (b) Comply with the paint spray booth and particulate filter design requirements of 40 C.F.R. § 63.11173(e)(2), which is adopted in § 1409;
- (c) Maintain a negative pressure sufficient to ensure that no emissions are exiting the booth anywhere except the exhaust stack; and
- (d) Maintain in good working order and operate according to manufacturer specifications the monitoring, exhaust, and control systems within the paint spray booth.

718.18 If an automotive refinishing facility is found to be in violation of a provision of 20 DCMR Ch. 1-15, the Department may require the installation of additional emission controls or curtailment of operations until compliance is demonstrated.

718.19 The owner and operator of an automotive refinishing facility that installs or constructs an automotive paint spray booth after February 9, 2016, shall ensure that all emissions from the application of automotive coatings for motor vehicle and mobile equipment be exhausted through a stack that meets all of the following requirements:

- (a) Discharges at least fifteen (15) feet above grade;
- (b) Discharges at least five (5) feet above the roof peak;
- (c) Discharges vertically upward above the roof peak;

- (d) Discharges at a height and exhaust velocity sufficient to avoid the exhaust being circulated adjacent to the building due to building downwash effects or drawn into nearby building intakes so as to ensure compliance with §§ 201 and 903; and
- (e) Not equipped with anything that would impede the upward discharge of the exhaust air, such as rain caps. Other techniques may be installed to prevent snow and ice from entering the exhaust system, such as butterfly caps or stack sleeves.

718.20 The owner and operator of an automotive refinishing facility in operation as of February 9, 2016, shall have six (6) months from that date to meet the requirements of § 718.19 (relating to exhaust stacks).

718.21 Manufacturers and repackagers of automotive coatings or associated cleaning solvents shall include the following information on a product data sheet or other data sheet:

- (a) For each automotive coating or automotive coating component:
 - (1) The VOC actual content and VOC regulatory content, as supplied, for the coating product or coating component product, expressed in grams per liter, calculated in accordance with the requirements of §§ 718.6(a) and (b) (relating to calculation of VOC content);
 - (2) The weight percent of volatiles, water, and exempt compounds;
 - (3) The volume percent of water and exempt compounds; and
 - (4) The density of the material (in grams per liter).
- (b) For each ready-to-spray or ready-to-apply mixture (based on the manufacturer's and repackager's stated mix ratio):
 - (1) The VOC actual content and the VOC regulatory content, as applied, for the coating product or coating component product, expressed in grams per liter;
 - (2) The weight percent of volatiles, water, and exempt compounds;
 - (3) The volume percent of water and exempt compounds; and
 - (4) The density of the material (in grams per liter).
- (c) For cleaning solvents subject to this section, the VOC content of the cleaning solvents as supplied, calculated in accordance with the

requirements of § 718.6(c) (relating to cleaning solvent VOC content calculation), expressed in grams per liter.

718.22 Manufacturers and repackagers shall include, on all containers or on a label affixed to the container of:

- (a) Automotive coatings or automotive coating components:
 - (1) The applicable use category or categories;
 - (2) The VOC actual content of the coating or coating component, as supplied, calculated in accordance with the requirements of § 718.6(b) (relating to coating VOC actual content calculations) and expressed in grams per liter; and
 - (3) The VOC regulatory content of the coating or coating component as supplied, calculated in accordance with the requirements § 718.6(a) (related to coating VOC regulatory content calculations) and expressed in grams per liter;
- (b) Cleaning solvents subject to this section: the VOC content as supplied, calculated in accordance with the requirements of § 718.6(c) (relating to cleaning solvent VOC content calculation) and expressed in grams per liter.

718.23 Any records required to be maintained by this section shall be:

- (a) Retained for a minimum of five (5) years; and
- (b) Made available for inspection by the Department upon request.

718.24 A person who uses automotive coatings, automotive coating components, ready-to-spray coatings (based on the manufacturer's stated mix ratio), or cleaning solvents subject to this section shall maintain and have available at all times at the automotive refinishing facility:

- (a) A list of all coatings, coating components, and cleaning solvents used at the automotive refinishing facility, including:
 - (1) Whether the material is a coating, coating component, or cleaning solvent;
 - (2) Coating, coating component, or cleaning solvent name and manufacturer;
 - (3) Application method;

- (4) Coating type as listed in § 718.3 (relating to coating VOC content limits);
 - (5) The mix ratio specific to the coating or coating component; and
 - (6) The VOC actual content and VOC regulatory content, as applied, for each ready to spray or ready to apply coating or cleaning solvent and copies of data sheets documenting how as applied values were determined.
- (b) The VOC actual and VOC regulatory content as supplied and copies of product data sheets, material safety data sheets, or other data sheets documenting the as supplied value; and
- (c) Purchase records identifying the following:
- (1) The coating type (as listed in Table I);
 - (2) The name of the coating, coating component, or cleaning solvent; and
 - (3) The volume purchased of the coating, coating component, or cleaning solvent.

718.25 A person who installs an emission control system pursuant to § 718.18 shall maintain records including:

- (a) Records of system operating parameters, such as temperatures, pressure drops, and air flow rates, which demonstrate compliance with § 718.18 and continuous operation and compliance of the emission control system during periods of VOC emission producing activities;
- (b) Records of any maintenance and repair activities performed;
- (c) Records of malfunctions and shutdown periods for the control systems, including the time period of shutdown, reason for shutdown, and corrective actions taken; and
- (d) Any additional records required by a permit issued pursuant to this title.

718.26 A person claiming the exception specified in § 718.2(a) shall keep a detailed log of each automotive coating and automotive coating component manufactured, blended, repackaged for sale, supplied, sold, offered for sale, or distributed. The detailed log shall include the following information:

- (a) The quantity manufactured, blended, repackaged for sale, supplied, sold, offered for sale, or distributed, including size and number of containers;
- (b) The VOC actual content and the VOC regulatory content for the coating or coating component; and
- (c) To whom they were supplied, sold, or distributed, or for whom they were manufactured, blended, or repackaged for sale including the name, address, and phone number.

718.27 To determine compliance with this section, the test methods in §§ 718.28 through 718.36 shall be used.

718.28 To determine compliance with this section, the test method for coating analysis shall be as follows:

- (a) To perform the calculations specified in § 718.6 (related to calculation of VOC content), the physical properties of automotive coatings, automotive coating components, and cleaning solvents subject to this section shall be determined using the most recent version of one of the following:
 - (1) EPA Reference Method 24, *Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings*, 40 C.F.R. Part 60, Appendix A;
 - (2) SCAQMD Method 304-91, *Determination of Volatile Organic Compounds (VOC) in Various Materials*; or
 - (3) An alternative method, formulation data, or other reasonable means for predicting that the coating has been formulated as intended, if approved in writing by the Department.
- (b) If there are inconsistencies between the results of an EPA Reference Method 24 test and another means for determining the physical properties of the coating and subsequent VOC content, the EPA Reference Method 24 test results shall govern, except when an alternative method is approved as specified in (a)(3).

718.29 The identity and concentration of exempt organic compounds shall be determined using the most recent version of one (1) or more of the following:

- (a) ASTM D6133, *Standard Test Method for Acetone, p-Chlorobenzotrifluoride, Methyl Acetate or t-Butyl Acetate Content of Solventborne and Waterborne Paints, Coatings, Resins, and Raw Materials by Direct Injection Into a Gas Chromatograph*;

- (b) ASTM D4457, *Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph*;
 - (c) CARB Method 432, *Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings*;
 - (d) CARB Method 422, *Determination of Volatile Organic Compounds in Emissions from Stationary Sources*; or
 - (e) SCAQMD Method 303, *Determination of Exempt Compounds*.
- 718.30 Measurement of acid content in automotive pretreatment coating, as specified in § 799 (defining automotive pretreatment coatings), shall be determined by using the most recent version of ASTM D1613, *Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products*.
- 718.31 The metallic content of a metallic or iridescent color coating, as specified in § 799 (defining metallic/iridescent color coating), shall be determined by the most recent version of SCAQMD Method 318, *Determination of Weight Percent Elemental Metal in Coatings by X-ray*.
- 718.32 Spray equipment transfer efficiency, as specified in § 799 and § 718.11(g) (defining and relating to coating application methods, respectively), shall be determined by using the most recent version of the SCAQMD Test Procedure, *Spray Equipment Transfer Efficiency Test Procedure for Equipment User*.
- 718.33 Spray equipment HVLP equivalency, as specified in § 718.13 (relating to the use of a spray gun), shall be determined by using the most recent version of one of the following:
- (a) SCAQMD Guidelines, *Guidelines for Demonstrating Equivalency with District Approved Transfer Efficient Spray Guns*; or
 - (b) The Environmental Technology Verification ETV Protocol, *HVLP Coating Equipment, Generic Testing and Quality Assurance Protocol*, prepared by the National Defense Center for Environmental Excellence, operated by Concurrent Technologies Corporation.
- 718.34 The active and passive solvent losses from the use of an enclosed spray gun cleaning system or equivalent cleaning system, as specified in § 718.15(a) (relating to spray gun cleaning systems), shall be determined using the most recent version of SCAQMD Method, *General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems*.

- (a) The test solvent for this determination shall be a lacquer thinner with a minimum vapor pressure of one hundred five millimeters (105 mm) of mercury at twenty degrees Celsius (20°C); and
- (b) The minimum test temperature shall be fifteen degrees Celsius (15°C).

718.35 If an emission control system is required by § 718.18, the owner or operator shall make the following determinations, if required by the Department:

- (a) The measurement of capture efficiency shall be conducted and reported in accordance with one or both of the following, as applicable:
 - (1) EPA Technical Document, *Guidelines for Determining Capture Efficiency*; or
 - (2) 40 C.F.R. Part 51, Appendix M, Methods 204 –204f; and
- (b) The control efficiency shall be determined in accordance with the most recent version of one or more of the following:
 - (1) EPA Reference Method 25, *Determination of Total Gaseous Nonmethane Organic Emissions as Carbon*, 40 C.F.R. Part 60, Appendix A;
 - (2) EPA Reference Method 25A, *Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer*, 40 C.F.R. Part 60, Appendix A; or
 - (3) EPA Reference Method 25B, *Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer*, 40 C.F.R. Part 60, Appendix A.

718.36 The use of other test methods that are determined to be equivalent or better and approved, in writing, by the Department or the Administrator may be used in place of the test methods specified in this section.

Section 799, DEFINITIONS, is amended as follows:

The following definitions are amended to read as follows:

Aerosol coating product – a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant and is packaged in a disposable can for hand-held application or for use in specialized equipment for ground traffic/marketing applications.

Airless spray - a coating technology that relies solely on the fluid pressure of the coating to create an atomized coating spray pattern and does not apply atomizing compressed air to the coating before it leaves the nozzle.

Automotive multicolored topcoat – a topcoat that exhibits more than one (1) color, is packaged in a single container, and camouflages surface defects on areas of heavy use, such as cargo beds and other surfaces of trucks and other utility vehicles.

Automotive specialty coating – coatings including but not limited to automotive elastomeric coatings, adhesion promoters, automotive low-gloss coatings, bright metal trim repair coatings, automotive jambing clearcoats, automotive impact-resistant coatings, rubberized asphaltic underbody coatings, uniform finish blenders, weld-through primers applied to automotive surfaces, and automotive lacquer topcoats applied to a classic motor vehicle or to an antique motor vehicle.

Coating – a material applied to a substrate for protective, decorative, or functional purposes, but does not include:

- (a) Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or a combination of these substances;
- (b) Paper film or plastic film that may be pre-coated with an adhesive by the film manufacturer;
- (c) Adhesives, sealants, maskants, or caulking materials;
- (d) Lubricants or surface preparation materials; or
- (e) In-mold coatings that are spray applied in the manufacture of reinforced plastic composite parts.

Exempt compound – a compound identified as exempt under the definition of volatile organic compound (VOC). Except as provided in § 778.2, the exempt compounds content of a coating shall be determined by U.S. EPA Method 24 or South Coast Air Quality Management District (SCAQMD) Method 303-91, as revised.

Flow coating –

- (a) For the purposes of §§ 718 and 743 through 750, a non-atomized technique of applying coating to a substrate using a fluid nozzle in a fan pattern with no air supplied to the nozzle, where the application completely covers the surface; or

- (b) For the purposes of §§ 773 through 778, a coating labeled and formulated exclusively for use by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

High-volume low-pressure (HVLP) spray – spray equipment permanently labeled HVLP that is designed and operated between one tenth of a pound (0.1 lb.) and ten pounds (10.0 lb.) per square inch gauge (psig) air atomizing pressure, measured dynamically at the center of the air cap and at the air horns.

Mobile equipment – equipment that may be drawn or driven or is capable of being drawn or driven on a roadway or rails, including but not limited to: automobiles, trucks, truck cabs, truck bodies, truck trailers, buses, motorcycles, utility bodies, camper shells, mobile cranes, bulldozers, street cleaners, golf carts, ground support vehicles used in support of aircraft activities at airports, implements of animal husbandry or agriculture and farm equipment, and trains and railcars.

Multicolor coating – a coating that exhibits more than one color in the dried film after a single application, is packaged in a single container, hides surface defects on areas of heavy use, and is applied over a primer or adhesion promoter.

Solvent –

- (a) For purposes of § 718, a fluid containing organic compounds added to a coating, including reducers and thinners.
- (b) For all other purposes in this chapter, organic compounds that are used as diluents, thinners, solvers, viscosity reducers, cleaning agents or other related uses.

The following definitions are added, each to be inserted in alphabetical order within the existing list of definitions:

Adhesion promoter - an automotive coating labeled and formulated to be applied to uncoated plastic surfaces to facilitate bonding of subsequent coatings and on which a subsequent coating is applied.

Air-assisted airless spray - coating spray technology that uses compressed air to shape and distribute the fan of atomized coating but still uses fluid pressure to create the atomized coating.

As applied - the VOC and solids content of a coating that is actually used to coat the substrate. The term includes the contribution of materials used for in-house dilution of the coating.

As supplied - the VOC and solids content of a coating as sold and delivered to the end user.

Assembly line - an arrangement of industrial equipment and workers in which the product passes from one specialized operation to another until complete, by either automatic or manual means.

Associated parts and components - a structure, device, piece, module, section, assembly, subassembly, or element of a motor vehicle or mobile equipment that is designed to be a part of the motor vehicle or mobile equipment but which is not attached to the motor vehicle or mobile equipment at the time of coating the structure, device, piece, module, section, assembly, subassembly, or element. The term does not include circuit boards.

Automotive coating - a coating or coating component used or recommended for use in motor vehicle or mobile equipment refinishing, service, maintenance, repair, restoration, or modification, except metal plating activities. A reference to automotive refinishing or automotive coating on the container, on a label affixed to the container or in sales, advertising, technical or product literature constitutes a recommendation for use in motor vehicle or mobile equipment refinishing, coating, or recoating.

Automotive coating component - a portion of a coating, including a reducer or thinner, toner, hardener, and additive, which is recommended by a person to distributors or end-users for use in an automotive coating, or which is supplied for or used in an automotive coating. The raw materials used to produce the components are not considered automotive coating components.

Automotive pretreatment coating – a coating that:

- (a) Contains a minimum of one half percent (0.5%) acid by weight and not more than sixteen percent (16%) solids by weight necessary to provide surface etching; and
- (b) Is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and adhesion.

Automotive primer - a coating, including pigmented automotive primers, labeled and formulated for application to a substrate to provide one (1) or more of the following:

- (a) A bond between the substrate and subsequent coats;
- (b) Corrosion resistance;
- (c) A smooth substrate surface; or
- (d) Resistance to penetration of subsequent coats, and on which a subsequent coating is applied.

Automotive refinishing facility - a shop, business, location, or parcel of land where motor vehicles or mobile equipment or their associated parts and components are coated, including autobody collision repair shops. The term does not include the original equipment manufacturing plant where the new motor vehicle or new mobile equipment is completely assembled.

Cleanup solvent – a VOC-containing material used to remove a loosely held uncured (such as, not dry to the touch) adhesive or sealant from a substrate, or clean equipment used in applying a material.

Clear coating - a coating that contains no pigments and is labeled and formulated for application over a color coating or clear coating. A clear coating may contain talc or silica, which are not pigments.

Coating solids – the nonvolatile portion of the coating that makes up the dry film.

Color coating - a pigmented coating, excluding adhesion promoters, primers, and multicolor coatings, which requires a subsequent clear coating and is applied over a primer, adhesion promoter, or color coating. The term includes metallic/iridescent color coatings.

Electrostatic spray application - a coating application method where an electrostatic attraction is created between the part to be coated and the atomized coating particles.

Graphic arts operation - the application of logos, letters, numbers, or graphics to a painted surface by brush, roller, or airbrush.

Metallic/iridescent color coating - a coating that contains more than five (5) grams per liter (forty-two one thousandths, or 0.042, pounds per gallon) of metal or iridescent particles as applied, where the particles are visible in the dried film.

Motor vehicle – any motor vehicle, as defined in § 1(a) of Title IV of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 679; D.C. Official Code § 50-1501.01).

Other automotive coating type - an automotive coating that does not meet the definitions for the specified automotive coating categories in Table I of § 718.

Single-stage coating - a pigmented coating, excluding primers and multicolor coatings, labeled and formulated for application without a subsequent clear coat.

Spot repair - repair of an area of less than one (1) panel in size on a motor vehicle, piece of mobile equipment, or associated parts or components. There are several coating operations unique to spot repair that utilize a solvent only and in some cases a blend of solvent with appropriate film forming solids. As the blend required and the appropriate VOC content may vary depending upon the nature and extent of the spot repair, no VOC limits are specified for this operation which is limited to spot repair.

Temporary protective coating - a coating labeled and formulated for the purpose of temporarily protecting areas from overspray or mechanical damage.

Transfer efficiency - the amount of coating solids adhering to the object being coated divided by the total amount of coating solids sprayed, expressed as a percentage.

Truck bed liner coating - a coating, excluding clear, color, multicolor, and single-stage coatings, labeled and formulated for application to a truck bed to protect it from surface abrasion.

Underbody coating - a coating labeled and formulated for application to wheel wells, the inside of door panels or fenders, the underside of a trunk or hood, or the underside of the motor vehicle.

Uniform finish coating - a coating labeled and formulated for application to the area around a spot repair for the purpose of blending a repaired area's color or clear coat to match the appearance of an adjacent area's existing coating.

U.S. EPA or EPA – the United States Environmental Protection Agency.

Please direct all comments on these proposed rules, in writing, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, care of “Autobody Paint Regulations,” Department of Energy and Environment, 1200 First Street, N.E., 5th Floor, Washington D.C. 20002, by U.S. mail, or via email at jessica.daniels@dc.gov. Copies of the proposed rule may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above for a small fee to cover the cost of reproduction.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-031
March 1, 2016

SUBJECT: Delegation — Authority to the Secretary of the District of Columbia to Issue Notary Public Regulations


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(2) and (6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) and (6) (2014 Repl.), and section 558 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (D.C. Law 18-223; D.C. Official Code § 1-1201, as amended by the Notaries Public Authentications and License Fee Amendment Act of 2010, effective September 24, 2010 (57 DCR 6242, 6259 (July 23, 2010)) (the "Act"), it is hereby **ORDERED** that:

1. The Secretary of the District of Columbia is delegated the Mayor's authority under Section 558 of the Act to issue Notary Public regulations, including rules to establish and amend fees.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-032
March 3, 2016

SUBJECT: Establishment — Marijuana Private Club Task Force

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), it is hereby **ORDERED** that:

I. ESTABLISHMENT.

There is established in the executive branch of the District of Columbia government the Marijuana Private Club Task Force (“**Task Force**”).

II. PURPOSE AND FUNCTIONS.

- A. The Task Force shall provide a report making recommendations regarding the potential licensing and operation of venues at which marijuana may be consumed that are within the lawful parameters for the possession, use, and transfer of marijuana set forth in section 401(a)(1) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01(a)(1)).
- B. If the Task Force recommends future protocols authorizing the licensing and operation of such venues, the report shall include recommendations regarding effective ways to regulate those venues to ensure the health and safety of staff, members, and invitees and the health and safety of the nearby public and general public, including recommendations regarding the following specific topics:
1. Hours of operation;
 2. Occupancy limits;
 3. Whether food or beverages (alcoholic and non-alcoholic) may be sold at the venue;
 4. The District agencies that should be involved in regulating the venues;

5. Security plans;
 6. The amount of marijuana an individual shall be permitted to possess at the venue;
 7. Whether a venue can store marijuana for a member or invitee of a venue;
 8. Penalties for violating the regulations;
 9. Licensing, including the requirements for licensure, such as proof of compliance with all applicable District laws, the application procedure, and fee structure;
 10. Cost of membership or admission;
 11. Limits on the location and number of venues allowed to operate in the District; and
 12. How all District residents can utilize the benefits of the Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014, effective February 26, 2015 (D.C. Law 20-153; 62 DCR 880).
- C. The report may also include:
1. Recommendations for civil and criminal sanctions that may be imposed for violations of laws regulating marijuana usage in a private club;
 2. Recommended amendments to Chapter 28 of Title 47 of the District of Columbia Official Code that allow the Mayor to revoke any license, certificate of occupancy, or permit held by an entity that knowingly permits a violation of section 301(a) of the Marijuana Possession Decriminalization Amendment Act of 2014, effective March 31, 2014 (D.C. Law 20-305; D.C. Code § 16-2301(7)); and
 3. Any other recommendations the Task Force considers appropriate.
- D. The Task Force shall complete its analysis and submit a report, along with any proposed recommendations, to the Council and the Mayor for review within one hundred and twenty (120) days after the effective date of this Order.

III. MEMBERSHIP.

- A. The Task Force shall consist of the following seven (7) members:
1. The following four (4) members or their designees, who shall be appointed by the Mayor:
 - a. The Director of the Alcoholic Beverage Regulation Administration;
 - b. The Director of the Department of Consumer and Regulatory Affairs;
 - c. The Director of the Department of Health;
 - d. The Chief of the Metropolitan Police Department;
 2. The Attorney General for the District of Columbia, or the Attorney General's designee; and
 3. Two (2) members of the Council of the District of Columbia, as appointed by the Council, or the members' designees.
- B. The Director of the Department of Health, or the director's designee, shall serve as the Chairperson of the Task Force.
- C. All members of the Task Force shall serve at the pleasure of the appointing authority.

IV. TASK FORCE MEETINGS.

- A. The Task Force shall meet at least once monthly, at the call of the Chairperson.
- B. The Task Force may meet at any other time at the call of the Chairperson.

V. ADMINISTRATION.

The Office of the Deputy Mayor for Public Safety and Justice shall provide technical and administrative support to the Task Force.

VI. SUNSET.

The Task Force shall sunset upon its issuance of the report required by Section II (D).

VII. EFFECTIVE DATE.

This Order shall become effective immediately.


MURIEL BOWSER
MAYOR

ATTEST:


LAUREN C. VAUGHAN

SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor’s Order 2016-033
March 7, 2016

SUBJECT: Delegation — Authority to the Director of the District Department of Transportation Pursuant to the Washington Metropolitan Area Transit Authority Safety Regulation Act of 1997 (Transfer funds to Metropolitan Washington Council of Governments to assist the District in creating a joint safety oversight agency)

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2014 Repl.), and section 8a of the Washington Metropolitan Area Transit Authority Safety Regulation Act of 1997, effective September 23, 1997 (D.C. Law 12-20; to be codified as D.C. Official Code § 9-1109.07a, as amended by the Washington Metropolitan Area Transit Authority Safety Regulation Emergency Amendment Act of 2015, effective January 6, 2016 (D.C. Act 21-256; 63 DCR 524 (January 15, 2016)) (the “Act”), and any substantially similar emergency, temporary, and permanent versions of the Act, it is hereby **ORDERED** that:

1. The authority vested in the Mayor by section 8a of the Act is delegated to the Director of the District Department of Transportation (the “**Director**”).
2. The Director may further delegate all or part of the authority delegated pursuant to this Mayor’s Order to subordinates under the Director’s jurisdiction.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



 MURIEL BOWSER
 MAYOR

ATTEST: 

 LAUREN C. VAUGHAN
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

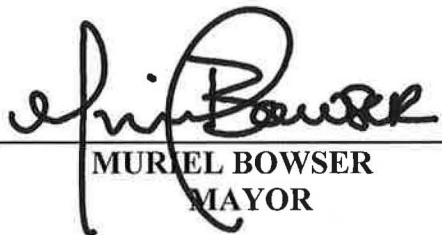
Mayor's Order 2016-034
March 7, 2016

SUBJECT: Authorization to Receive — Anatomical Gifts

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and in accordance with the Uniform Anatomical Gift Revision Act of 2008, effective April 15, 2008, D.C. Law 17-145; D.C. Official Code § 7-1531.10 (2012 Repl.), it is hereby **ORDERED** that:

1. The Department of Consumer and Regulatory Affairs, on behalf of the Board of Funeral Directors, is hereby authorized to receive anatomical gifts for educational purposes to test the knowledge of candidates for licensure as funeral directors in the District.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHN

SECRETARY OF THE DISTRICT OF COLUMBIA

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

**NOTICE OF PUBLIC HEARINGS
CALENDAR**

**WEDNESDAY, MARCH 16, 2016
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009**

**Donovan W. Anderson, Chairperson
Members: Nick Alberti, Mike Silverstein,
Ruthanne Miller, James Short**

Protest Hearing (Status) Case # 16-PRO-00011; GoBrands, Inc., t/a GoPuff-Rive, 3401 Water Street NW, License #101261, Retailer A, ANC 2E Application for a New License	9:30 AM
Protest Hearing (Status) Case # 16-PRO-00010; El Agave Tex Mex Rest., LLC, t/a Villa Tuscana 1723 Columbia Road NW, License #100312, Retailer CR, ANC 1C Application for a New License	9:30 AM
Show Cause Hearing (Status) Case # 15-251-00224, Debebe Addis, t/a Mesobe Restaurant and Deli Market 1853 7th Street NW, License #81030, Retailer CR, ANC 1B Chief of Police Closure December 14, 2015	9:30 AM
Show Cause Hearing (Status) Case # 15-CMP-00530; Pacifico on Eight, LLC, t/a Pacifico Cantina, 514 8th Street SE, License #86033, Retailer CR, ANC 6B Failed to Take Steps Necessary to Ensure Property is Free of Litter	9:30 AM
Status Hearing* Case # 16-251-00010; Barcode Corporation, t/a Barcode, 1101 17th Street NW License #82039, Retailer CT, ANC 2B Follow-up To Summary Suspension Hearing on February 11, 2016	9:30 AM
Fact Finding Hearing* Case # 16-251-00011; GT Capitol, LLC/The Green Turtle Franchising, t/a The Green Turtle, 601 F Street NW, License #76676, Retailer CR, ANC 2C Assault with a Dangerous Weapon	9:30 AM

Board's Calendar

March 16, 2016

Show Cause Hearing*

10:00 AM

Case # 15-CMP-00354; Black 14th Street NW, LLC, t/a Pearl Dive Oyster Palace/Black Jack, 1612 14th Street NW, License #85354, Retailer CR ANC 2F

Substantial Change without the Board's Approval (Increase in Occupancy)

Show Cause Hearing*

11:00 AM

Case # 15-AUD-00060; Nispero, LLC, t/a El Nuevo Migueleno, 1721 Columbia Road NW, License #75403, Retailer CR, ANC 1C

Failed to File Quarterly Statements (4th Quarter 2014)

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA

1:00 PM

Show Cause Hearing*

1:30 PM

Case # 15-251-00081; Da Luft DC, Inc., t/a Da Luft Restaurant & Lounge, 1242 H Street NE, License #87780, Retailer CR, ANC 6A

Interfered with an Investigation, Failed to Preserve a Crime Scene, Failed to Notify Board of Change in Corporate Structure

Protest Hearing*

1:30 PM

Case # 16-PRO-00003; Edgy Craft, LLC, t/a Craft Beer Cellar DC, 301 H Street NE, License #100882, Retailer A, ANC 6C

Application for a New License

Remand Hearing*

2:30 PM

Asefu Alemayehu t/a Yegna; 1920 9th Street NW, License #74241, Retailer CT ANC 1B

Hearing Request

Protest Hearing*

3:30 PM

Case # 15-PRO-00121; Colorado & Cohen, LLC, t/a Bullfrog Bagels, 317 7th Street SE, License #100249, Retailer CR 5E

Application for a New License

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, MARCH 16, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On March 16, 2016 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#16-251-00024 Red Lounge Hookah, 2013 A 14TH ST NW Retailer C Restaurant, License#: ABRA-076011

2. Case#16-CC-00020 Kearney's Grocery, 90 O ST NW Retailer B Retail - Grocery, License#: ABRA-078591

3. Case#16-CMP-00092 Noble Lounge, 1915 9TH ST NW Retailer C Tavern, License#: ABRA-085258

4. Case#16-251-00019 EL REY, 919 U ST NW Retailer C Tavern, License#: ABRA-086604

5. Case#16-CC-00016 7TH L Street Market, 700 L ST SE Retailer B Retail - Class B, License#: ABRA-088611

6. Case#16-CC-00004 Wheeler Market, 4133 WHEELER RD SE Retailer B Retail - Grocery, License#: ABRA-088835

7. Case#16-CC-00018 Yes Organic Market, 410 8TH ST SE Retailer B Retail - Grocery, License#: ABRA-089539

8. Case#16-251-00007 Echostage, 2135 QUEENS CHAPEL RD NE Retailer C Nightclub,
License#: ABRA-090250
-
9. Case#16-251-00020 Echostage, 2135 QUEENS CHAPEL RD NE Retailer C Nightclub,
License#: ABRA-090250
-
10. Case#16-251-00021 Echostage, 2135 QUEENS CHAPEL RD NE Retailer C Nightclub,
License#: ABRA-090250
-
11. Case#16-251-00022 Echostage, 2135 QUEENS CHAPEL RD NE Retailer C Nightclub,
License#: ABRA-090250
-
12. Case#16-251-00023 Echostage, 2135 QUEENS CHAPEL RD NE Retailer C Nightclub,
License#: ABRA-090250
-
13. Case#15-CMP-00976 New H Wine & Spirits, 914 H ST NE Retailer A Retail - Liquor Store,
License#: ABRA-093550
-
14. Case#16-CMP-00138 G Street Food at premises, 1030 15TH ST NW Retailer C Restaurant,
License#: ABRA-094010
-
15. Case#15-CMP-00879(a) Le Pain Quotidien, 433 MASSACHUSETTS AVE NW Retailer D
Restaurant, License#:ABRA-093865
-
16. DC Dragon Martial Arts Training Center, 1731 Rhode Island AVE, NE, Unlicensed
-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, MARCH 16, 2016 AT 1:00 PM
2000 14th STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request to Extend Safekeeping Status of License – First Request. Original Safekeeping Date: 10/21/2015. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Phase I of Dupont*, 1415 22nd Street NW, Retailer CT, License No. 087629.
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2. Review Request to Extend Safekeeping Status of License for 6 months – Second Request. Original Safekeeping Date: 5/20/2015. ANC 2A. SMD 2A02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *2401 Penn Avenue Holding Entity LLC*, 2401 Pennsylvania Avenue NW, Retailer CR, License No. 098988.
-

3. Review Request to Extend Safekeeping Status of License for 6 months – Third Request. Original Safekeeping Date: 7/7/2014. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *To Be Determined (Halifax 21 LLC)*, 2032 P Street NW, Retailer CR, License No. 096045.
-

4. Review Request to Extend Safekeeping Status of License – Fourth Request. Original Safekeeping Date: 3/11/2013. ANC 1C. SMD 1C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Duchess and the Queen*, 2102 18th Street NW, Retailer CR, License No. 089545.
-

5. Review Application for New CX Multipurpose Facility License. ANC 2B. SMD 2B06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Eritrean Cultural Center*, 1214 18th Street NW, Retailer CX, License No. 102052.
-

***In accordance with D.C. Official Code §2-574(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

CARLOS ROSARIO PUBLIC CHARTER SCHOOL

NOTICE OF INTENT TO AWARD SOLE SOURCE CONTRACT

ProActive School

Notice of Intent to Award Sole Source Contract to ProActive School to purchase, host, maintain, and update their proprietary system. Please contact Gwen Ellis, Business Manager via email gellis@carlosrosario.org with questions.

CENTER CITY PUBLIC CHARTER SCHOOLS, INC.**REQUEST FOR QUALIFICATIONS****Summer 2016 PK-3 Expansion**

Center City Public Charter Schools, Inc. is requesting QUALIFICATIONS for contractors, specifically those with experience in school projects conducted on very tight schedules.

Center City PCS has been approved by the District of Columbia Public Charter School Board (PCSB) to expand its current academic program at three of its campuses to include a PK-3 class for SY 2016-2017. This job is a summer blitz and must be completed between the dates of June 18 and August 10, 2016.

To obtain copies of full RFQ, please visit our website: www.centercitypcs.org. The full RFQ's contain guidelines for submission, applicable qualifications and deadlines.

Contact person:

Natasha Harrison
nharrison@centercitypcs.org

OFFICE OF THE CHIEF FINANCIAL OFFICER
Office of Revenue Analysis

District of Columbia Motor Fuel Tax Remains Unchanged
Effective April 1, 2016

Pursuant to D.C. Official Code § 47-2301, the District of Columbia is required to levy and collect a tax on motor vehicle fuels equal to 8 percent of the average wholesale price of a gallon of regular unleaded gasoline. The average wholesale price is to be calculated semi-annually and in no case shall the price computed be less than \$2.94. The computed average wholesale price should also not vary by more than 10 percent from the prior period's average price. The average wholesale price is computed by using the monthly Regular Gasoline Wholesale/Resale Price by Refiners provided by the Energy Information Administration for the Central Atlantic (PADD 1B) region for the six month periods ending in June and December each year.

For the six month period ending December 31, 2015, the computed average wholesale price of a gallon of gasoline was less than \$2.94. Accordingly, the tax, computed at 8 percent of the \$2.94 minimum price, remains at 23.5 cents per gallon for the period of April 1, 2016 through September 30, 2016.

DC INTERNATIONAL SCHOOL**REQUEST FOR PROPOSALS****Wired and Wireless Network Internet Structure
Fiber Internet Services**

District of Columbia International School is soliciting for procurement of wired and wireless network infrastructure and fiber internet services. More details about this announcement can be found in the RFP posted at <http://dcinternationalschool.org/request-for-proposals/>. Proposals must be submitted no later than 8:00 am on Monday, April 11, 2016.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT ON DISABILITY SERVICES

AMENDED NOTICE OF BI-MONTHLY PUBLIC MEETINGS

D.C. State Rehabilitation Council (SRC) to Hold Bi-Monthly Public Meetings

**Department on Disability Services
Rehabilitation Services Administration
1125 15th Street, NW
Washington, DC 20005**

The D.C. State Rehabilitation Council will hold bi-monthly public meetings regarding the operation of the D.C. State Vocational Rehabilitation Program, as mandated by the Rehabilitation Act of 1973, as amended. The following meetings are to be conducted from 9:30 am to 12:00 noon:

Dates	Location
Thursday, January 14, 2016	1125 15 th Street, NW, Room 1A
Thursday, April 14, 2016	1125 15 th Street, NW, Room 1A
Thursday, May 12, 2016	1125 15 th Street, NW, Room 1A
Thursday, July 14, 2016	250 E Street, SW, Room TBD
Thursday, September 8, 2016	250 E Street, SW, Room TBD
Thursday, November 10, 2016	250 E Street, SW, Room TBD

All meetings are open to the public. Individuals who wish to attend should RSVP at least seven (7) days prior to the meeting by contacting Ms. Cheryl Bolden by calling 202-442-8411 or by email to cheryl.bolden@dc.gov. Please note that the prior Notice of Bi-Monthly Public Meetings, which was published in the *D.C. Register* on December 4, 2015, at 62 DCR 15742, included a meeting on March 10, 2016, which was re-scheduled to April 14, 2016.

If you require reasonable accommodations for attendance, please call 202-442-8411 or email cheryl.bolden@dc.gov at least seven (7) days before the public meeting to ensure appropriate accommodations.

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

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

VACANT: 4A05

Petition Circulation Period: **Monday, March 14, 2016 thru Monday, April 4, 2016**
Petition Challenge Period: **Thursday, April 7, 2016 thru Wednesday, April 13, 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

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #13, Ward 2 Polling Place.

The public is advised that the proposed voting area for Precinct #13 will be changed from:

**Our Lady Queen of the Americas Church
2200 California Street, N.W.
“Auditorium”**

and moved to:

**St. Margaret’s Episcopal Church
1820 Connecticut Avenue, N.W.
“Parish Hall”**

The relocation was proposed because the facility is not fully accessible under the Americans with Disabilities Act (ADA).

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #36, Ward 1 Polling Place.

The public is advised that the proposed voting area for Precinct #36 will be changed from:

**Latin American Youth Center
1419 Columbia Road, N.W.
“Community Room”**

and moved to:

**Columbia Heights Community Center
1480 Girard Street, N.W.
“Gymnasium”**

The relocation was proposed due to limited space at the current site and the completed renovations at the new site.

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #51, Ward 4 Polling Place.

The public is advised that the proposed voting area for Precinct #51 will be changed from:

**Lafayette Elementary School
5701 Broad Branch Road, N.W.
“Gymnasium”**

and moved to:

**St. Johns College High School
2607 Military Road, N.W.
“Gymnasium”**

The relocation was proposed because the Board learned that the facility would not be available for use on the dates requested due to scheduled renovation of the facility.

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #88, Ward 6 Polling Place.

The public is advised that the proposed voting area for Precinct #88 will be changed from:

**Thankful Baptist Church
1401 Independence Avenue, S.E.
“Church Hall”**

and moved to:

**Eastern Market (North Hall)
225 7th Street, S.E.
“North Hall”**

The relocation was proposed because the facility is not fully accessible under the Americans with Disabilities Act (ADA).

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #92, Ward 7 Polling Place.

The public is advised that the proposed voting area for Precinct #92 will be changed from:

**Kenilworth Elementary School
1300 44th Street, N.E.
“Auditorium”**

and moved to:

**Cesar Chavez PCS Parkside Campus
3701 Hayes Street, N.E.
“Gymnasium”**

The relocation was proposed because the Board learned that the facility would not be available for use on the dates requested due to scheduled renovation of the facility.

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #101, Ward 7 Polling Place.

The public is advised that the proposed voting area for Precinct #101 will be changed from:

**Beyond the Veil Worship Center
3433 Benning Road, N.E.
“Church Hall”**

and moved to:

**River Terrace Education Campus
420 34th Street, N.E.
“Multi-Purpose Room”**

The relocation was proposed because the Board learned that the facility would be available for use on the dates requested due to completed renovations.

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS**Public Notice of Proposed Polling Place Relocation**

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #115, Ward 8 Polling Place.

The public is advised that the proposed voting area for Precinct #115 will be changed from:

**Allen AME Church
2498 Alabama Avenue, S.E.
“Multi-Purpose Room”**

and moved to:

**Seventh District Police Station
2455 Alabama Avenue, S.E.
“Community Room”**

The relocation was proposed because the Board learned that the facility would be available for use on the dates requested due to completed renovations.

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #119, Ward 8 Polling Place.

The public is advised that the proposed voting area for Precinct #119 will be changed from:

**Matthews Memorial Baptist Church
2616 Martin Luther King Jr. Avenue, S.E.
“Fellowship Hall”**

and moved to:

**Barry Farms Recreation Center
1230 Sumner Road, S.E.
“Gymnasium”**

The relocation was proposed due to limited space at the current site and the completed renovations at the new site.

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

Public Notice of Proposed Polling Place Relocation

The Board of Elections hereby gives public notice, in accordance with D.C. Official Code § 1-309.10, of proposed action taken at its March 2, 2016 meeting in relocating Precinct #131, Ward 6 Polling Place.

The public is advised that the proposed voting area for Precinct #131 will be changed from:

**Van Ness Elementary School
1150 5th Street, S.E.
“Auditorium”**

and moved to:

**Arthur Capper Community Center
1005 5th Street, S.E.
“Gymnasium”**

The relocation was proposed because the Board learned that the facility would not be available for use on the dates requested due to scheduled renovation of the facility.

Please note that the relocation will be effective beginning with the upcoming June 14, 2016, Presidential Preference Primary Election. If you have any comments on this matter, please contact Mr. Arlin Budoo at 727-5704 **no later than Monday, April 4, 2016** so that they may be considered before official notice is given to registered voters in the precinct. The Board will take final action on this matter at its regular board meeting scheduled for 10:30 a.m. Wednesday, April 6, 2016. The Board will individually notify all registered voters in the precinct of this change, subsequent to the Board’s final action.

For further information, members of the public may contact the Board of Elections at 727-2525.

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

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4th Floor, Washington, DC 20005 on **Wednesday, March 9, 2016 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 736 088 913. The Executive Board meeting is open to the public.

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

**DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH (DOH)
COMMUNITY HEALTH ADMINISTRATION (CHA)**

**NOTICE OF FUNDING AVAILABILITY (NOFA)
Request for Applications # CHA.5SBHC.04.01.16**

**Anacostia, Ballou, Cardozo, Coolidge, Dunbar, H.D. Woodson and Roosevelt Senior High
Schools**

School Based Health Centers

The Government of the District of Columbia, Department of Health (DOH), Community Health Administration (CHA) is soliciting applications from qualified applicants to improve access to care for high school students by operating existing and newly constructed School Based Health Centers (SBHC).

Approximately \$2,275,000.00 in local appropriated funds is anticipated to be available for these grants for Fiscal Year 2016 (FY16). The local funds anticipated to be awarded to the eligible provider by the Department of Health's Community Health Administration are for services to residents of the District of Columbia. All awards resulting from this RFA are contingent upon the continued availability of local funds.

Eligible applicants include public and private non-profit organizations serving District residents. Considered for funding shall be organizations meeting the eligibility criteria and having documentation of providing primary care services to adolescents in an ambulatory care setting.

Eligible Use of Funds: The Grant awarded under this RFA will be used exclusively to pay costs associated with the operation of the school-based health center at each Senior High School where a SBHC is located, including the cost of medical and dental equipment and supplies and operating costs for up to two years.

Application Process: The Request for Application # CHA.5SBHC.04.01.16 will be released on Friday, April 1, 2016. The RFA will be posted on the Office of Partnerships and Grant Services website, under the District Grants Clearinghouse <http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>. A limited number of copies of the RFA will be available for pick up at DOH/CHA offices located at 899 North Capitol Street, NE Washington, DC 20002 3rd floor.

The deadline for submission is Monday May 2, 2016 at 4:15 pm. All applications must be received in the DOH/CHA suite on the third floor by 4:15 pm. **Late submissions and incomplete applications will not be forwarded to the review panel.**

A Pre-Application Conference will be held at the CHA offices located at 899 North Capitol Street, NE Washington, DC 20002 3rd floor on **Friday April 8, 2016, from 11:00 am to 12:30 pm**. Please contact Luigi Buitrago at 202-442-9154 or luigi.buitrago@dc.gov for additional information.

**CHA is located in a secured building. Government issued identification must be presented for entrance.

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

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

Designation Case No. 11-05: Southern Railway Building

1500 K Street NW (Square 199, Lot 832)

Designated February 25, 2016

Designation Case No. 15-02: Lincoln Playground Field House

555 L Street SE (Square 853N, Part of Lots 807 and 811)

Designated February 25, 2016

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

KIPP DC PUBLIC CHARTER SCHOOLS**REQUEST FOR PROPOSALS****HVAC Replacement**

KIPP DC is soliciting proposals from qualified vendors for an HVAC Replacement. 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 March 25, 2016. Questions can be addressed to jsalsbury@pmmcompanies.

REQUEST FOR PROPOSALS**Storefront Door Hardware Replacement**

KIPP DC is soliciting proposals from qualified vendors for Storefront Door Hardware Replacements. 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 March 25, 2016. Questions can be addressed to jsalsbury@pmmcompanies.

INTENT TO ENTER A SOLE SOURCE CONTRACT**Curriculum**

KIPP DC intends to enter into a sole source contract with Delta Education for FOSS science curriculum. The decision to sole source is due to the fact that Delta Education is the exclusive provider of this curriculum upon which the instructional model is built. The cost of the contract will be approximately \$91,801.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD**NOTIFICATION OF DATE CHANGE FOR MARCH BOARD MEETING**

The District of Columbia Public Charter School Board (“PCSB”) hereby gives notice of a date change for its March 2016 public board meeting. The March board meeting will be on Tuesday, March 22, 2016 at 6:30pm. An agenda will be published on our website at www.dcpsb.org.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PUBLIC NOTICE

FORMAL CASE NO. 1137 - IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO INCREASE EXISTING RATES AND CHARGES FOR GAS SERVICE

The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to D.C. Code § 34-901 and 34-909, that on February 26, 2016, Washington Gas Light Company (“sting rates and charges for gas service in the District of Columbia. The requested rates are designed to collect approximately \$171.7 million in total revenues, which represents an increase in the Company’s weather-normalized annual revenues of no more than \$17.4 million, reflecting an overall increase of approximately 7.6% in revenues over and above current bills. The revenue increase includes \$4.5 million associated with natural gas system upgrades previously approved by the Commission and currently paid by customers through monthly surcharges.

The proposed changes in base rates for firm customers’ Customer Charge and Distribution Charges are summarized below.

The first element of a firm customer’s bill is the Customer Charge, and the proposed changes are as follows:

Type of Customer	Current Monthly Customer Charge	Proposed Monthly Customer Charge
RESIDENTIAL		
Heating/Cooling	\$9.90	\$12.40
Non-Heating/Non-Cooling:		
Individually		
Metered Apts.	\$5.30	\$6.60
Other	\$6.30	\$7.90
COMMERCIAL & INDUSTRIAL		
Heating/Cooling:		
Small	\$17.10	\$21.40
Large	\$33.00	\$41.30
Non-Heating/Non-Cooling	\$14.00	\$17.50
GROUP METERED APARTMENTS		
Heating/Cooling:		
Small	\$17.10	\$21.40

FC 1137 WGL Rate Filing

Large	\$33.00	\$41.30
Non-Heating/Non-Cooling	\$14.00	\$17.50

INTERRUPTIBLE

All Customers	\$80.00	\$100.00
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The second element of a firm customer’s bill is the Distribution Charge per therm. The current and proposed basic charges are:

Type of Customer	Current Distribution Charge Per Therm	Proposed Distribution Charge Per Therm
RESIDENTIAL		
All gas used during the billing month		
Heating/Cooling	\$0.4067	\$0.4873
Non-Heating/Non-Cooling	\$0.4434	\$0.5373
COMMERCIAL & INDUSTRIAL		
All gas used during the billing month		
Heating/Cooling:		
Small	\$0.3802	\$0.4246
Large	\$0.3802	\$0.4037
Non-Heating/Non-Cooling	\$0.3789	\$0.3873
GROUP METERED APARTMENTS		
Heating/Cooling		
Small	\$0.3802	\$0.3819
Large	\$0.3802	\$0.4138
Non-Heating/Non-Cooling	\$0.3789	\$0.3989

The third element of a Commercial & Industrial and Group Metered Apartments firm customer’s bill is the Peak Usage Charge. The current and proposed charges are:

	<u>Present</u>	<u>Proposed</u>
Rate per therm of peak		

FC 1137 WGL Rate Filing

month usage from prior year \$0.0272 \$0.0308

If granted in full, the average monthly effects of the proposed increase on the average residential sales service customer will be:

Type of Customer	Annual Therm Usage	Average Monthly Increase	Percent Increase
RESIDENTIAL			
Heating/Cooling	811	\$7.94	9.6%
Non-Heating/Non-Cooling:			
Individually Metered			
Apts.	64	\$1.80	16.0%
Other	445	\$5.08	10.7%
COMMERCIAL & INDUSTRIAL			
Heating/Cooling:			
Small	2,346	\$13.71	6.0%
Large	17,865	\$48.78	3.0%
Non-Heating/Non-Cooling	5,680	\$8.64	1.7%
GROUP METERED APARTMENTS			
Heating/Cooling:			
Small	2,702	\$5.55	2.1%
Large	16,621	\$59.97	3.9%
Non-Heating/Non-Cooling	5,266	\$13.51	2.8%

In its application, Washington Gas proposes rate design innovations for the benefit of customers and the Company, including the following:

- **Revenue Normalization Adjustment:** Washington Gas has included a request to establish a revenue normalization adjustment (“RNA”) in its proposed rate structure. The proposed RNA would reduce fluctuations in customers’ bills resulting from extreme weather patterns. Washington Gas operates with similar normalization adjustments in its Maryland and Virginia service territories.
- **Combined Heat and Power:** Washington Gas has proposed a commercial framework for the delivery of natural gas for Combined Heat and Power (“CHP”) systems. Fueled by natural gas, highly efficient CHP systems capture vented heat during the power generation process and use this heat for space heating and cooling. CHP systems are up to 80 percent energy efficient and require less fuel to produce energy.
- **Multifamily Development:** Washington Gas has proposed an incentive program for developers of multifamily housing projects in the District of Columbia. These would bring

FC 1137 WGL Rate Filing

the benefits of natural gas, including lower energy bills and reduced carbon emissions, to more residents in the District of Columbia.

Washington Gas's Application is available for inspection at the Public Service Commission's Office of the Commission Secretary, 1325 G Street, N.W., 8th Floor, Washington, D.C. 20005 between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday. Copies of the Application can be purchased at the Commission at a cost of \$0.15 per page, actual reproduction cost. Washington Gas's Application can be viewed on the Commission's website, www.dcpssc.org. Washington Gas's Application may also be inspected at the following public libraries:

Ward	Name and Address
Main	Martin Luther King Memorial Library 9 th & "G" Streets, NW
Ward 1	Mount Pleasant Library 16 th & Lamont Street, NW
Ward 2	Southwest Library Wesley Place & "K" Street, SW
Ward 3	Cleveland Park Library Connecticut Avenue & Macomb Street, NW
Ward 4	Petworth Library Georgia Avenue & Upshur Street, NW
Ward 5	Woodridge Library Rhode Island Avenue & 18 th Street, NE
Ward 6	Southeast Library 7 th & "D" Streets, SE
Ward 7	Capitol View Library Central Avenue & 50 th Street, SE
Ward 8	Washington-Highlands Library Atlantic Street & South Capitol Terrace, SW

FC 1137 WGL Rate Filing

Any person desiring to intervene in the proceeding shall file a petition to intervene with the Commission no later than **March 21, 2016**. All petitions shall conform to the requirements of the Commission's Rules of Practice and Procedure as set forth in Chapter 1, Section 106 of Title 15 of the District of Columbia Municipal Regulations (15 DCMR § 106, *et seq.* (1998)). All written comments and petitions for intervention should be sent to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 "G" Street, NW, 8th Floor, Washington, DC 20005.

The Public Service Commission will hold a Pre-Hearing Conference on the Application at 11:30 a.m., on **March 23, 2016**, 1325 "G" Street, NW, 8th Floor, Washington, DC, 20005. At the Pre-Hearing Conference, Participants shall be prepared to discuss proposed issues and procedural schedules.

DISTRICT OF COLUMBIA RETIREMENT BOARD

INVESTMENT COMMITTEE

NOTICE OF CLOSED MEETING

March 17, 2016

10:00 a.m.

DCRB Board Room
900 7th Street, N.W.
Washington, D.C 20001

On Thursday, March 17, 2016, at 10:00 a.m., the District of Columbia Retirement Board (DCRB) will hold a closed investment committee meeting regarding investment matters. In accordance with D.C. Code §2-575(b)(1), (2), and (11) and §1-909.05(e), the investment committee meeting will be closed to deliberate and make decisions on investments matters, the disclosure of which would jeopardize the ability of the DCRB to implement investment decisions or to achieve investment objectives.

The meeting will be held in the Board Room at 900 7th Street, N.W., Washington, D.C 20001.

For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.Reaves@dc.gov.

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF OPEN PUBLIC MEETING

March 17, 2016
1:00 p.m.

900 7th Street, N.W.
2nd Floor, DCRB Boardroom
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on Thursday, March 17, 2016, at 1:00 p.m. The meeting will be held at 900 7th Street, N.W., 2nd floor, DCRB Boardroom, Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Deborah Reaves, Executive Assistant/Office Manager at (202) 343-3200 or Deborah.reaves@dc.gov.

AGENDA

- | | | |
|-------|------------------------------------|--------------------|
| I. | Call to Order and Roll Call | Chairman Bress |
| II. | Approval of Board Meeting Minutes | Chairman Bress |
| III. | Chairman's Comments | Chairman Bress |
| IV. | Acting Executive Director's Report | Ms. Morgan-Johnson |
| V. | Investment Committee Report | Ms. Blum |
| VI. | Operations Committee Report | Mr. Ross |
| VII. | Benefits Committee Report | Mr. Smith |
| VIII. | Legislative Committee Report | Mr. Blanchard |
| IX. | Audit Committee Report | Mr. Hankins |
| X. | Other Business | Chairman Bress |
| XI. | Adjournment | |

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 April 1, 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 March 11, 2016. 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 PublicEffective: April 1, 2016
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Agajanian	Karine	Anzu Partners 1399 New York Avenue, NW, Suite 601	20005
Albright	Liza	Soapstone Investments, LLC 2935 Albemarle Street, NW	20009
Attabi	Bechir	Global Legalization Services LLC 1725 I Street, NW, Suite 300	20006
Bennett	Jackie Lee	Sheet Metal, Air, Rail and Transportation Workers 1750 New York Avenue, NW	20006
Blau	Marcia G.	Olender Reporting, Inc. 1100 Connecticut Avenue, NW, Suite 810	20036
Brenner	Marci	WashingtonFirstBank 1146 19th Street, NW	20036
Brooker	Joann	Dinsmore & Shohl, LLP 801 Pennsylvania Avenue, NW, Suite 610	20004
Brostrom	Kent D.	Law Offices of Kent D. Brostrom, LLC 5335 Wisconsin Avenue, NW, Suite 440	20015
Brown	Anita R.	American University 4600 Massachusetts Avenue, NW	20016
Bruner	Dedan Kimathi	Office of Human Rights 441 4th Street, NW, Suite 570N	20001
Bullock	Repunzelle R.	Self 2249 16th Street, NE	20018
Campbell	Tiffany	Self (Dual) 43 K Street, NW, Unit 41	20036

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Recommendations for appointment as DC Notaries PublicEffective: April 1, 2016
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Carneiro	Luisa M.	S.C. Herman & Associates Inc 1120 Vermont Avenue, NW, Suite 900	20005
Castillo	Christian	National Cable & Telecommunications Association 25 Massachusetts Avenue, NW, Suite 100	20001
Catania	Joseph	DDC Public Affairs 805 15th Street, NW, Suite 300	20005
Christensen	Amber	Littler Mendelson 815 Connecticut Avenue, NW, Suite 400	20006
Clark	Donna	Self 2418 17th Street, SE	20020
Clark	Carol P.	Quinn Emanuel Urquhart & Sullivan, LLP 777 6th Street, NW, Suite 1100	20001
Coleman	Daris M.	National Women's Law Center 11 Dupont Circle, NW	20036
Comfort	Lisa M.	Self 4104 3rd Street, NW	20011
Cook	Helene	Children's National Medical Center 111 Michigan Avenue, NW	20010
Cooper	Kevin L.	Rockefeller & Company 2121 Park Road, NW	20010
Da Silva	Jill E.	Eastbanc Technologies 1211 31st Street, NW	20007
Daenzer	Emily C.	Joan M. Wilbon & Associates 1120 Connecticut Avenue, NW, Suite 1020	20036
Demissie	Fasil	Crown Captive Insurance 406 Florida Avenue, NW	20001

D.C. Office of the Secretary
 Recommendations for appointment as DC Notaries Public

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Elliott	Kimion A.	Self 401 N Street, NW, Apartment 101	20001
Englebert	G. Delaine	Department of Consumer and Regulatory Affairs 1100 4th Street, SW Suite 700	20220
Finley	Katharine S.	Merrill Lynch 1152 15th Street, NW, Suite 6000	20005
Fullwood	Tiajuan Lenora	Edgewood Brookland Family Support Collaborative 200 K Street, NW Suite 1&3	20001
Galban	Yriaht C.	WMR Immigration Law Group, LLC 1789 Columbia Road, NW, Suite 200	20009
Garcia	Ileana	United States Senate Disbursing Office 127 Hart Senate Office Building	20510
Giles	Linda Patricia	Self (Dual) 2842 Myrtle Avenue, NE	20018
Gleaton	Chamelle P.	The Literacy Lab 1003 K Street, NW, 5th Floor	20001
Griffin	Cyntrill E.	DC FEMS Fire Prevention Division 1100 4th Street, SW, Suite 700	20024
Griffiths	D.	American Bankers Association 1120 Connecticut Avenue, NW, 6th Floor	20036
Gwynn	Darius X.	TD Bank, N.A. 801 17th Street, NW	20006
Hall	Trisha E.	Dentons US, LLP 1900 K Street, NW	20006
Hardy	Amber Kionne	Self (Dual) 2623 11th Street, NW	20001
Haselberger	Stacie	Zuckerman Spaeder LLP 1800 M Street, NW, Suite 1000	20036

**D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public**

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Hein	Tina L.	Goulston & Storrs PC 1999 K Street, NW, Suite 500	20006
Hibbert	Candice	Demers Real Estate, Inc. 1664 Columbia Road, NW	20009
Hibner-Spencer	Jennifer L.	Saul Ewing, LLP 1919 Pennsylvania Avenue, NW, Suite 550	20006
Hill	H. Rosita	Garvey Schubert Barer 1000 Potomac Street, NW, Suite 200	20007
Holland	Leslie A.	Self 723 Decatur Street, NE	20017
Jacob	Pat	The Washington Post 1301 K Street, NW	20071
Janey	Simone A.	Whiteford, Taylor, & Preston, LLP 1800 M Street, NW	20036
Johnson	Maxine R	Premier Bank, Incorporated 1501 K Street, NW	20005
Johnson-Long	Wanda Diane	Self 2025 Fendall Street, SE	20020
Jones	Tiffanie	Diversified Reporting Services, Inc 1101 16th Street, NW, 2nd Floor	20036
Kefas	Fosen	TD Bank, N.A. 1753 Connecticut Avenue, NW	20009
Kelly	Joyce H.	King & Spalding, LLP 1700 Pennsylvania Avenue, NW	20006
Kittrell	Kimatha L.	Center for Audit Quality 1155 F Street, NW, Suite 450	20004
Klapper	Misty	Misty Klapper & Associates 1150 Connecticut Avenue, NW, Suite 900	20036

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries PublicEffective: April 1, 2016
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Kohli	Tara	Skadden, Arps, Slate, Meagher & Flom, LLP 1440 New York Avenue, NW	20005
Kovaly	Tammy L.	King & Spalding, LLP 1700 Pennsylvania Avenue, NW	20006
Lansing	David W.	Congressional Federal Credit Union 50 Independence Avenue, SW	22302
Lee	Andrea B.	Self 1519 Trinidad Avenue, NE	20002
Lee	Linda R.	Self 5702 4th Street, NW	20011
Lewis	Megan	Charles River Associates 1201 F Street, NW, Suite 700	20004
Lloyd	Brandon	TD Bank, N.A. 1753 Connecticut Avenue, NW	20009
Mahmoodi	Krishma Majshda	Cardinal Bank 1776 K Street, NW	20006
Malcolm	Ann	Kelley, Drye & Warren 3050 K Street, NW	20007
Martin	Pamela E.	Hughes Hubbard & Reed, LLP 1775 I Street, NW, Suite 600	20006
Martin	Sally Evans	Prospect Dining, LLC 3251 Prospect Street, NW	20007
Mason	Linda J.	Bredhoff & Kaiser, PLLC 805 15th Street, NW, Suite 1000	20005
May	Cynthia	MCN Build, INC 1214 28th Street, NW	20007
McClary	Rae L.	Carr Maloney P.C. 2020 K Street, NW, Suite 850	20006
McCutchen	Janie A.	Mayer Brown, LLP 1999 K Street, NW	20006

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Megias	Eileen	Office of Human Rights 441 4th Street, NW, Suite 570N	20001
Melgarejo	Pablo D.	Bank Fund Staff Federal Credit Union 1725 I Street, NW, Suite 150	20017
Moreland	Betty J.	S.C. Herman & Associates Inc 1120 Vermont Avenue, NW, Suite 900	20005
Murray	Alexis Catherine	Aetna 20 F Street, NW, Suite 350	20001
O'Connor	Caitlin	ATIS 1200 G Street, NW, Suite 500	20005
Oyeneyin	Jerome	Kelley, Drye & Warren 3050 K Street, NW	20007
Payne	Doris J.	Whiteford, Taylor, & Preston, LLP 1800 M Street, NW, Suite 450N	20036
Petley	Kathleen Lynn	Deposition Services Inc. 2200 Pennsylvania Avenue, NW, 4th Floor East Tower	20037
Queen	Anita L.	The Roberts Law Group, PLLC 1717 K Street, NW, Suite 900	20006
Redmond	Jaqueline T.	Amtrak National Passenger Corporation 60 Massachusetts Avenue, NE	20002
Riggs	Stephanie	United States State Department 2201 C Street, NW	20520
Riley	Laura E.	Picard Kentz & Rowe, LLP 1750 K Street, NW, Suite 800	20006
Roberts	Erika M.	The K at City Vista 475 K Street, NW	20001
Rottner	Adam Micheal	King & Spalding LLP 1700 Pennsylvania Avenue, NW	20006
Salter	Samantha Jane	Tier Reit, Inc 1325 G Street, NW, Suite 110	20005

**D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public**

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Shattuck	Kayla	Bohler DC, LLC 1301 Pennsylvania Avenue, NW, Suite 825	20004
Shnider	Deborah M.	United States Senate Disbursing Office 127 Hart Senate Office Building	20510
Shnider	Ivan H.	United States Senate Disbursing Office 127 Hart Senate Office Building	20510
Shreiba	Wael	Wells Fargo Bank 5201 MacArthur Boulevard, NW	20016
Smith	Melissa E.	Zuckerman Spaeder LLP 1800 M Street, NW, Suite 1000	20036
Spears	Lucy V.	Covington & Burling, LLP 850 10th Street, NW	20001
Terameau	Angela	E & G Group Trinity Towers Apartments 3023 14th Street, NW	20009
Topla	Balie	Self 2020 Pennsylvania Avenue, NW	20006
Walker	Lakeysa	Industrial Bank 1800 Martin Luther King Jr., Avenue, SE	20032
Washington	Lanika	Agriculture Federal Credit Union 1400 Independence Avenue, SW	20250
Weitz	James B.	CHL Business Interiors, Inc. 1627 I Street, NW, Suite 825	20006
Wilkins	Jessica Clarice	Baker & McKenzie LLP 815 Connecticut Avenue, NW	20006
Williams	Mildred B.	Children's National Medical Center 111 Michigan Avenue, NW	20010
Willis	Kelli	First Home Care 1012 14th Street, NW, #1000	20005
Wilson	Cynthia	Meadowbrook Run Apartments 3647 6th Street, SE	20032

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Wolley	Anita M.	Cornerstone Real Estate Advisers 2001 Pennsylvania Avenue, NW	20006
Zomnir	Chloe	Compass 660 Pennsylvania Avenue, SE, Room 300	20003

THE CHILDREN'S GUILD DC PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Public Relations/Marketing

The Children's Guild DC Public Charter School seeks qualified vendors for our charter school. The vendor must have experience in charter schools and special education.

For deadlines, specifications and other bid requirements pertaining to the RFP visit <http://www.childrensguild.org/rfp/>.

**WILLIAM E. DOAR JR. PUBLIC CHARTER SCHOOL
FOR THE PERFORMING ARTS**

REQUEST FOR PROPOSALS

Heat and Air Conditioning Services and Special Education Services

The William E. Doar Jr. Public Charter School for the Performing Arts, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 (“Act”), hereby solicits expressions of interest from Vendors or Consultants for the following services:

- Heat and Air conditioning services
- Special Education services

Proposal Submission

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **1 p.m. EST on March 18, 2016** unless otherwise stated in associated RFP’s. Proposals should be emailed to bids@wedjschool.us

No phone call submission or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

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

Application No. 17600-B of Fort Totten North, L.L.C., pursuant to 11 DCMR § 3104.1, for a special exception from the fast food establishment requirements pursuant to § 733, to permit three fast food establishments in the C-2-A District at premises 300-320 Riggs Road N.E. (Square 3748, Lot 52).

HEARING DATE: February 23, 2016

DECISION DATE: February 23, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.) In its Prehearing Statement, the Applicant noted that one of the originally proposed tenants decided not to open in the project, but indicated that the Applicant will be seeking a future fast food establishment tenant in the same retail space. (Exhibit 29.) Accordingly, no amendment to the originally requested relief was required.

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") 4B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4B, which is automatically a party to this application. The ANC submitted a report dated February 5, 2016 indicating that at its regularly scheduled and properly noticed public meeting of February 4, 2016, at which a quorum was in attendance, ANC 4B voted 7-0 to support the application with three conditions.¹ (Exhibit 30.)

The Office of Planning ("OP") submitted a report on February 8, 2016, recommending approval of the application. (Exhibit 27.) OP also testified in support of the application at the public hearing. The District Department of Transportation ("DDOT") submitted a report on February 16, 2016 indicating that it had no objection to the Applicant's request for special exception relief. (Exhibit 31.)

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 exceptions from § 733, to permit three fast food establishments in the C-2-A District. No parties

¹ The Board did not adopt the proposed conditions as part of its order after receiving advice from counsel that the conditions were outside the scope of the Board's jurisdiction.

BZA APPLICATION NO. 17600-B
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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 733, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED**.

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.)

FINAL DATE OF ORDER: February 25, 2016

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

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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. 19034 of Industrial Bank, as amended,¹ pursuant to 11 DCMR § 3104.1, for a special exception under § 213 of the Zoning Regulations for a parking lot with 15 parking spaces, and pursuant to 11 DCMR § 3103.2, a variance from the landscaping requirements under § 2303.1(f), and pursuant to § 2303.3 of the Zoning Regulations, a modification of the screening requirements contained in § 2303.2(a), to continue operations at the existing parking lot at premises 1931 11th Street, N.W. (Square 333, Lot 36) a split-zoned property in the R-4 and Arts/C-2-A zones.

HEARING DATES: June 30, 2015 and September 15, 2015

DECISION DATE: September 15, 2015

DECISION AND ORDER

On April 27, 2015, the Industrial Bank (the “Bank” or the “Applicant”) filed an application with the Board of Zoning Adjustment (“Board”) seeking zoning relief to allow the continuation of a parking lot at 1931 11th St., N.W. Following a public hearing on June 30, 2015 and September 15, 2015, the Board voted to approve the application subject to various conditions.

PRELIMINARY MATTERS

The Application. The original application sought a variance to allow a parking lot use in a residential (R-4) zone. (Application, Exhibit 1.) The application was based upon a memorandum from the Zoning Administrator (“ZA”) dated March 26, 2014, stating that a use variance under § 330.5 was required for a parking lot with nine spaces. (Exhibit 16.) However, the application was ultimately amended to seek special exception relief under § 213 for a parking lot with 15 spaces, a variance from the landscaping requirements under § 2303.1(f), and a “waiver” of the screening requirements contained in § 2303.2(a).

Self-Certification. The amended zoning relief requested in this case was self-certified pursuant to 11 DCMR § 3113.2. (Exhibit 49.)

Notice of Application and Notice of Hearing. The application was filed on April 27, 2015. By memoranda dated April 30, 2015, the Office of Zoning notified the following agencies that the application had been filed: the D.C. Office of Planning (“OP”), Advisory Neighborhood Commission (“ANC”) 1B, the ANC for the area within which the subject property is located, and the D.C. Department of Transportation (“DDOT”). Pursuant to 11 DCMR § 3113.3, notice of the hearing was sent to the Applicant, all entities owning property within 200 feet of the

¹ As will be explained more fully, the original application sought a use variance, but was amended to seek a special exception allowing the continued operation of the parking lot, and other relief. The caption reflects the relief sought under the revised application and Pre-Hearing Statement.

BZA APPLICATION NO. 19034
PAGE NO. 2

Applicant's site, the ANC, OP, and DDOT. The Applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect. (Exhibit 38.)

ANC 1B. The subject site is located within the area served by the Advisory Neighborhood Commission 1B, which is automatically a party to this application. The ANC filed a report indicating that at a public meeting on June 19, 2015, with a quorum present, the ANC voted to oppose the variance application.² (Exhibit 33.) The ANC cited several reasons for its opposition, among them: (1) The lot is zoned for residential use and that is the correct use; (2) A parking lot at that location is not in the best interest of the District or the neighborhood where there are two metro stops nearby; (3) The parking lot is the site of illegal activity such as public drinking, public harassment, and parking in public space, i.e., the sidewalk; and (4) Based upon the Applicant's "illegal" operation of the lot, the ANC does not have confidence in the Applicant becoming good stewards of the property.

ANC Commissioner Ellen Sullivan testified in opposition at the June 30, 2015 hearing, but the ANC did not send a representative to the continued hearing on September 15, 2015. However, Elduise Johnson, a representative of Industrial Bank, testified that she had communicated with the ANC by email, and the ANC was "pleased with the progress" that had been made at the site since the time of the first public hearing. (Hearing Transcript of September 15, 2015, ("Tr."), p. 105.)

Requests for Party Status. There were no requests for party status.

Other Persons/Entities in Opposition. The Board received nine letters from neighboring residents in opposition to the application. (Exhibits 29 and 31.) Two of those residents, Neil Boertlein and William Riggins, testified in opposition during the first and second hearings, respectively. Both raised concerns about traffic and the operations of the parking lot.

Other Persons/Entities in Support. The Board received three letters in support from neighboring businesses. (Exhibits 3, 8, and 9.) Mr. Rick Lee, representing Lee's Flower and Card Shop, testified in support of the application. Mr. Lee stated that his business had rented parking spaces from the Bank for 30 years or more, and that the Bank had been "bringing the parking lot into compliance." (Tr., p. 106.) Mr. Lee also urged the Board to reject the suggestion of a one-year term of approval. (Tr., p. 106-107.)

Government Reports

Office of Planning. OP filed two reports in this matter, one before the initial hearing on June 30, 2015 (Exhibit 35), and a Supplemental Report before the continued hearing date on

² The ANC 1B did not file a report addressing any of the amended relief, such as the special exception relief pursuant to § 213 for a parking lot.

BZA APPLICATION NO. 19034
PAGE NO. 3

September 15, 2015. (Exhibit 41.) In both reports, OP recommended approval of the special exception, subject to various conditions.

In between the two hearing dates, the Applicant revised its site plan in consultation with OP (and DDOT). The Applicant and OP also agreed to additional conditions relating to the amended relief requested under Chapter 23. For instance, with respect to the variance requested from the landscaping requirements under § 2303.1(f), OP noted an agreement to landscape portions of the public space outside the lot, in lieu of landscaping five percent of the parking lot, as required. (Exhibit 41.) With respect to the modification from the screening requirements under § 2303.2(a) that was also requested, OP noted an agreement to provide slats within the chain link fence along the property's 11th Street frontage, in order to screen the lot from the residentially zoned properties across 11th Street. (Exhibit 41.)

OP also recommended that the Board impose a term of one year from the effective date of an order granting approval. (Exhibit 41.) OP's representative, Karen Thomas, testified during the public hearing on September 15, 2015. When questioned by Commissioner Hood, Ms. Thomas stated that, if the Board so desired, she would be "amenable" to a two-year term instead of a one-year term. (Tr., p. 104.)

DDOT Report. DDOT filed a report recommending approval of the application, stating it had no objection to it provided the Applicant agreed to: (1) submit a site plan of the parking layout, including striping, directional arrows, signage, landscaping, and lighting, as well as provide these improvements onsite; (2) replace the existing fence along the public alley with an operable gate to allow circulation; and (3) repair the broken and damaged paving. (Exhibit 34.)

The Public Hearing.

The Board began the public hearing on June 30, 2015 and continued it to September 15, 2015, so that the Applicant could revise the application, repost notice on the property and submit an affidavit of posting. Prior to the continued hearing, the Applicant filed a Pre-Hearing Statement explaining the basis of its revised application, and also detailing steps it had taken to strengthen its application, bring the property into compliance with the zoning regulations, and adhere to suggestions from OP and DDOT, and from the Board. (Exhibit 43.)

FINDINGS OF FACT

The Site and Surrounding Area

1. This application concerns property located at Lots 36 and 807, two contiguous lots within Square 333.
2. Lot 36, to the south, is located within the R-4 zone. However, Lot 807 is zoned Arts/C-2-A.
3. The property is also located within the Greater U Street Historic District.

BZA APPLICATION NO. 19034**PAGE NO. 4**

4. The property, spanning the two contiguous lots, currently operates as a parking lot without a certificate of occupancy.
5. The parking lot has been used by the local business community for several decades.

The Proposal

6. The Applicant proposes to continue the operation of the parking lot and has filed this application to bring the property into zoning compliance.
7. During these proceedings, the Applicant redesigned the configuration of the parking lot to include 15 parking spaces.
8. At the Board's direction, the Applicant filed a site plan showing the revised parking lot layout. The revisions were made in consultation with OP and DDOT.

Zoning Relief

9. A parking lot is permitted as a matter-of-right in the ARTS/C-2-A zone.
10. Special exception relief pursuant to § 213 is required to operate a parking lot within the R-4 zone. (See, § 213.1 applicable to the R-1 zone, carrying through to the R-4 zone pursuant to §§ 302.1, 322.1, and 332.1(a).)
11. Special exception relief pursuant to § 213 requires adherence to parking lot requirements under § 2303 of the Zoning Regulations.
12. The Applicant seeks variance relief from the landscaping requirements within § 2303.1(f).
13. Pursuant to § 2303.4, the Applicant is requesting the Board to modify the screening requirements contained within § 2303.2(a) with respect to its parking lot.

Prior Request for Zoning Relief

14. The Applicant submitted a previous application for special exception relief under § 213 in 2014. (BZA Application No. 18809.)
15. On October 28, 2014, the Board voted to dismiss the application because the Applicant failed to appear at three hearing dates.
16. Before the dismissal was made final by the issuance of a written order, the Applicant withdrew the application on December 23, 2015. (See, BZA Case No. 18809, Exhibit 40.)
17. Subsection 3113.10 requires an applicant to wait 90 days before re-filing an application that has been withdrawn. This requirement was met, as the instant application was filed on April 27, 2015.

BZA APPLICATION NO. 19034**PAGE NO. 5****Design and Operation of the Parking Lot**

18. The residentially zoned portion of the parking lot is contiguous to the commercial zone district (ARTS/C-2-A).
19. The parking lot is adjacent to the U Street commercial district and is conveniently located to serve those commercial uses.
20. The parking lot has served and will continue to serve local businesses.
21. The redesigned parking lot also will continue to serve the off-street parking needs of the community. (OP Report, Exhibit 35, p. 5.)
22. There is no indication that the current operation of the parking lot has created objectionable traffic conditions. (DDOT Report, Exhibit 34.)
23. The parking lot will be operated by valet only. Either an attendant will be operating the parking lot during the day, or a parking service will be operating the lot during the evening. (Tr., p. 119.) Therefore, patrons will not be parking their own vehicles or driving within the parking lot.

Compliance with Chapter 23 Requirements

24. The parking area is asphalt paved. (§ 2303.1.) Broken pavement that existed was repaired or replaced during the course of the proceedings. (Tr., p. 102 and 118.)
25. The parking lot is improved with chain link fences along the eastern and western lot lines, and buildings to the north and south, preventing vehicles from projecting over any lot line. (§ 2303.1(b).)
26. The property is, and is proposed to continue as a parking lot only, with no structures. (§ 2303.1(c).)
27. The vehicular entrance onto 11th Street from the parking lot is more than 40 feet from a street intersection. (§ 2303.1(d).)
28. Lighting for the parking lot is located on the party walls of the adjacent structures, and directed to the surface of the lot (§ 2303.1(e).)
29. As conditioned, the parking lot will be free of trash and debris.

Variance relief from the landscaping requirements under § 2303.1(f)

30. The subject property is unusual in that: (1) it is a split-zoned property that has been operating as one parking lot, but requiring zoning relief only because of the residentially zoned portion; (2) the parking lot has been serving the customers of many historic businesses for several

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decades; (3) the parking lot has always been paved in its entirety; and (4) the Applicant recently invested in landscaping at the front entrance to the parking lot, in the public space.

31. Because the parking lot is already paved in its entirety, any landscaping within the lot would require breaking up and removing the pavement and asphalt in order to add permanent landscaping to the site.
32. During the course of these proceedings, the Applicant installed shrubs on both sides of the 11th Street entrance of the parking lot, on public space. This represents 277.5 square feet of landscaping area, or approximately 7.5% of the parking lot area.
33. The Applicant has represented that it will continue to maintain the Landscaping that it installed in the public space. (Exhibit 43, p. 2.)

Modification of screening requirements under § 2303.2

34. Subsection 2303.2 requires that a parking lot in the R-4 zone be screened from all contiguous residential property by a solid brick or stone wall of specified minimum dimensions or by evergreen hedges or trees. Further, § 2302.2 (a) requires that such parking lots be screened from all contiguous residential property located in an R-1, R-2, or R-3 District by a solid masonry wall at least 12 inches thick and 42 inches high.
35. There are no contiguous properties in the R-1, R-2, or R-3 Districts.
36. The parking lot would be screened from the R-4 District to the south by the party wall shared with the row house on the property to the south. (OP Report, Exhibit 35, p.4.)

CONCLUSIONS OF LAW

The Board is authorized under the Zoning Act of June 20, 1938 (52 Stat. 797 D.C. Official Code § 6-641.07(g)(2) (2001)), to grant special exceptions as provided in the Zoning Regulations. The Applicant applied under 11 DCMR § 3104.1 for a special exception pursuant to 11 DCMR § 213 to continue the parking lot spanning Lots 36 and 807, in the R-4 and ARTS/C-2-A zones, respectively.

The Board may grant a special exception where, in its judgment, two general tests are met, and, the special conditions for the particular exception are met. First, the requested special exception must “be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.” (11 DCMR § 3104.1.) Second, it must “not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.” (11 DCMR § 3104.1.)

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Section 213 of the Zoning Regulations permits a parking lot in an R-4 "District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of [that] section". (11 DCMR § 213.1.)

The Board concludes that the parking lot – which has existed at the site for several years -- is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. Further, the Board finds that the parking lot, as conditioned, will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Maps.

As to the specific requirements of § 213, those have been satisfied. The parking lot must be within 200 feet of an existing commercial district. (§ 213.2.) Here, the parking lot is contiguous to the commercial district. (Finding of Fact 18.) The parking lot must either be contiguous to or separated by an alley from the commercial district. (§ 213.3.) As stated, the parking lot is contiguous to the commercial district. (Finding of Fact 18.) No dangerous or otherwise objectionable traffic conditions will result from the parking lot use, and the present character and future development of the neighborhood will not be affected adversely by the parking lot use. (§ 213.5.) As DDOT found, the parking lot has not created any objectionable traffic conditions. Furthermore, the design and operational features of the parking lot militate against any adverse effects on the neighborhood. As conditioned, the parking lot will be operated by valet only, with specified hours of operations. No loitering will be permitted and no trash or debris will be allowed to accumulate at the property. (Finding of Fact 29.) The parking lot must be reasonably necessary and convenient to other uses, so that the likely result will be less overspill parking on neighborhood streets. (§ 213.6.) And, the majority of the parking spaces shall serve short term parking needs of retail, service and other uses. (§ 313.7) Here, the parking lot is located adjacent to the U Street commercial district and will serve local commercial uses and businesses, as well as off-street parking for the community. (Findings of Fact 19-21.)

Section 213 also requires adherence to the provisions of § 2303. The parking lot will comply with most of these provisions within § 2303. For instance, the parking lot areas must be surfaced and maintained with an all-weather service. Here, the parking lot is asphalt paved and has been repaired where necessary. (§ 2303.1(a), Finding of Fact 24.) The parking lot must be designed so that no vehicle or part thereof projects over any lot line or building line. Here, the chain link fences around the lot prevent vehicles from projecting over any lot lines. (§ 2303.1(b), Finding of Fact 25.) No other structure or use is allowed on the property. The property is vacant and is proposed to continue as a parking lot only, with no structures. (§ 2303.1(c), Finding of Fact 26.) No vehicular entrance to or exit from the parking lot may be within 40 feet of a street intersection. Here, the vehicular entrance onto 11th Street from the parking lot is more than 40 feet from an intersection. (§ 2303.1(d), Finding of Fact 27.) Lighting for the parking lot must be confined to the surface of the parking lot. Here, the lighting is on the party walls of the adjacent structures and directed to the surface of the lot only. (§ 2303.1(f), Finding of Fact 28.) The parking lot must be kept free of refuse and debris and five percent of its area must be landscaped. As conditioned, the parking lot will be free of trash and debris. (§ 230.1(f), Finding of Fact 29.)

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The Applicant seeks an area variance from the landscaping requirement of § 2303.2(f). The Board is authorized under § 8 of the Zoning Act (D.C. Official Code § 6-641.07(g)(3) (2012 Repl.)) to grant variance relief where, “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that 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. (*See* 11 DCMR § 3103.2.)

Subsection 2303.1(f) provides for landscaping covering a minimum of five percent of the area of the parking lot “or an area as determined by the [Board] for a parking lot otherwise requiring Board approval”. Since this is not a matter of right parking lot, the five percent minimum does not apply. As explained in the Findings of Fact, the entire parking lot is already paved in asphalt. In addition, the Applicant has installed plantings at the parking lot entrance in the public space.

First, the Board finds that the subject property is subject to an exceptional condition. As explained above, the parking lot has been operating for several decades despite the fact that a portion of it is zoned residentially and a portion of it is zoned commercially. It is only now being brought into zoning compliance. Throughout its history, the parking lot was comprised of an asphalt pavement and was not landscaped. However, in an attempt to beautify the site, the Applicant recently invested in landscaping the front entrance to the lot, which is located in the public space. The Board further concludes that this exceptional condition results in a practical difficulty in providing any landscaping within the property because it would be difficult and costly to break up the existing surface and install landscaping within the lot.

Finally, 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. In consultation with OP, the Applicant proposes to maintain the landscaping in the public space for the life of the parking lot, in lieu of landscaping five percent of the lot. (Exhibit 41.) The Board concludes that this is a reasonable solution that will ensure, along with the conditions of approval, that no detriment to the public good will result. The Board further concludes that this minor deviation from the conditions granting the special exception would not impair the zone plan.

Subsection 2303.2(a) also requires screening from all contiguous residential property. However, pursuant to § 2303.4, the Board may authorize a waiver or modification of this requirement considering, among other things, the adequacy of screening walls on adjacent property, and any adverse effect of the requested waiver. As stated previously, the parking lot would be screened adequately from the R-4 District by the party wall shared with the row house on the property to the south. (Finding of Fact 36.)

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The ANC Issues and Concerns

The Board is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D.C. Law 13-135, D.C. Official Code § 1-309.10(d)(3)(A)), to give “great weight” to the issues and concerns raised by the affected ANC. To give great weight the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances, and make specific findings and conclusions with respect to each of the ANC’s issues and concerns.

As noted, the ANC opposed the application. Its concerns mirror those of the opposition witnesses, i.e., the potential adverse impact on adjacent neighbors, in particular the impacts relating to security, loitering, disorderly conduct, and trash and waste removal. These issues and concerns were addressed during the public hearing. However, the Applicant has taken significant steps to eliminate some of the problems. Nevertheless, the Board has considered the ANC’s issues and concerns, and agrees that many of them are valid. Because of this, the Board is imposing conditions in this Order to mitigate the potential adverse impacts that were discussed and is also setting a term of two years for the approval of this relief.

The OP Recommendations

The Board is also required under D.C. Official Code § 6-623.04 (2001) to give “great weight” to OP recommendations. OP recommends approval of the application; however, OP also advised that approval should be subject to various conditions. OP provided a cogent rationale with respect to several of the proposed conditions, and they are incorporated as part of this Order, in particular, the landscaping of the public space and the installation of slats within the chain link fence for screening from the residential neighbors. While OP originally recommended a one-year term for approval, it indicated at the hearing that it would be amenable to a two-year term. In light of the Applicant’s significant progress with correcting problems at the property, the Board concludes that a two-year term is more appropriate.

The Board concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception under § 213 to allow the continuation of the parking lot. The Board further concludes that, as hereinafter conditioned, the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to adversely affect the use of neighboring property in accordance with the regulations and map. The Board also concludes that the Applicant has satisfied the burden of proof for a variance from the landscaping requirements of § 2303.1(f), and a modification of the screening requirements of § 2303.2 of the Zoning Requirements.

It is therefore **ORDERED** that the Application is **GRANTED**, for a parking lot with 15 spaces, **SUBJECT TO THE APPROVED PLANS AT EXHIBIT 42, AND SUBJECT TO THE FOLLOWING CONDITIONS:**

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1. The Board's approval shall be valid for a period of **TWO YEARS** beginning the effective date of this order.
2. Evergreen shrubs at the parking lot entrance shall be at least 42 inches in height, shall be thickly planted, and shall be maintained by the Applicant along the 11th Street frontage.
3. The Applicant shall provide slats within the existing chain link fence across the front of the property to screen it from the residential property located across 11th Street from the site.
4. The parking lot shall be operated as valet only.
5. Gates to the parking lot shall be kept closed and locked at all times when there is no attendant on the property.
6. The parking lot shall stop accepting vehicles at 1:00 AM and shall allow the exit of vehicles until 3:00 AM.
7. No parking shall be permitted within the public space adjacent to the site.
8. No loitering shall be permitted on the property.
9. The property shall be maintained free of trash and debris.
10. The property owner shall post on the property the telephone number of a contact person, and the owner shall name a liaison person to the ANC to allow for direct contact between the owner and the ANC and other community organizations.

VOTE: 4-0-1 (Lloyd J. Jordan, Frederick L. Hill, Jeffrey L. Hinkle, and Anthony J. Hood to Approve; Marnique Y. Heath not present, not voting.)

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: February 25, 2016

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.

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. 19088 of Jose Ayala, as amended,¹ pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 772.1, the rear yard requirements under § 774.1, and the off-street parking requirements under § 2101, to allow the construction of a new four-story mixed use building in the C-2-A District at premises 3701 14th Street, N.W. (Square 2826, Lot 96).

HEARING DATES: October 27, 2015, January 26, 2016, and February 23, 2016²
DECISION DATE: February 23, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 41 (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 owners of property within 200 feet of the site.

Advisory Neighborhood Commission (“ANC”) Notice. The site of this application is located within the jurisdiction of ANC 4C, and on the border with ANC 1A. A referral of the application’s filing was sent to ANC 4C (Exhibit 13); however, inadvertently, the Office of Zoning staff did not send a notice letter to ANC 4C.³ Notice of public hearing was sent to ANC 1A only. (Exhibit 18.) ANC 4C is automatically a party to this application, and both ANCs filed reports in the case.

ANC 4C Report. On February 22, 2016, ANC 4C filed a motion to waive the filing deadline to accept the ANC 4C report into the record. (Exhibit 51.) ANC 4C filed a resolution in the record

¹ The Applicant amended the application to include a request for variance relief from the maximum lot occupancy requirements under § 772.1. (See Exhibit 41, Updated Zoning Self-certification.) The caption reflects the relief requested accordingly.

² The Application was postponed from the October 27, 2015 and January 26, 2016 hearing dates at the Applicant’s request. (Exhibits 25 and 39.)

³ While official notice was not sent to ANC 4C, the ANC apparently received notice by some method - curing the notice deficiency - as evidenced by the fact that the ANC held a meeting, voted, and filed a report in the case.

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dated February 10, 2016, noting that at a properly noticed public meeting on February 10, 2016, with a quorum present, the ANC voted 7-1 to support the application, as amended. (Exhibit 50.)

Testimony of Single Member District (“SMD”) Commissioner. At the hearing of February 23, 2016, the Commissioner for SMD 4C-01 testified in opposition to the application, mainly expressing concerns about the cumulative impact of development in the area on the aging infrastructure. The Board noted that DDOT will be assisting the Board in assessing such cumulative impacts once the data has been collected. The Board further noted that some of the concerns expressed will be reviewed at the permitting stage of the project.

ANC 1A Report. ANC 1A filed a report in the record dated February 11, 2016, noting that at a properly noticed public meeting held on February 10, 2016, with a quorum present, ANC 1A voted 12-0-0 to support the application, as amended. (Exhibit 43.)

The Office of Planning (“OP”) submitted a report in support of the application with the conditions referenced in the DDOT report. (Exhibit 45.)

The District Department of Transportation (“DDOT”) filed a report referencing the Applicant’s proffered conditions, and expressing no objection to the application. (Exhibit 46.) The conditions were adopted as part of the Board’s approval.

Four letters of support from neighbors were submitted to the record. (Exhibits 32, 44, 48, and 49.) Twelve letters of opposition from neighbors were submitted to the record. (Exhibits 26-31, and 33-38.)

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 lot occupancy requirements under § 772.1, the rear yard requirements under § 774.1, and the off-street parking requirements under § 2101.1, to allow the construction of a new four-story mixed use building in the C-2-A District. The only parties to the case were the ANCs and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse 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 §§ 772.1, 774.1, 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.

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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 REVISED PLANS AT EXHIBIT 40 - UPDATED ARCHITECTURAL PLANS AND ELEVATIONS, AND WITH THE FOLLOWING CONDITION:**

1. At the time of initial sale of each unit, the Applicant shall issue a one-time, one-year bikeshare or car share membership and a pre-loaded SmarTrip card worth \$60.

VOTE: 3-0-2 (Marcie I. Cohen, Marnique Y. Heath, 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: February 29, 2016

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

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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. 19162 of William McGovern, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the non-conforming structure requirements under § 2001.3 and the lot occupancy requirements under § 403, to construct an additional floor with roof deck to an existing one-family dwelling in the R-4 District at premises 3901 Illinois Avenue N.W. (Square 3314, Lot 26).

HEARING DATES: February 2² and 23, 2016
DECISION DATE: February 23, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 (original) and 26 (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") 4C and to owners of property located 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. The ANC submitted a report in support of the application. The ANC's report indicated that at a duly noticed and scheduled public meeting held on November 10, 2015, with a quorum present, the ANC voted 9:0:0 to support the application. (Exhibit 23.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application (Exhibit 25) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 24.)

A letter of support from a neighbor was submitted to the record. (Exhibit 6.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under § 223, not meeting the non-conforming structure requirements under § 2001.3 and the lot occupancy requirements under § 403, to construct an additional floor with roof deck to an existing one-family dwelling in the R-4 District. The only parties to

¹ The Applicant amended the application to add special exception relief from the lot occupancy requirements under § 403. (Exhibit 26.) The caption has been changed accordingly.

² The hearing on February 2, 2016 was postponed to February 23, 2016.

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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 averse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 403, and 2001.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 5.**

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Marcie I. Cohen 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: February 25, 2016

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

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

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

Application No. 19169 of 311 K Street LLC, as amended¹, pursuant to 11 DCMR § 3103.2, for variances from the rear yard requirements under § 774.1, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1, to construct a hotel and apartment building in the DD/DD-HPA/C-2-C District at premises 303-317 K Street N.W. (Square 526, Lots 20, 21, 804, 805, 824, 825, and 829).

HEARING DATE: February 9, 2016
DECISION DATE: February 23, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 25 (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") 6E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted a report in this case, indicating that at a duly called and properly noticed public meeting on January 5, 2016, at which a quorum was present, the ANC voted 5-1-1 to support the application, as amended. (Exhibit 26.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application and testified in support at the hearing. (Exhibit 30.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had an objection to the requested loading relief. (Exhibit 31.). At the February 9, 2016 public hearing, the Board scheduled the case for decision but requested that the Applicant continue to work with DDOT on the issues regarding loading and gave leave for DDOT to submit a supplemental report. Subsequently, DDOT submitted a supplemental report, dated February 16, 2016, that stated that it had no objection to the requested relief with conditions. (Exhibit 42.) The Board, in granting approval to the application, adopted DDOT's conditions in this order.

¹ The Applicant amended its application to add a request for variance relief from the loading requirements under § 2201.1 and submitted a revised self-certification. (Exhibit 25.) The caption has been amended accordingly.

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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 area variances from the rear yard requirements under § 774.1, the off-street parking requirements under § 2101.1, and the loading requirements under § 2201.1, to construct a hotel and apartment building in the DD/DD-HPA/C-2-C 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 averse 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 11 DCMR §§ 774.1, 2101.1, and 2201.1, the Applicant has met the burden of proof 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 the application is hereby **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 41 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall limit the financial incentive as part of the TDM plan to bikeshare and carshare memberships only.
2. The Applicant shall provide a minimum of eight short-term bicycle spaces.
3. The Applicant shall amend the Loading Management Plan to require any delivery using a truck 20 feet in length or shorter to use the on-site delivery space.

VOTE: **3-0-2** (Frederick L. Hill, Robert E. Miller (by absentee ballot), and Jeffrey L. Hinkle (by absentee ballot), to APPROVE; Marnique Y. Heath not participating or 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: February 29, 2016

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

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

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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. 19178 of Doug Church, as amended,¹ pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403, and not meeting the minimum rear yard requirements under § 404, to construct a two-story rear addition to an existing one-family dwelling in the R-5-B District at premises 1436 Florida Avenue, N.W. (Square 202, Lot 804).

HEARING DATE: February 23, 2016

DECISION DATE: February 23, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6 (Zoning Self-Certification, original), and 28 (Updated Zoning Self-Certification).)

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") 1B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. ANC 1B submitted a report of support in this case. The ANC's report, dated January 9, 2016, indicated that at a properly noticed meeting on January 7, 2016, at which a quorum was present, the ANC voted 10-0-0 to support the application. (Exhibit 29.)

The Office of Planning ("OP") submitted a report in support of the application, as amended. (Exhibit 30.)

DDOT submitted a timely report indicating that it had no objection to the application. (Exhibit 31.)

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 § 223, not meeting the lot occupancy requirements under § 403, and not meeting the minimum rear yard requirements under § 404. The only parties to the case were the

¹ The application was amended to remove the request for relief under § 2001.3 related to nonconforming structures, and to add relief under § 404, the minimum rear yard requirements. (See Exhibit 28, Updated Zoning Self-Certification.)

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ANC and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be aversive 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, 223, 403, and 404, 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. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8 – ARCHITECTURAL PLANS & ELEVATIONS**.

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: February 26, 2016

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. 19182 of Rob Carter, pursuant to 11 DCMR § 3103.2, for variances from the side yard requirements under § 405.8, and the nonconforming structure requirements under § 2001.3, to renovate an existing four-unit apartment house in the R-4 District at premises 1512 6th Street N.W. (Square 445, Lot 43).

HEARING DATE: March 1, 2016

DECISION DATE: March 1, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 40 and 48.)

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") 6E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC did not submit a report in this case. The Applicant testified that he met with the ANC's zoning committee and the full ANC and that the ANC had voted unanimously at its February 2, 2016 meeting in support of the application.

The Office of Planning ("OP") submitted a timely report recommending approval of the application and testified in support at the hearing. (Exhibit 45.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 46.)

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 area variances from the side yard requirements under § 405.8, and the nonconforming structure requirements under § 2001.3, to renovate an existing four-unit apartment house in the R-4 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

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Based upon the record before the Board, and having given great weight to the OP report¹ filed in this case, the Board concludes that in seeking variances from 11 DCMR §§ 405.8 and 2001.3, the Applicant has met the burden of proof 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 the application is hereby **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBIT 9**.

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Michael G. Turnbull to APPROVE; Jeffrey L. Hinkle, not participating or 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: March 2, 2016

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

¹ The Board acknowledged the ANC's vote to support, but as there was no written report in the record at the time of the Board's deliberations, there was nothing to which to give great weight.

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APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7,
SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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

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

Application No. 19192 of Rebecca Mann and Thomas Gallagher, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403, and the rear yard requirements under § 404, to construct a rear addition to an existing one-family dwelling in the R-4 District at premises 916 K Street, N.E. (Square 931, Lot 4).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: February 23, 2016 (Expedited Review Calendar)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

This application was accompanied by a memorandum, dated October 27, 2015, from the Zoning Administrator certifying the required relief. (Exhibit 9.)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board of Zoning Adjustment (“Board”) expedited review calendar for decision without hearing as a result of the applicant’s waiver of its right to a hearing. (Exhibit 2.)

The Board of Zoning Adjustment (the “Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on December 10, 2015, at which a quorum was in attendance, ANC 6A voted 7-0 to support the application. (Exhibit 21.)

The Office of Planning (“OP”) submitted a timely report in support of the application (Exhibit 32.) The District Department of Transportation (“DDOT”) submitted a report of no objection to the application (Exhibit 33.)

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

As 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 §

BZA APPLICATION NO. 19192
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3104.1, for a special exception under §§ 223, 403, and 404. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403, and 404, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7.**

VOTE: **3-0-2** (Marnique Y. Heath, Marcie I. Cohen, 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: February 26, 2016

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. 19204 of Kevin Mulshine, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy under § 403, and the rear yard requirements under § 404, to construct a rear deck addition to an existing one-family dwelling in the R-1-B District at premises 3620 Kanawha Street, N.W. (Square 1990, Lot 80).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: February 23, 2016 (Expedited Review Calendar)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

This application was accompanied by a memorandum, dated September 30, 2015, from the Zoning Administrator certifying the required relief. (Exhibit 10.)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board of Zoning Adjustment (“Board”) expedited review calendar for decision without hearing as a result of the applicant’s waiver of its right to a hearing. (Exhibit 2.)

The Board of Zoning Adjustment (the “Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 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 a report indicating that at a regularly scheduled and properly noticed meeting on December 14, 2015, at which a quorum was in attendance, ANC 3G voted 5-0-0 to support the application. (Exhibit 22.)

The Office of Planning (“OP”) submitted a timely report in support of the application (Exhibit 23.) The District Department of Transportation (“DDOT”) submitted a report of no objection to the application (Exhibit 26.)

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

As 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 §

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3104.1, for a special exception under §§ 223, 403, and 404. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403, and 404, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8.**

VOTE: **3-0-2** (Marnique Y. Heath, Marcie I. Cohen, 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: February 25, 2016

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. 19209 of Larry Schmit, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403, and the rear yard requirements under § 404, to construct a rear deck to an existing one-family dwelling in the R-4 District at premises 1861 Ingleside Terrace, N.W. (Square 2617, Lot 156).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: February 23, 2016 (Expedited Review Calendar)

SUMMARY ORDER

SELF CERTIFICATION

The zoning relief requested in this case was self-satisfied, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board of Zoning Adjustment (“Board”) expedited review calendar for decision without hearing as a result of the applicant’s waiver of its right to a hearing. (Exhibit 2.)

The Board of Zoning Adjustment (the “Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 1D, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1D, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on December 15, 2015, at which a quorum was in attendance, ANC 1D voted 5-0-0 to support the application. (Exhibit 23.)

The Office of Planning (“OP”) submitted a timely report in support of the application. (Exhibit 26.) The District Department of Transportation (“DDOT”) submitted a report of no objection to the application (Exhibit 27.)

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

BZA APPLICATION NO. 19209
PAGE NO. 2

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223, 403, and 404. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403, and 404, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7.**

VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Marcie I. Cohen to APPROVE; Jeffrey L. Hinkle, not present, not voting; one Board 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: February 25, 2016

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

BZA APPLICATION NO. 19209**PAGE NO. 3**

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.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-33E
Z.C. Case No. 08-33E
MIRV Holdings, LLC
(Time Extension – First-Stage Planned Unit Development)
February 8, 2016

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on February 8, 2016. At that meeting, the Commission approved the request of MIRV Holdings, LLC¹ (“Applicant”) for a time extension of the approval of the first-stage planned unit development (“PUD”), approved by Z.C. Order Nos. 08-33 and 08-33A through 08-33D, until December 31, 2016. The property (Parcel 121/31) that is the subject of this application is located at the intersection of Irving Street, N.E. and Michigan Avenue, N.E. (“Property”). The time extension request was made pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations.

FINDINGS OF FACT

BACKGROUND INFORMATION

1. Z.C Case No. 08-33 included both a consolidated PUD approval and a first-stage PUD approval. The first-stage PUD approval included two nine-story buildings. One building is expected to be used as a hotel and/or residential building. The second building is expected to contain additional conference space and/or residential amenities on the first two floors with residential and/or hotel uses on the upper floors. A below-grade parking structure including 295 parking spaces is also included in the first-stage PUD approval. The first-stage PUD approval was for a five-year period ending on December 25, 2014.
2. On December 23, 2013, the Applicant requested a one-year time extension of the first-stage PUD approval, so that the first-stage PUD approval would be extended until December 25, 2015. Pursuant to Z.C. Order No. 08-33B, the Commission determined that the Applicant had met the relevant requirements of § 2408.10 of the Zoning Regulations and extended the time period in which the Applicant was required to file a second stage PUD application until December 25, 2015.
3. On December 22, 2015, the Applicant filed this application requesting a one-year time extension of the approval of the first-stage PUD approval. The Applicant requested that the first-stage PUD approval be extended until December 25, 2016. Prior to December 25, 2016, the Applicant will file a second-stage PUD application with the Commission.
4. The Applicant’s written materials included pertinent background information regarding the ownership of the Property and previous discussions about the permitted uses on the portion of the Property that were the subject of the first-stage PUD application. The

¹ The Applicant in Z.C. Case Nos. 08-33 and 08-33A-08-33D was Conference Center Associates, LLC. On October 9, 2015, Conference Center Associates, LLC transferred its interest in the ground lease on the Property and all development plans and approvals to MIRV Holdings, LLC. The principals of Conference Center Associates, LLC are also principals in MIRV Holdings, LLC.

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Applicant noted that jurisdiction of the Property was transferred to the District of Columbia in 1959. In the late 1980's, the District of Columbia sought a development partner to develop a conference center facility on the Property. In order to do this, the District of Columbia sought assurances from the General Services Administration ("GSA") that as long as the Property was used for such a purpose, GSA would not seek to revoke the transfer of jurisdiction or take any other action to prohibit construction of the conference center facility. (Exhibits ["Ex."] 1, 1C.)

5. On March 7, 1990, the District of Columbia and GSA entered into a Statement of Non-Disturbance which provided the District of Columbia with assurances that "as long as the aforementioned parcel is used as a conference, training and/or exhibit center, overnight accommodations facility and ancillary uses, such as a restaurant, recreational facilities and/or gift shop, and/or compatible use and such use is consented to by the District, GSA will not seek to revoke the transfer of jurisdiction of this parcel to the District, nor will it take other action to prohibit construction, development, maintenance, operation, restoration and/or repair of the facility." (Ex. 1C.) During the review of Z.C. Case No. 08-33, the National Capital Planning Commission ("NCPC") concluded that the first-stage PUD approval would have an adverse effect on an identified federal interest because the proposed inclusion of dwelling units is inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance. In its approval of Z.C. Order No. 08-33, the Commission noted that:

[I]n deciding the first-stage PUD, its role is limited to deciding whether the Applicant has met its burden of proof under Chapter 24 of the Zoning Regulations, which does not include an evaluation of whether the proposed project, if constructed, would violate an agreement between the Applicant and third parties. The Commission noted that its approval of the PUD is limited to these criteria, and that the Applicant proceeds at its own risk with respect to the Non-Disturbance Agreement. In approving the application, the Commission takes no position as to whether the inclusion of dwelling units is inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia and the General Services Administration. (Ex. 1B1.)

6. In its written statement, the Applicant noted that it had: (i) diligently attempted to negotiate with the District of Columbia Government and the GSA in order to amend the Statement of Non-Disturbance to allow residential uses on the Property; and (ii) met with the major institutions in the neighborhood, including Catholic University, Trinity University, The Shrine of the Immaculate Conception, Washington Hospital Center, and Children's National Medical Center in order to assess each institution's hotel and conference needs as well as determine other needs and synergistic uses that could be included in the second phase of development on the Property. The Applicant stated that

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having the appropriate mix of uses on the site is very important for both the Applicant and the community. Having clarity from GSA now on the ability to have residential uses on the Property is vital to determining what the ultimate mix of uses could be on the Property. Therefore, the Applicant spent considerable effort in bringing the District (through the Deputy Mayor for Planning and Economic Development) and GSA together to address the pertinent issues related to the revision of the Statement of Non-Disturbance. The Applicant noted that it was hopeful that all parties will be able to agree on a process that will allow for residential uses to occur on the Property. It is the Applicant's belief that it will take 90–180 days to finalize the necessary revisions to the Statement of Non-Disturbance to allow residential uses. (Ex. 1.)

7. In its January 15, 2016 report to the Commission, the Office of Planning (“OP”) did not oppose the PUD time extension request. (Ex. 4.)
8. The Deputy Mayor for Planning and Economic Development submitted a letter in support of the time extension request. (Ex. 1D2.)
9. Neither Advisory Neighborhood Commission (“ANC”) 5A, nor ANC 5E participated in this time extension request.

CONCLUSIONS OF LAW

Pursuant to 11 DCMR § 2407.10, the Commission may extend the time period of an approved first-stage PUD in accordance with the standard and process for second-stage PUD extensions set forth in §§ 2408.10 through 2408.11. Section 2408.10(a) requires that the applicant serve the extension request on all parties and that all parties are allowed 30 days to respond. The only party in Z.C. Case No. 08-33 was ANC 5C. Due to the redistricting of the ANCs in accordance with the results of the 2010 Census, the Property is now located in ANC 5A. ANC 5A was properly served with this time extension request and ANC 5A did not participate in this proceeding. The boundaries of ANC 5E are located within 200 feet of the property and ANC 5E was properly served with this request. ANC 5E did not participate in this proceeding.

Subsection 2408.10(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD. Based on the information provided by the Applicant and OP, the Commission concludes that extending the time period of approval for the first-stage PUD is appropriate, as there are no substantial changes in the material facts that the Commission relied on in approving the original first-stage PUD application.

Subsection 2408.10(c) requires that the applicant demonstrate with substantial evidence that there is a good cause for the proposed extension, as provided in § 2408.11. Pursuant to

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§ 2408.11, an extension of validity of a PUD may be granted if the applicant has demonstrated with substantial evidence one or more of the following criteria:

- (a) An inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;
- (b) An inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD Order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
- (c) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the PUD Order.

The Commission finds that there is good cause shown to extend the period of time in which the Applicant is required to file a second-stage PUD application for the remainder of the property. The Commission notes the actions taken by the Applicant with GSA and the District of Columbia Government to amend the Statement of Non-Disturbance to allow other compatible uses, including residential uses, and the discussions with the surrounding property owners to seek their input on compatible uses that could be included in the remainder of the project. The Commission also notes that this time extension request is supported by the Deputy Mayor for Planning and Economic Development. For these reasons, the Commission finds that the Applicant has satisfied the requirements of 11 DCMR§ 2408.11(c) regarding the first-stage PUD application. The Commission notes that the Applicant originally requested that the time extension be granted to December 25, 2016. Given the holiday season, the Commission believes that it is appropriate to grant the time extension to December 31, 2016.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give "great weight" to the issues and concerns raised in the written report of the affected ANC. As noted above, ANC 5A and ANC 5E were properly served with this time extension request but did not participate in this proceeding.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (DC Law 8-163, D.C. Official Code § 6-623.04), to give great weight to OP recommendations. OP did not oppose this time extension request.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a time

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extension of the first-stage PUD application approved in Z.C. Order Nos. 08-33 and 08-33A through 08-33D. The first-stage PUD approved by the Commission shall be valid until December 31, 2016, within which time the Applicant will be required to file a second-stage PUD application with the Commission.

On February 8, 2016, upon motion by Commissioner Turnbull, as seconded by Chairperson Hood, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, Michael G. Turnbull to approve and adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register* on March 11, 2016.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-14
Z.C. Case No. 15-14
District of Columbia Water and Sewer Authority
(Consolidated PUD and Related Map Amendment
@ Squares 744S and 744SS)
February 8, 2016

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on October 26, 2015, to consider applications for a consolidated planned unit development (“PUD”) and related zoning map amendment filed by the District of Columbia by and through the District of Columbia Water and Sewer Authority (“DC Water” or “Applicant”). The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

FINDINGS OF FACT

The Applications, Parties, and Hearings

1. On June 8, 2015, the Applicant filed an application with the Commission for consolidated review of a PUD and a related map amendment to rezone part of Lot 805 in Square 744S and part of Lot 801 in Square 744SS (“Property”) from the CG/W-2 Zone District to the CG/CR Zone District.
2. The proposed project contemplates the development of a new office building headquarters for DC Water on the Property (“Project”). The new building will wrap around two sides of DC Water’s existing O Street Pumping Station, which is located on the Property and will remain in full operation throughout construction of the new headquarters building and after its completion. The Project will have an overall density of 1.39 floor area ratio (“FAR”) and will include approximately 160,634 square feet of gross floor area. The building will have a maximum height of 100 feet and will include 20 off-street parking spaces on the Property and a minimum of 50 additional off-street parking spaces located on property owned or controlled by DC Water or otherwise in close proximity to the Property.
3. By report dated July 17, 2015, the District of Columbia Office of Planning (“OP”) recommended that the application be set down for a hearing. At its public meeting held on July 27, 2015, the Commission voted to schedule a public hearing on the application.
4. The Applicant submitted a prehearing statement for the Project on August 14, 2015 and a hearing was timely scheduled for the matter. (Exhibits [“Ex.”] 13-14J.) A description of the proposed development and the notice of public hearing in this matter were published in the *D.C. Register* on September 4, 2015. (Ex. 15.) On August 25, 2015, the notice of the public hearing was mailed or emailed to all owners of property located within 200

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feet of the Property, Advisory Neighborhood Commission (“ANC”) 6D (the ANC in which the Property is located), and the Ward 6 Councilmember. (Ex. 17.)

5. On October 9, 2015, Forest City Washington (“Forest City”) submitted a request for party status in support of the Project. (Ex. 21.) Forest City is the developer of an approved PUD on property located adjacent to and north and west of the Property. Pursuant to Z.C. Order No. 13-05, the Commission approved Forest City’s PUD and zoning map amendment for the western portions of Lot 805 in Square 744S and Lot 801 in Square 744SS, to be developed with a mix of uses including a movie theater, parking garage, two apartment buildings, retail, arts, and entertainment uses. Forest City’s party status request indicated its support for the Project and its interest in ensuring that the final Project, including the building and its surroundings, is fully compatible with the approved PUD on the Forest City’s property.
6. The parties to the case were the Applicant, ANC 6D, and Forest City.
7. The Commission convened a hearing on October 26, 2015, which was concluded that same evening. At the hearing, the Applicant presented the following witnesses in support of its applications: George Hawkins on behalf of DC Water; Sven Shockey of Smithgroup Architects; and Erwin Andres of Gorove/Slade Associates. The Commission accepted Sven Shockey as an expert in architecture and design, and noted that it had previously accepted Erwin Andres as an expert in transportation. At the public hearing, the Commission also granted party status to Forest City.
8. Anne Fothergill and Jennifer Steingasser of OP, and Ryan Westrom of the District Department of Transportation (“DDOT”) testified in support of the application with certain comments and conditions.
9. By letter dated October 1, 2015, ANC 6D submitted a letter to the record in support of the application. (Ex. 19.)
10. The record was closed at the conclusion of the hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from the parties. The Commission also requested proposed findings of fact and conclusions of law from the Applicant.
11. On November 9, 2015, the Applicant submitted a post-hearing filing in response to comments from the Commission made at the public hearing. (Ex. 31-31C.) The post-hearing filing included: (i) revised architectural plans and elevations that included additional information and revisions requested by the Commission; (ii) a description of the Applicant’s communications with Forest City subsequent to the public hearing; (iii) a detailed response to DDOT’s written and oral comments; and (iv) draft findings of fact and conclusions of law.

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12. On November 16, 2015, Forest City submitted a letter stating that it was negotiating several issues with the Applicant, that they were making progress toward resolving those issues, and requesting that the Commission delay considering proposed action on the case until the Commission's December 14, 2015 public meeting to allow Forest City and the Applicant to completely resolve their issues, and to leave the record open to allow the Applicant, Forest City, OP, DDOT, and the ANC to submit additional information regarding the resolution of the issues. (Ex. 32.)
13. On November 30, 2015, the Applicant submitted a letter stating that it was revising the design of its project in a number of ways to resolve the issues identified by Forest City. (Ex. 34.) The western boundary line of the PUD was shifted east so that it was consistent with the property line shown in Z.C. Case 13-05. The proposed building was also moved to the east. The proposed 1½ Street streetscape geometry was also changed as a result of the eastward shift, and was consistent with the improvements shown in Z.C. Case No. 13-05. Attached to the letter were revised architectural plans showing the changes to the project's design. (Ex. 34A1-34A13.) The Applicant stated that as a result of these changes, it was no longer necessary to include conditions in the order related to the 1½ Street streetscape, and all the legal issues raised by Forest City related to potentially overlapping PUDs were resolved. The letter further stated that because of these changes, the Applicant requested additional zoning relief from the side yard requirements of the Zoning Regulations. The letter also stated that the Applicant believed that the loading and grading conditions requested by Forest City were no longer necessary, and instead requested that the Commission grant the Applicant additional design flexibility through the PUD to adjust the grading along the portion of the site adjacent to the Forest City parcel. Finally, the letter proposed a modification to the proposed interim parking condition.
14. On December 7, 2015, Forest City submitted a letter stating that in light of the revisions the Applicant made to the project, and the Applicant's willingness to work with it to address loading/service and grading issues, it fully supported the application. (Ex. 35.)
15. On December 7, OP submitted a report stating that it had participated in the discussions that lead to the changes stated in the Applicant's November 30th letter, that OP had no objection to the proposed additional zoning relief requested, and that OP supported conditions in the PUD order clarifying the responsibilities and encouraging coordination between the Applicant and Forest City for the two developments in the future. (Ex. 36.)
16. On December 7, 2015, DDOT submitted a report stating that it reviewed the Applicant's post-hearing submissions and supported the changes offered therein. (Ex. 37.)
17. At its public meeting held on December 14, 2015, Commissioners May and Turnbull stated they believed the rooftop embellishment was a parapet that violated the Height

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Act, and that the railing shown in the plans was also a likely Height Act violation. After a consultation with the Applicant, the Commission's Secretary indicated that the Applicant would revise its plans to remove the parapet, and to change the railing design. The Commission took proposed action to approve with conditions the PUD and related map amendment, and requested that the Applicant submit revised plans showing changes that conformed to the Applicant's statements to the Commission's Secretary.

18. On December 21, 2015, the Applicant submitted an additional post-hearing submission. (Ex. 39-39B.) The submission attached a revised roof plan showing removal of a rooftop embellishment, and substitution of a three-foot, six-inch safety railing that is set back from the exterior walls a distance that is at least equivalent to its height. The Applicant also attached its list of final proffers and draft conditions required by 11 DCMR § 2403.16.
19. On January 4, 2016, the Applicant submitted its final list of proffers and draft conditions required by 11 DCMR § 2403.20. (Ex. 40.)
20. The application was referred to NCPC pursuant to § 492 of the District of Columbia Home Rule Act. Through an action taken on January 7, 2016, the NCPC found that the PUD and related map amendment would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 41.)
21. The Commission took final action to approve the PUD on January 25, 2016.

The Property and Surrounding Area

22. The Property has a combined land area of approximately 119,875 square feet and is located adjacent to the Anacostia River. The Property is partially improved with surface parking and the O Street Pumping Station, which is a 20,000 gross square foot, two-story brick building operated by DC Water. The Property is bounded by N Place and Canal Street to the north, the Anacostia River to the south, and private property to the east and west, all located in the southeast quadrant of the District. As part of redevelopment of the Property, the Applicant proposes to maintain the O Street Pumping Station and construct the new office building around the existing structure.
23. The Property is surrounded by a variety of uses and properties that have been either recently constructed or approved for redevelopment. Of these projects is the Forest City redevelopment, approved pursuant to Z.C. Order No. 13-05 and located directly adjacent to and north and west of the Property. Upon completion, the Forest City PUD will consist of a movie theater, parking garage, two apartment buildings, and retail, arts, and entertainment uses, with all buildings rising to a maximum height of 110-130 feet. Other nearby redevelopment projects include the Florida Rock redevelopment to the southwest of the Property, which will consist of two residential buildings, a hotel building, and an

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office building, with heights ranging from 95 feet to 130 feet (Z.C. Order No. 04-14B), and the Ballpark Square redevelopment to the northwest of the Property, which will consist of a new residential, hotel, and office building with ground-floor retail, and a maximum building height of 130 feet (Z.C. Order No. 12-05).

Existing and Proposed Zoning

24. The Property is presently zoned CG/W-2. The purpose of the Waterfront (“W”) Districts is to encourage a diversity of compatible land uses at various densities, including combinations of residential, office, retail, recreational, arts and cultural, and other miscellaneous uses. (11 DCMR § 900.4.) The W-2 Zone District permits office use as a matter of right. (11 DCMR § 901.1(p).) The W-2 Zone District permits as a matter of right a maximum building height of 60 feet and a maximum density of 4.0 FAR, not more than 2.0 FAR of which may be used for non-residential purposes. (11 DCMR §§ 930.1 and 931.3.)
25. The Applicant proposes to rezone the Property to the CG/CR Zone District in connection with this application. The CR Zone District is intended to encourage a diversity of compatible land uses that may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses. (11 DCMR § 600.1.) The CR Zone District permits office use as a matter of right. (11 DCMR § 601.1(q).) As a matter of right, property in the CR Zone District can be developed with a maximum building height of 90 feet and a maximum density of 6.0 FAR, not more than 3.0 FAR of which may be used for non-residential purposes. (11 DCMR § 630.1 and 631.1.) PUDs in the CR Zone District can be developed to a maximum building height of 110 feet and with a maximum density of 8.0 FAR. (11 DCMR §§ 2405.) The CR Zone District also requires that at least 10% of the lot area located immediately adjacent to the main entrance to the principal building or structure must serve as a transitional space between the street or pedestrian right-of-way and the building or structure. (11 DCMR § 633.) Rear yards are only required for residential buildings. 11 DCMR § 636.1. Side yards are not required for any use, but if a side yard is provided, it must have a minimum width of three inches per foot of building height, but not less than eight feet. (11 DCMR § 637.)
26. The parking and loading requirements for buildings are based upon the proposed use of the property. An office building in the CR Zone District is required to provide one parking space for each additional 1,800 square feet of gross floor area in excess of 2,000 square feet. (11 DCMR § 2101.1.) An office building with 50,000-200,000 square feet of gross floor area, is required to provide two loading berths at 30 feet deep, two loading platforms at 100 square feet, and one service/delivery space at 20 feet deep. (11 DCMR § 2201.1.)

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PUD Project Description

27. As a multi-jurisdictional regional utility, DC Water provides drinking water and wastewater services to more than 600,000 residential, commercial, and governmental customers, plus 17.8 million annual visitors in the District of Columbia. DC Water also conveys and treats wastewater for 1.6 million customers in Montgomery and Prince Georges counties in Maryland, and Fairfax and Loudoun counties in Virginia. DC Water operates the Blue Plains Advanced Wastewater Treatment Plant (“Blue Plains”), the largest advanced wastewater treatment plant in the world, on a site that covers 150 acres at the southern tip of Washington, DC.
28. Currently the administration functions for DC Water are located in a five-story building at the Blue Plains campus, known as the Central Operations Facility (“COF”). The COF has reached its capacity, necessitating the use of much valued land at Blue Plains for the placement of office trailers, rather than for its intended use as a critical treatment facility. To alleviate the overcrowding at the COF and to free-up land for the expansion and improvement of the plant’s processing operations, DC Water needs to construct a new headquarters building. This proposed new building will consolidate and relocate all administration-related personnel into one centrally located facility.
29. The Applicant proposes to build a new office building headquarters for DC Water on the Property, in accordance with the architectural plans and elevations dated October 6, 2015 (Ex. 20A1-A10), as modified by the supplemental plans dated November 30, 2015 (Ex. 34A1-A13), and the supplemental roof sheet plan dated December 21, 2015 (Ex. 39A) (together, the “Plans”). The Project is located to the west of the historic DC Water Main Pumping Station and to the east of the National’s Ballpark. The Project will be DC Water’s most sustainable construction project ever and will provide a visible connection to the community that DC Water serves. The proposed development will anchor DC Water’s new campus along the Anacostia River, which embraces DC Water’s relationship to the watershed and reflects DC Water’s stewardship of both the natural and built environments.
30. The Project will be located along the north side of the Anacostia River between First Street to the west and the historic Main Pumping Station to the east. The O Street Pumping Station on the Property will remain in full operation throughout the construction of the new building and after its completion, and will be surrounded by the new construction to allow containment of the operation beneath and inside of the new office building.
31. The new building is designed as a world-class headquarters that integrates efficient building systems with the Property itself to create a dynamic workplace environment. The design is a bold, innovative statement on the Anacostia River shoreline that reflects DC Water’s mission to provide reliable and cost-effective water and wastewater services

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- in accordance with best practices. The headquarters showcases its building systems, inviting its employees to become stewards of the environment through the building's educational opportunities. Moreover, the Project supports continued operation of the O Street Pumping Station and uses the residual heat from sewage that is pumped to Blue Plains to heat and cool the new building, demonstrating innovation and the depth of DC Water's commitment to sustainability.
32. The Property features an entry drive, autocourt, pedestrian circulation paths, and lush plantings. The autocourt incorporates ADA parking and features channels or "runnels" that allow for rainwater collection. A long wood esplanade/boardwalk runs along the building's south façade, connecting it to the autocourt and other site features. A metal grating promenade conceptually terminates Canal Street and is intended to be used as an observation platform from which to view the river.
 33. The building's skin is carefully calibrated to respond to daylighting, views, and energy efficiency, and to highlight its sculptural form. The south façade is primarily a glass and aluminum curtain wall. Two areas of the curtain wall facing southwest feature a second layer of tinted glass that reduces unwanted solar gain, as determined by an energy model. The north façade is a variegated green rainscreen panel system with punched windows as needed for the interior program. A perforated version of the panel is used to face the loading area on the west side of the Property. The building skin extends above the roof to incorporate a roof terrace guardrail. The roof plan includes mechanical penthouse elements, stairwell access, a trellis, pavers, and a vegetated roof, and offers panoramic views of the river.
 34. Loading is facilitated on the west side of the building off of the future 1½ Street, S.E. An operable door provides access to a loading yard with docks for the new office building and the O Street Pumping Station. Fourteen on-site parking spaces are located along the closed Canal Street, one of which is ADA-accessible, and six additional ADA parking spaces are located in the autocourt. Pedestrians will be able to access the Property from a checkpoint at the intersection of Canal Street and N Place. An emergency egress is located on the west side of the building at the future 1½ Street.
 35. The building and Property together represent integrated, sustainable, and resilient design. The Project is expected to achieve LEED-Platinum and an even higher threshold, making it one of the most sustainable office buildings in the region. The building's ground floor is set one foot above the 500-year flood plain, and low impact development ("LID") planters and native plantings will promote infiltration and reduce runoff. The building skin is optimized for views and daylighting while preventing glare and unwanted solar radiation. Mechanical systems are anticipated to use pump station wastewater as a source of heat recovery. Furthermore, 100% of the rainwater on the building's roof will be collected in a cistern to be used for toilet flushing in the building.

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Security Constraints

36. The Property is deemed an “essential component” in supporting the United States government. (*See* Homeland Security Act of 2002, which directs the Department of Homeland Security to ensure the protection of the nation’s critical infrastructure and key resources.) DC Water distributes drinking water and collects and treats wastewater for more than 600,000 customers in the District, and provides wholesale wastewater treatment services for a population of 1.6 million in parts of Maryland and Virginia. In addition, the new headquarters building will house command leadership staff, finance, procurement, and other critical support elements that are necessary to the successful operations of the organization. Protection of these vital assets is of highest priority. By incorporating the new headquarters building into existing DC Water infrastructure, and by concentrating a greater number of resources in the same location, DC Water will be able to better protect all of its facilities.
37. As a result of the critical infrastructure and key resources that will be located at the Property, the proposed development incorporates security measures and access restrictions, which impact operation and design of the new building and the surrounding area. The property lines, adjacent roads, and walkways all require direct observation and controlled access, which will be provided through a variety of security measures and the creation of “buffer zone” expansion capabilities when threat levels increase. Given these serious security considerations, people accessing the Property will have to be cleared through security at guarded check-points, and all visitors will need to be cleared through security to access the walkways to the building. There will be limited vehicular traffic onto the Property, all of which will be checked and tagged for access. Moreover, all DC Water employees will participate in regularly scheduled evacuation exercises and will be trained on safety, security, and evacuation procedures for the various operational environments in which they may work.

Zoning Relief Requested

38. The Applicant requested relief from the public space at ground level requirements of 11 DCMR § 633, which requires that in the CR Zone District an area equivalent to 10% of the total lot area shall be provided for all new development (§ 633.1). This space is to be located immediately adjacent to the main entrance to the principal building to serve as a transitional space between the street or pedestrian right-of-way and the building (§ 633.2), and is required to be open and available to the general public on a continuous basis (§ 633.5).
39. In this case, the Property incorporates significant open space; however, due to the importance of protecting critical infrastructure and key resources located at the Property and within the headquarters building, the Applicant is unable to provide the required public open space at the entrance to the building. Moreover, the Property will be

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protected by security zones, guarded check-points, and other best practice security measures, and will not be open and available to the general public on a continuous basis. The Commission finds that relief from 11 DCMR § 633 will not result in any negative impacts. The Project's design and program is cognizant of the urban design that the District hopes to achieve for the Property. Although the Project will be secured through security buffers and check-points, these features will not prevent the public from being able to access the building for public meetings, business, or planned tours and events. By securing the Property, DC Water will be able to continue serving safe and reliable drinking water to city residents and visitors, and will be able to better protect its facilities by concentrating its resources in a single location.

40. The Applicant requested relief from the parking space requirements of 11 DCMR § 2101.1, which requires 69 on-site parking spaces for the proposed office use. However, the Applicant proposes to provide 20 on-site parking spaces and a minimum of 50 additional parking spaces located on property owned or controlled by DC Water or otherwise in proximity to the Property. The Commission finds that the proposed number of parking spaces for the Project is sufficient to meet the anticipated parking demand for the building. The Property is located in close proximity to multiple public transportation options, including Metrorail, Metrobus, car-share locations, and Capital Bikeshare docks. The PUD will include on-site bicycle parking to adequately serve anticipated demand, as well as shower and changing facilities to encourage employees to bike to work. The Applicant will also provide an expansive transportation demand management ("TDM") plan that will help facilitate alternative commuting options. Moreover, the Commission finds that the Project is consistent with the Comprehensive Plan's goals of investing in transit-oriented development, improving pedestrian facilities, and providing multi-modal corridors that incorporate and balance a variety of mode choices. Based on the foregoing, the Commission finds that the proposed number of parking spaces will satisfy the Project's parking demand.
41. The Applicant requested relief from the roof structure requirements of the Zoning Regulations because there are multiple roof structures, requiring flexibility from 11 DCMR § 411.3 and both roof structures will have multiple heights, requiring relief from 11 DCMR § 411.5. The Commission finds that the number and location of the roof structures is driven by the layout and design of the office use within the building and the need to wrap the new building around the existing O Street Pumping Station. The roof structures are separated due to the Building Code requirement to provide separate means of egress to the roof, and to break up massing. Each roof structure is only as tall as it needs to be, and provides the required 1:1 setback from exterior walls. The roof structures are two heights in order in order to minimize their visibility. Although a single height could theoretically be provided for the structures, doing so would be unduly restrictive and unreasonable, given that it would add unnecessary massing to the roof and would undermine the purpose of the Regulations, which is to exercise a degree of architectural control over roof structures. (See 11 DCMR § 411.) Moreover, the

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proposed roof structures are clad in quality materials that match the façade materials of the overall building and integrate well into the overall building design. Thus, the Commission finds that the intent and purposes of the Zoning Regulations will not be materially impaired and the light and air of adjacent buildings will not be adversely affected.

42. The Applicant also requested relief from 11 DCMR § 3202.3, which requires the existence of a record lot as a prerequisite to obtaining a building permit. Instead of subdividing the Property into a new record lot prior to obtaining a building permit, the Applicant proposed to record a Plat of Computation that will be consistent with the boundaries of the Property. The Commission finds this to be a reasonable request, since the Project is part of a larger overall redevelopment plan for Squares 744S and 744SS, which DC Water is undertaking with Forest City. The approved Forest City PUD includes the creation of various new record lots and the creation of a new street (1½ Street). In order to establish the proposed street network and to ensure that the future record lots are platted appropriately, Forest City and DC Water will have to coordinate the subdivision process. However, at the time of its Zoning Commission hearing, DC Water anticipated beginning construction of the Project before Forest City is ready to begin the subdivision process. The Commission therefore finds it reasonable to grant flexibility so that DC Water may move forward with its proposed development rather than waiting for Forest City to begin the subdivision process.
43. The Applicant also requested relief from 11 DCMR § 637.2, which requires a side yard of a minimum of 25 feet for the building. The proposed building is only three feet from the western property line. The request is reasonable because of the location of the existing O Street Pumping Station, and other existing infrastructure facilities, and the proposed 1 ½ Street geometry and improvements. The project includes ample open space to the north, east and south of the building, and the project's low lot occupancy results in ample open space on the site.

Design Flexibility Requested

44. The Applicant also requested flexibility in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - b. To vary the location and arrangement of parking (vehicular and bicycle) spaces;

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- c. To vary the sustainable design features of the building, provided the total number of LEED points achievable for the Project is not below 80 points under the LEED-Platinum rating standards;
- d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: curtain wall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes in order to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit; and
- e. To adjust the grading along the portion of the site adjacent to the southern edge of Forest City's proposed movie theatre site if DC Water determines such adjustments are necessary and do not materially change DC Water's approved PUD plans and do not adversely impact the operations of DC Water's facilities.

Project Benefits and Amenities

- 45. Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a)) – The Project will be a welcoming, iconic, and highly sustainable headquarters office building for DC Water. The new building will wrap the O Street Pumping Station on two sides with a modern six story structure that provides a unique and aesthetically pleasing view from the Anacostia River. The building will be a civic landmark, expressing the current state-of-the-art in sustainable architecture and site design, while celebrating the Property's location along the Anacostia River. Furthermore, the Project exemplifies the Applicant's commitment to improving water quality and conserving energy through the implementation of extensive low impact development, water conservation techniques, and innovative stormwater management features.
- 46. Site Planning and Efficient and Economical Land Utilization (11 DCMR § 2403.9(b)) – The Project will include environmentally sensitive development of a class-A office space constructed around and over a portion of the O Street Pumping Station, thus demonstrating an efficient use of industrial space in a dense urban environment.
- 47. Environmental Benefits (11 DCMR § 2403.9(h)) – The Applicant will ensure environmental sustainability through the implementation of sustainable design features and strategies to enhance the Property's transit-rich location. The Project provides a host of environmental benefits consistent with the recommendations of § 2403.9(h), including the following:

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- a. The building will achieve LEED-Platinum certification under the USGBC's LEED for New Construction v2009;
 - b. The Property will capture 100% its rainwater and will reuse it for 100% of the non-potable purposes on the Property. The techniques used in capturing and reusing rainwater will be featured in the main lobby as a teaching tool;
 - c. The Applicant will install bioswales to allow water to infiltrate onto the Property and reduce the heat island effect relative to the existing paved condition;
 - d. The Project will incorporate alternative energy technologies;
 - e. The building will maximize daylighting and views and minimize the use of electric lighting; and
 - f. The Applicant will utilize reclaimed materials in all areas, particularly with wood elements.
48. Transportation Benefits (11 DCMR § 2403.9(c)) – The Applicant incorporated a number of elements designed to promote effective and safe vehicular and pedestrian access to the Property, convenient connections to the Navy Yard Metrorail station and nearby Metrobus routes, and on-site amenities such as vehicle and bicycle parking. In addition, the Applicant will undertake the following improvements:
- a. Provide 20 off-street vehicle parking spaces on the Property and a minimum of 50 additional off-street parking spaces on property owned or controlled by the Applicant, or otherwise in close proximity to the Property. The property located to the immediate north of the Property (identified as “Parcel F1” in Z.C. Case No. 13-05) is currently improved with DC Water facilities and utilized for DC Water purposes, including parking, and will continue to provide such DC Water uses until such time as DC Water, the District, and Forest City reach a mutually agreeable document governing access to their respective development sites, parking, and other issues related to the relocation of the existing DC Water facilities in order for development to move forward on the land;
 - b. Provide a minimum of 16 covered and secure bicycle racks on the Property;
 - c. Identify a TDM leader for planning, construction, and operations, and provide DDOT/Zoning Enforcement with annual TDM Leader contact updates;
 - d. Post all TDM commitments on DC Water intranet, publicize availability to employees and allow employees to see what commitments have been promised;

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- e. Provide a bicycle repair facility within the guard booth/bicycle storage area;
 - f. Provide two showers and individual storage space within work areas for use by employees;
 - g. Provide a TransitScreen or similar device displaying real-time transportation schedules;
 - h. Expand its SmarTrip Transit Benefits Program to cover employees working at the Property, which provides a monthly, \$75 transit subsidy for employees that participate;
 - i. In the event that Forest City does not file a building permit for the development of Parcel F1, approved pursuant to Z.C. Order No. 13-05, prior to the issuance of a Certificate of Occupancy for the Project, then DC Water will construct pedestrian improvements meeting DDOT's minimum standards along the south side N Place, S.E. from First Street, S.E. to the closed portion of Canal Street, S.E.;
 - j. In the event that Forest City does not file a building permit for the development of Parcel F1, approved pursuant to Z.C. Order No. 13-05 (or any extension thereof) by February 7, 2018, DC Water will perform a signal warrant analysis post-occupancy of the Project to verify the need for a signal at N Place, and if warranted, DC Water will install a signal at this location in coordination with DDOT; and
 - k. Prior to any construction by Forest City on Parcel F1, DC Water will work with Forest City and the District to ensure that any parking spaces located on Parcel F1 serving DC Water are relocated (at no expense to DC Water) by Forest City or the District to a location in close proximity to the Property, and that the parking spaces are located such that there are adequate pedestrian improvements for employees to access the Property.
49. Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(I)) – The Applicant will undertake the following actions to enhance the public's experience at the Property:
- a. Welcome residents and visitors to the Property who have DC Water business to conduct, such as attending a Board of Directors meeting, applying for or interviewing for a job, attending a DC Water community event, or attending a procurement meeting;
 - b. Install interpretative and educational displays in the main lobby and windows into the O Street Pumping Station to create an active, colorful, and thoughtful

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experience. Displays will include community news and will advertise for Yards Park and Capital Riverfront BID events; and

- c. Provide scheduled, guided tours of the building to learn about DC Water operations in the community and the history of the Historic Main Pump Station, which is presently not open to the public.

Comprehensive Plan

50. The Comprehensive Plan Future Land Use Map designates the Property in the mixed-use Medium-Density Commercial and Medium-Density Residential land use categories. The Medium-Density Commercial category is used to define areas where buildings are generally larger and/or taller than those in moderate-density commercial areas but generally do not exceed eight stories in height. The C-2-B, C-2-C, C-3-A, and C-3-B Zone Districts are generally consistent with this land use category, although other zones may apply in some locations. The Medium-Density Residential designation is used to define neighborhoods or areas where mid-rise (four-to-seven stories) apartment buildings are the predominant use. Pockets of low and moderate-density housing may exist within these areas. The Medium-Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone Districts are generally consistent with the medium-density designation, although other zones may apply in some locations.
51. The Framework Element of the Comprehensive Plan provides that the Land Use Map is not a zoning map. (*See* 10A DCMR § 226.1(a); *see also* Z.C. Order No. 13-05; Z.C. Order No. 11-13; and Z.C. Order No. 10-28.) Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. By definition, the Future Land Use Map is to be interpreted broadly. (10A DCMR § 226.1(a).) Furthermore, the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. The granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited. (*Id.* at § 226.1(c); *see also* Z.C. Order No. 13-05, Finding of Fact No. 51.) The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. (10A DCMR § 266.1(d).)
52. In evaluating the proposed map amendment, the Commission finds that the Property should be viewed in context and not as an isolated parcel. Accordingly, when taken in context with the surrounding neighborhood, the Applicant's proposal to rezone the Property from the CG/W-2 Zone District to the CG/CR Zone District in order to construct

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a new headquarters office building for DC Water is consistent with the Comprehensive Plan's designations of the Property. The Commission finds that the proposed development of the Property reflects the density anticipated by the Future Land Use Map.

53. Furthermore, the Commission finds that the proposed CG/CR zoning classification will enable the Property to be developed with a maximum building height of 100 feet and a maximum density of 1.3 FAR, which is consistent with the amount of commercial density permitted in medium density commercial zones. The proposed zoning is consistent with the Property's location near a Metrorail station, and the rezoning is necessary to permit a use and density appropriate for the Property's strategic, transit-oriented location. Moreover, the rezoning of the Property to the CG/CR Zone District will be congruous with the adjacent Forest City PUD and will permit an appropriate mix of uses and densities for the surrounding area.
54. The Property is located in the Land Use Change Area category on the District of Columbia Comprehensive Plan Generalized Policy Map. The Commission finds that the Project is consistent with the policies intended for Land Use Change Areas, since the new office building will integrate well with the new residential, retail, and recreational uses in the surrounding area and will draw additional employees and visitors to the emerging neighborhoods along the Anacostia Riverfront. The Project will incorporate the existing O Street Pumping Station while facilitating development of a major new workplace in a high-quality environment that includes exemplary site and architectural design.
55. The Property is also located within the Central Employment Area ("CEA"), which is the business and retail heart of the District and the metropolitan area. The CEA has the widest variety of commercial uses, including but not limited to major government and corporate offices, and draws patrons, workers, and visitors from across the region. (10A DCMR § 223.21.) The Commission finds that the Project's proposed use, height, and density are particularly appropriate given its location in the CEA.
56. The Commission finds that the Project is consistent with the guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as set forth in the Comprehensive Plan. The Commission also finds that the Project furthers numerous policies and objectives of the Comprehensive Plan, as discussed below:
 - a. *Policy LU-1.2.7: Protecting Existing Assets on Large Sites:* The Project will preserve and protect the existing O Street Pumping Station on the Property, and incorporate the new office building around the existing structure as the Property is redeveloped;
 - b. *Policy LU-1.2.8: Large Sites and the Waterfront:* Redevelopment of the Property along the Anacostia waterfront will help achieve related urban design, open space,

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environmental, and economic development objectives. The Project will significantly improve the Property, and enhance the physical and environmental quality of the river;

- c. *Policy LU-1.3 Transit-Oriented and Corridor Development:* The PUD exemplifies the principles of transit-oriented development. The Property is located within convenient walking distance of multiple Metrobus routes and the Navy Yard Metrorail station. The location of the Project will minimize the necessity of automobile use and will maximize transit ridership while respecting the character and needs of the surrounding area. More specifically, the Project is consistent with *Policy LU-1.3.8*, which encourages the siting, retention, and modernization of public facilities such as government offices near transit stations;
- d. *Policy LU-2.2.4: Neighborhood Beautification:* This policy encourages projects to improve the visual quality of the District's neighborhoods. The Project architect designed the building to enhance the overall visual aesthetic of the neighborhood, which will be a major improvement to the current site condition. The Project also includes a significant amount of landscaped areas, which will greatly enhance the sustainability of the site and the views of the Property from the waterfront;
- e. *Policy T-1.1.4: Transit-Oriented Development:* The Project is an excellent example of transit-oriented development due to its close proximity to multiple Metrobus routes and the Navy Yard Metrorail station and its location in a mixed-use neighborhood;
- f. *Policy T-1.3.1: Transit-Accessible Employment:* The Project will support transit-oriented and transit-accessible employment and will maximize the use of major transportation investments, such as the Metrorail, to enhance the overall efficiency of the regional transportation system. The Project will include transportation incentives for employees to reduce vehicle dependence;
- g. *Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning and Action T-2.3-A: Bicycle Facilities:* The Project carefully integrates bicycle and pedestrian safety considerations. The Project will include secure bicycle parking on the Property to encourage employees to bike to work;
- h. The Project includes street tree planting, landscaping, energy efficiency, and several methods to reduce stormwater runoff, and is therefore fully consistent with the Environmental Protection Element. Moreover, the Commission finds that the Project is consistent with numerous policies set forth in the Environmental Protection Element, including the following:

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- i. Encouraging the planting and maintenance of street trees in all parts of the city (*Policy E-1.1.1*);
 - ii. Encouraging the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity (*Policy E-1.1.3*);
 - iii. Promoting the efficient use of energy, additional use of renewable energy, and a reduction of unnecessary energy expenses (*Policy E-2.2.1*); and
 - iv. Promoting tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction (*Policy E-3.1.2*);
- i. The Project is also consistent with the Economic Development Element of the Comprehensive Plan since the PUD will strengthen and promote the District's economy by supporting the District government workforce. The Project will help leverage the strengths of its economy and the region's skilled labor force and provide new employment opportunities to District residents. Consistent with *Policy ED-1.1.5: Use of Large Sites*, the PUD will ensure that the Property's economic development potential is fully realized such that it will help revitalize the neighborhood and diversify the District economy, particularly given its location with convenient Metrorail access. The Project will also help further *Policy ED-2.1.1: Office Growth* by accommodating growth in government along the Anacostia Waterfront;
 - j. The Project is also consistent with the Urban Design Element of the Comprehensive Plan, since the Applicant has aligned the Project with the character of the surrounding neighborhood. Consistent with *Policies UD-2.2.1: Neighborhood Character and Identity* and *UD-2.2.7: Infill Development*, the PUD will strengthen the architectural quality of the immediate neighborhood by relating the Project's scale to the existing context, including both existing and approved development projects. In addition, the Project includes elegant, visually-interesting, and well-designed building façades that eschew monolithic or box-like forms and long blank walls that detract from the quality of the streetscape. *See Policy UD-2.2.5*; and
 - k. The Project is also fully consistent with many of the policies and actions set forth in the Infrastructure Element, including improving water quality and modernizing the aging water distribution system. *See* 10A DCMR § 1300.4. The PUD will support *Policy IN-1.1.1: Adequate Water Supply* by allowing for the construction of the new headquarters building for DC Water, such that DC Water can provide a safe and adequate water supply to serve current and future District needs. The

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Project will also further *Policies IN-1.2.1: Modernizing and Rehabilitating Water Infrastructure* and *IN-1.2.2: Ensuring Adequate Water Pressure* by ensuring that DC Water has adequate facilities to repair and replace aging infrastructure; to upgrade the water distribution system to meet current and future demand; and to ensure that DC Water can provide adequate water supply and pressure to all areas of the District. Furthermore, with respect to wastewater and stormwater systems, the PUD will provide new office facilities such that DC Water will be able to ensure that the following policies will be implemented safely and effectively, as envisioned by the Comprehensive Plan: (i) *Improving Wastewater Collection (Policy IN-2.1.1)*; (ii) *Investing in our Wastewater Treatment Facilities (Policy IN-2.1.2)*; (iii) *Sludge Disposal (Policy IN-2.1.3)*; and (iv) *Improving Stormwater Management (Policy IN-2.2.1)*.

57. The Property is located within the boundaries of the Lower Anacostia and Near Southwest Area Element. The Commission finds that the proposed PUD is consistent with and advances many goals and policies of the Lower Anacostia and Near Southwest Area Element that are intended to guide growth and neighborhood conservation decisions. For example, as called for in *Policies AW-1.1.2: New Waterfront Neighborhoods* and *AW-1.1.3: Waterfront Area Commercial Development*, the Project will provide a new use on underutilized waterfront land and will establish new office space for government activities. More specifically, the Property is located in the Near Southeast policy focus area in the Anacostia Waterfront Planning Area, which requires a heightened level of direction and guidance. The Commission finds that the PUD is consistent with the goals of this focus area because it will help create an identity in the Near Southeast that celebrates the area's history and integrates two existing DC Water pumping stations. *See Policy AW-2.3.7: Near Southeast Historic Identity.*

Office of Planning Reports

58. By report dated October 16, 2015, OP recommended approval of the PUD and related Zoning Map amendment, subject to several conditions to which the Applicant agreed at the public hearing. (Ex. 23.) In its report, OP stated that the PUD and map amendment would not be inconsistent with the maps and written elements of the Comprehensive Plan, and asserted that the Project would further many major policies from various elements of the Comprehensive Plan, including the Land Use, Transportation, Environmental Protection, Economic Development, Urban Design, Infrastructure, and Lower Anacostia Waterfront/Near Southwest Area Elements.

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59. By report dated December 7, 2015, OP stated that it had participated in the discussions that lead to the changes stated in the Applicant's November 30th letter, that OP had no objection to the proposed additional zoning relief requested, and that OP supported conditions in the PUD order clarifying the responsibilities and encouraging coordination between the Applicant and Forest City for the two developments in the future. (Ex. 36.)

DDOT Reports

60. By report dated October 23, 2015, DDOT stated that it had no objection to the requested PUD, with a number of conditions. (Ex. 25.) Following the public hearing, the Applicant met with DDOT to review DDOT's proposed conditions and to provide the information requested by DDOT. As a result of these meetings, the Applicant agreed to the following conditions:
- a. The Applicant shall provide a bicycle repair facility within the guard booth/bicycle storage area;
 - b. The Applicant shall provide two showers and individual storage space within work areas for use by employees;
 - c. The Applicant shall provide a TransitScreen or similar device displaying real-time transportation schedules;
 - d. The Applicant shall expand its SmarTrip Transit Benefits Program to cover employees working at the Property which provides a monthly, \$75 transit subsidy for employees that participate;
 - e. In the event that Forest City does not file a building permit for the development of Parcel F1 approved pursuant to Z.C. Order No. 13-05 prior to the issuance of a Certificate of Occupancy for the Project, then DC Water will construct pedestrian improvements meeting DDOT's minimum standards along the south side N Place, S.E. from First Street, S.E. to the closed portion of Canal Street, S.E.;
 - f. In the event that Forest City does not file a building permit for the development of Parcel F1 approved pursuant to Z.C. Order No. 13-05 (or any extension thereof) by February 7, 2018, DC Water will perform a signal warrant analysis post-occupancy of the Project to verify the need for a signal at N Place, and if warranted DC Water will install a signal at this location in coordination with DDOT; and
 - g. Prior to any construction by Forest City on Parcel F1, DC Water will work with Forest City and the District to ensure that any parking spaces located on Parcel F1 and serving DC Water are relocated (at no expense to DC Water) by Forest City or the District to a location in close proximity to the Property, and that the parking

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spaces are located such that there are adequate pedestrian improvements for employees to access the Property.

61. The Commission finds that based on the conditions listed above, the Applicant adequately addressed each of DDOT's concerns.
62. On December 7, 2015, DDOT submitted a report stating that it reviewed the Applicant's post-hearing submissions and supported the changes offered therein. (Ex. 37.)

ANC Report

63. By letter dated October 1, 2015 (Ex. 19), ANC 6D recommended approval of the PUD and related map amendment. The ANC letter asserted that the Project includes substantial public benefits and amenities, and noted support for the requested areas of zoning flexibility, which would "have no adverse impacts on the surrounding community, and the project has been designed as a world-class, iconic, and highly sustainable development." The ANC stated that the Project "would be in the overall best interests of the community and affected stakeholders," and recommended that the Commission approve the Project.

Forest City

64. Forest City testified in support of the application at the public hearing, and also provided a written statement in support. (Ex. 29.) At the public hearing Forest City asserted that DC Water had addressed all of its concerns prior to the public hearing, and that the only outstanding issues related to: (i) the future 1½ Street, which runs north-south from the Anacostia River, in between the Property and the Forest City PUD; and (ii) the shared loading and service area located between the Property and the future movie theater located on Forest City's land adjacent to the Property.
65. Subsequent to the public hearing, the Applicant had multiple communications with Forest City to address their concerns. As a result of these communications, and as shown the Plans submitted November 9, 2015, the Applicant revised the project in a number of ways to resolve the issues identified by Forest City. (Ex. 34A1-34A13.) The western boundary line of the PUD was shifted east so that it was consistent with the property line shown in Z.C. Case No. 13-05. The proposed building was also moved to the east. The proposed 1½ Street streetscape geometry was also changed as a result of the eastward shift, and was consistent with the improvements shown in Z.C. Case No. 13-05. The Applicant stated that as a result of these changes, it was no longer necessary to include conditions in the Order related to the 1½ Street streetscape, and all the legal issues raised by Forest City related to potentially overlapping PUDs were resolved.

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66. Forest City submitted a letter dated December 7, 2015 stating that as a result of the understanding it reached with the Applicant, it supported the application.
67. The Commission finds that the changes made to the project stated in the Applicant's November 30, 2015 letter resolve the concerns raised by Forest City, and will enable both projects to move forward. (Ex. 34.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the Property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD complies with the development standards of the Zoning Regulations. The proposed office use is appropriate for the Property and the impact of the Project on the surrounding area and the operation of city services is acceptable, given the quality of the public benefits in the Project. Accordingly, the Project should be approved.
5. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
6. The Applicant's request for flexibility from the Zoning Regulations is not inconsistent with the Comprehensive Plan. The Commission also concludes that the project benefits and amenities are reasonable trade-offs for the requested development flexibility in accordance with 11 DCMR §§ 2400.3 and 2400.4.

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7. Approval of this PUD is appropriate because the proposed development is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The proposal to rezone the Property from the CG/W-2 Zone District to the CG/CR Zone District is not inconsistent with the Property's designation on the Future Land Use Map and the Generalized Policy Map.
9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2012 Repl.)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.
10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission has carefully considered the ANC 6D's recommendation for approval and concurs in its recommendation.
11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review and approval of a planned unit development and related map amendment from the CG/W-2 Zone District to the CG/CR Zone District for part of Lot 805 in Square 744S and part of Lot 801 in Square 744SS. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

A. Project Development

1. The Project shall be developed in accordance with the architectural plans and elevations dated October 6, 2015 (Ex. 20A1-20A10), as modified by the supplemental plans dated November 30, 2015 (Ex. 34A1-34A13), and the supplemental roof sheet plan dated December 21, 2015 (Ex. 39A) (together, the "Plans"), and as modified by the guidelines, conditions, and standards of this Order.

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2. In accordance with the Plans, the Applicant shall develop the Subject Property with a new office building consisting of approximately 160,634 square feet of gross floor area (1.43 FAR) and a maximum building height of 100 feet, not including the roof structures. The PUD shall include 20 off-street parking spaces on the Property and a minimum of 50 additional off-street parking spaces located on property owned or controlled by DC Water or otherwise in close proximity to the Property.
3. The Applicant shall have zoning relief with the PUD in the following areas:
 - a. To not provide the required public space at ground level adjacent to the entrance of the building due to the enhanced security measures that must be undertaken at the Property;
 - b. To provide 20 off-street parking spaces located on the Property and a minimum of 50 additional off-street parking spaces located on property owned or controlled by DC Water, or otherwise in close proximity to the Property;
 - c. To provide two roof structures, both of which are not set back at a 1:1 distance from the surrounding enclosing walls, and one of which has multiple heights;
 - d. To obtain a building permit based upon a plat of computation in lieu of a record lot as required pursuant to 11 DCMR § 3202.3; and
 - e. To permit a three-foot side yard from the western property line in lieu of a 25-foot side yard required by 11 DCMR § 637.2.
4. The Applicant shall also have design flexibility with the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - b. To vary the location and arrangement of parking (vehicular and bicycle) spaces;
 - c. To vary the sustainable design features of the building, provided the total number of LEED points achievable for the Project is not below 80 points under the LEED-Platinum rating standards;

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- d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: curtain wall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes in order to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit; and
- e. To adjust the grading along the portion of the site adjacent to the southern edge of Forest City's proposed movie theatre site if DC Water determines such adjustments are necessary and do not materially change DC Water's approved PUD plans and do not adversely impact the operations of DC Water's facilities.

B. Public Benefits

1. Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a)) – **For the life of the Project**, the Project shall be developed in accordance with the Plans, as modified by the guidelines, conditions, and standards of this Order. In accordance with the Plans, the Applicant shall develop the Property with a new office building consisting of approximately 160,634 square feet of gross floor area and a maximum building height of 100 feet, not including roof structures. The Project shall include the landscape and sustainability features included on Sheets L01-L22 of the Plans (Ex. 20A2-20A3), the landscape elements shown on the Green Area Ratio (“GAR”) Scorecard on Sheet A502 of the Plans (Ex. 20A9), and the sustainability features included on the LEED Scorecard on Sheet A501 of the Plans (Ex. 20A9).
2. Environmental Benefits (11 DCMR § 2403.9(h)) – The Applicant shall provide the following environmental benefits:
 - a. **Prior to the issuance of a building permit**, the Applicant shall register the Project with the USGBC to commence the LEED certification process under the USGBC's LEED for New Construction v2009 standards, and shall submit evidence to the Zoning Administrator that the building has been designed to include a sufficient number of points to achieve LEED-Platinum certification. Within 12 months after the issuance of the Certificate of Occupancy, the Applicant shall submit a completed certification application to USGBC for review for LEED-Platinum

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certification by the Green Building Certification Institute or similar organization;

- b. **For the life of the Project**, the Property shall capture 100% of its rainwater and shall reuse it for 100% of the non-potable purposes on the Property. The techniques used in capturing and reusing rainwater shall be featured in the main lobby as a teaching tool;
- c. **Prior to the issuance of a Certificate of Occupancy for the building and for the life of the Project**, the Applicant shall submit to DCRA evidence that it has:
 - i. Installed bioswales on the Property, incorporated water efficient landscaping, and incorporated water use reduction techniques;
 - ii. Incorporated alternative energy technologies, such as optimized energy performance indicators, enhanced commissioning, and/or refrigeration management systems;
 - iii. Incorporated features to maximize daylighting and views and to minimize the use of electric lighting;
 - iv. Incorporated low-emitting, recycled, and regional building materials; and
 - v. Utilize reclaimed materials in the construction of the building.

3. **Transportation Benefits (11 DCMR § 2403.9(c))**

- a. **Prior to issuance of a Certificate of Occupancy for the building and for the life of the Project**, the Applicant shall undertake the following activities to promote effective and safe vehicular, bicycle, and pedestrian access to the Property:
 - i. Provide 20 off-street vehicle parking spaces on the Property. The Applicant shall also have the flexibility to provide a minimum of 50 off-street parking spaces on property owned or controlled by DC Water within the boundary of the “Existing DC Water Campus Boundary,” as shown on Sheet G.02 labeled “Contextual Site Plan” of the Plans dated October 6, 2015 (Ex. 20A1) or otherwise in close proximity to the Property;

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- ii. Provide a minimum of 16 covered and secure bicycle racks on the Property, as shown on Sheets L02, L03, and A425 of the Plans dated October 6, 2015 (Ex. 20A2, 20A8);
 - iii. Identify a TDM leader for planning, construction, and operations, and provide DDOT/Zoning Enforcement with annual TDM Leader contact updates;
 - iv. Post all TDM commitments on DC Water intranet, publicize availability to employees and allow employees to see what commitments have been promised;
 - v. Provide a bicycle repair facility within the guard booth/bicycle storage area;
 - vi. Provide two showers and individual storage space within work areas for use by employees;
 - vii. Provide a TransitScreen or similar device displaying real-time transportation schedules; and
 - viii. Expand its SmarTrip Transit Benefits Program to cover employees working at the Property which provides a monthly, \$75 transit subsidy for employees that participate;
- b. In the event that Forest City does not file a building permit for the development of Parcel F1 approved pursuant to Z.C. Order No. 13-05 prior to the issuance of a Certificate of Occupancy for the Project, then DC Water will construct pedestrian improvements meeting DDOT's minimum standards along the south side of N Place, S.E. from First Street, S.E. to the closed portion of Canal Street, S.E.;
 - c. In the event that Forest City does not file a building permit for the development of Parcel F1 approved pursuant to Z.C. Order No. 13-05 (or any extension thereof) by February 7, 2018, DC Water will perform a signal warrant analysis post-occupancy of the Project to verify the need for a signal at N Place, and if warranted DC Water will install a signal at this location in coordination with DDOT; and
 - d. Prior to any construction by Forest City on Parcel F1, DC Water will work with Forest City and the District to ensure that any parking spaces located on Parcel F1 and serving DC Water are relocated to a location in close proximity to the Property, and that the parking spaces are located such that

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there are adequate pedestrian improvements for employees to access the Property.

4. Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(I)) - **Prior to the issuance of a Certificate of Occupancy for the building and for the life of the Project**, the Applicant shall submit to DCRA evidence that the Applicant has undertaken the following actions:
 - a. Established guidelines such that the Property will be open to visitors who have official DC Water business to conduct;
 - b. In the main building lobby of the Project, installed interpretative and educational displays for the posting of community news and events and provided windows into the O Street Pumping Station; and
 - c. Created a program that provides scheduled, guided tours of the building to educate the public about DC Water operations in the community and the history of Main Pump Station.

C. Miscellaneous

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.
3. The PUD shall be valid for a period of two years from the effective date of Z.C. Order No. 15-14. Within such time, an application must be filed for a building permit for the construction of the Project as specified in 11 DCMR § 2409.1. Construction of the Project must commence within three years of the effective date of Z.C. Order No. 15-14.

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4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. 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 identification 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 that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On December 14, 2015, upon a motion by Vice Chairperson Cohen, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On February 8, 2016, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on March 11, 2016.

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