

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council enacts Act 21-398, Sale to Minors Penalty Clarification Emergency Amendment Act of 2016
- D.C. Council enacts Act 21-401, Mandatory Driver Instruction Regulation Emergency Amendment Act of 2016
- D.C. Council schedules a public hearing on the “State of School-Based Athletics in Public Schools”
- Department of Energy and Environment solicits comments on the notification by DC Water of Distribution of Class A Exceptional Quality Biosolids (Bloom™) in the District of Columbia
- Office of the Deputy Mayor for Planning and Economic Development solicits offers for the Development of the MLK/Gateway Community
- D.C. Taxicab Commission announces amendments to the request for applications on the Grants for Electric Taxicabs

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 *et seq.* (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at dcregs.dc.gov. Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-501 *et seq.* (2012 Repl.).

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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MURIEL E. BOWSER
MAYOR

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ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-394

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

To approve, on an emergency basis, Modification Nos. 0007 and 0008 to Contract No. CW25933 with Public Performance Management, LLC, to provide mission oriented business integrated services (MOBIS) and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. CW25933 Approval and Payment Authorization Emergency Act of 2016”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 0007 and 0008 to Contract No. CW25933 with Public Performance Management, LLC, and authorizes payment not to exceed \$10,000,000 for goods and services received and to be received under the contract from January 29, 2016 through January 28, 2017.

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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-395

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

To order, on an emergency basis, the closing of a portion of the public alley system in Square 342, bounded by Massachusetts Avenue, N.W., 10th Street, N.W., K Street, N.W., and 11th Street, N.W., in Ward 2.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Closing of a Public Alley in Square 342, S.O. 14-21629, Emergency Act of 2016”.

Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council finds the portion of the public alley system in Square 342, as shown on the Surveyor’s plat filed in S.O. 14-21629, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor’s plat.

(b) The approval of the Council of this alley closing is contingent upon the satisfaction of all conditions in the official file for S.O. 14-21629 before the recordation of the alley closing.

Sec. 3. Transmittal.

The Council shall transmit a copies of this act, upon its effective date, to the Office of the Surveyor and the Office of the Recorder of Deeds.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Closing of a Public Alley in Square 342, S.O. 14-21629, Act of 2016, passed on 2nd reading on April 19, 2016 (Enrolled version of Bill 21-446), as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

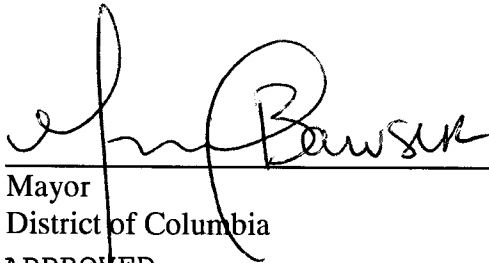
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-396

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

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

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Medical Marijuana Cultivation Center Expansion Emergency Amendment Act of 2016”.

Sec. 2. The Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-1671.01) is amended by adding a new paragraph (1A) to read as follows:

“(1A) “Adjacent” means located within the same physical structure as, and is abutting, adjoining, bordering, touching, contiguous to, or otherwise physically meeting.”.

(b) Section 7 (D.C. Official Code § 7-1671.06) is amended as follows:

(1) Subsection (d) is amended as follows:

(A) Paragraph (3) is amended by adding a new subparagraph (C) to read as follows:

“(C)(i) Notwithstanding 22 DCMR §§ C5003.2 and C5003.3, any applicant that received notification from the Department on July 25, 2014, that its cultivation center was eligible for registration shall be permitted to modify the location and premises identified on the application within 90 days after the effective date of the Medical Marijuana Cultivation Center Expansion Emergency Amendment Act of 2015, effective July 20, 2015 (D.C. Act 21-104; 62 DCR 9965), without negatively affecting the current status of the application or registration.

“(ii) Any application that is modified pursuant to sub-subparagraph (i) of this subparagraph shall be exempt from 22 DCMR § C5303.6, adopted on an emergency basis by the Department on May 19, 2015 (62 DCR 8351).”.

(B) New paragraphs (4) and (5) are added to read as follows:

ENROLLED ORIGINAL

“(4) The Mayor may approve the holder of a cultivation center registration that also owns, or has a valid lease for, real property adjacent to its existing cultivation center to physically expand the registered cultivation center into that adjacent real property for the purpose of increasing production of marijuana plants, not to exceed the limit permitted under this act.

“(5) For the purposes of this subsection, the non-transferability of ownership provisions set forth in 22 DCMR §§ C5003 and C5501 shall not be construed as prohibiting the restructuring of ownership or changes between officers, directors, or other persons owning or controlling a percentage of the registered cultivation center or the entity named in the cultivation center registration application that was pending as of March 2, 2015, to operate a cultivation center at the same adjacent real property if the application received a score of at least 150 points from the Program’s review panel.”.

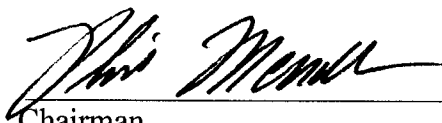
(2) Subsection (e)(2) is amended by striking the number “500” and inserting the number “1,000” in its place.

Sec. 3. Fiscal impact statement.

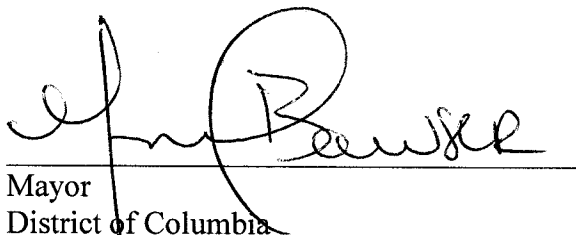
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-397

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

To approve, on an emergency basis, proposed Task Order 4 of Contract No. CFOPD-15-C-064A with Bert Smith & Company to continue to provide auditing services for Medicaid healthcare providers to the Office of the Chief Financial Officer on behalf of the Department of Healthcare Finance, and to authorize payment for the services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Contract No. CFOPD-15-C-064A Extension Approval and Payment Authorization Emergency Act of 2016”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §2-352.02), the Council approves Task Order 4 of Contract No. CFOPD-15-C-064A with Bert Smith & Company to continue to provide auditing services for Medicaid healthcare providers to the Office of the Chief Financial Officer on behalf of the Department of Healthcare Finance and authorizes payment in the not-to-exceed amount of \$2,369,750 for services received and to be received under the contract from September 1, 2015, through August 31, 2016.

Sec. 3. Fiscal impact statement.

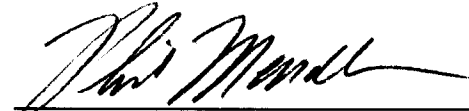
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

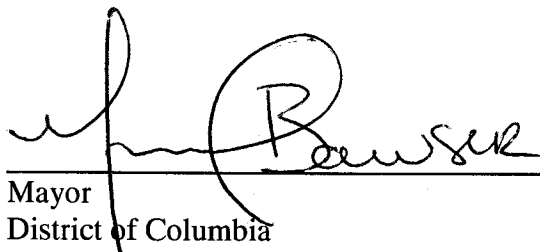
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-398

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

To amend Chapter 7 of Title 25 of the District of Columbia Official Code to clarify the penalties for sale to minors violations and the failure to ascertain the legal drinking age violations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sale to Minors Penalty Clarification Emergency Amendment Act of 2016".

Sec. 2. Chapter 7 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-781 is amended as follows:

(1) Subsection (f) is amended by striking the phrase "Upon finding that a licensee has violated subsection (a), (b), or (c) of this section in the preceding," and inserting the phrase "For violations of subsection (a), (b), or (c) of this section in the preceding" in its place.

(2) A new subsection (g) is added to read as follows:

"(g)(1) In determining whether a licensee has prior violations for the purposes of subsection (f) of this section, the 4-year period is the 4 years immediately preceding the date of the incident or conduct in the case pending before the Board for which the licensee has been found liable of violating subsection (a), (b), or (c) of this section, either by an order of the Board, the Board's acceptance of an offer-in-compromise, or the licensee's payment of a fine. A prior violation falls within the 4-year period if the date that the licensee was found liable of violating subsection (a), (b), or (c) of this section, either by an order of the Board, the Board's acceptance of an offer-in-compromise, or the licensee's payment of a fine, falls within the 4-year period.

"(2) For the purposes of this subsection, the term "offer-in-compromise" means a negotiation between the government and the respondent to settle the charges brought by the government for those violations committed by the respondent."

(b) Section 25-783 is amended as follows:

(1) Subsection (c) is amended by striking the phrase "Upon finding that a licensee has violated subsection (a) or (b) of this section in the preceding" and inserting the phrase "For violations of subsection (a) or (b) of this section in the preceding" in its place.

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

"(c-1)(1) In determining whether a licensee has prior violations for the purposes of

ENROLLED ORIGINAL

subsection (c) of this section, the 4-year period is the 4 years immediately preceding the date of the incident or conduct in the case pending before the Board for which the licensee has been found liable of violating subsection (a) or (b) of this section, either by an order of the Board, the Board's acceptance of an offer-in-compromise, or the licensee's payment of a fine. A prior violation falls within the 4-year period if the date that the licensee was found liable of violating subsection (a) or (b) of this section, either by an order of the Board, the Board's acceptance of an offer-in-compromise, or the licensee's payment of a fine, falls within the 4-year period.


“(2) For the purposes of this subsection, the term “offer-in-compromise” means a negotiation between the government and the respondent to settle the charges brought by the government for those violations committed by the respondent.”

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
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-399

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

To amend, on an emergency basis, due to congressional review, the Retired Police Officer Redeployment Amendment Act of 1992 to allow for the rehiring of retired Metropolitan 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 Congressional Review 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 phrase “Metropolitan Police Department.” and inserting the phrase “Metropolitan Police Department and the Department of Forensic Sciences.” in its place.

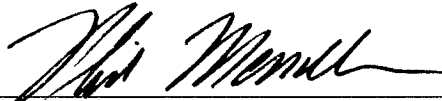
ENROLLED ORIGINAL

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the 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. 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
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-400

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

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

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sale of Synthetic Drugs Emergency Amendment Act of 2016".

Sec. 2. Section 47-2844(a-2) of the District of Columbia Official Code is amended as follows:

(a) Paragraph (1) is amended as follows:

(1) The lead-in language is amended by striking the phrase "subsection (a-1) of this section" and inserting the phrase "subsection (a-1) of this section and paragraph (1A) of this subsection" in its place.

(2) Subparagraph (A) is amended by striking the phrase "subsection" and inserting the phrase "paragraph" in its place.

(3) Subparagraph (B) is amended by striking the phrase "subsection" and inserting the phrase "paragraph" in its place.

(4) Subparagraph (C) is amended by striking the phrase "subsection" and inserting the phrase "paragraph" in its place.

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

"(1A) In addition to the provisions of subsection (a-1) of this section and paragraph (1) of this subsection, the Mayor or the Chief of Police, notwithstanding § 2-1801.04(a)(1)), may take the following actions against, or impose the following requirements upon, any licensee, or agent or employee of a licensee, that knowingly engages or attempts to engage in the purchase, sale, exchange, or any other form of commercial transaction involving a synthetic drug, including the possession of multiple units of a synthetic drug:

ENROLLED ORIGINAL

“(A) For the first violation of this paragraph:

“(i) The Mayor shall issue a fine in the amount of \$10,000;

“(ii) The Chief of Police, after a determination by the Mayor in accordance with § 2-1801.06(a), may seal the licensee's premises, or a portion of the premises, for up to 96 hours without a prior hearing;

“(iii) The Mayor may issue a notice to revoke all licenses issued to the licensee pursuant to this chapter.

“(iv)(I) Within 14 days after having a licensee’s premises sealed for a violation of this paragraph, the Mayor shall require the licensee to submit a remediation plan to the Director of the Department of Consumer and Regulatory Affairs, that contains the licensee's plan to prevent any future recurrence of purchasing, selling, exchanging, or otherwise transacting any synthetic drug and acknowledgement that a subsequent occurrence of engaging in prohibited activities may result in the revocation of all licenses issued to the licensee pursuant to this chapter.

“(II) If the licensee fails to submit a remediation plan in accordance with this sub-subparagraph, or if the Mayor, in consultation with the Chief of Police, rejects the licensee's remediation plan, the Mayor shall provide written notice to the licensee of the defects in any rejected remediation plan and the Mayor's intent to revoke all licenses issued to the licensee pursuant to this chapter.

“(III) If the licensee cures the defects in a rejected remediation plan, the Mayor may suspend any action to revoke any license of the licensee issued pursuant to this chapter.

“(B) For any subsequent violation of this paragraph:

“(i) The Mayor shall issue a fine in the amount of \$20,000;

“(ii) The Chief of Police, after a determination by the Mayor in accordance with § 2-1801.06(a), may seal the licensee’s premises, or portion of the premises, for up to 30 days without a prior hearing.

“(C) If a licensee’s premises, or a portion of the premises, is sealed under subparagraph (A) or (B) of this paragraph, a licensee shall have the right to request a hearing with the Office of Administrative Hearings within 2 business days after service of notice of the sealing of the premises pursuant to subparagraph (D) of this paragraph.

“(D) At the time of the sealing of the premises, or a portion of the premises, under subparagraph (A) or (B) of this paragraph, the Director of the Department of Consumer and Regulatory Affairs shall post at the premises and serve on the licensee a written notice and order stating:

“(i) The specific action or actions being taken;

“(ii) The factual and legal bases for the action or actions;

“(iii) The right, within 2 business days after service of notice of the sealing of the premises, to request a hearing with the Office of Administrative Hearings;

“(iv) The right, within 2 business days of a timely request being received by the Office of Administrative Hearings, to a hearing before an administrative law judge; and

ENROLLED ORIGINAL

“(v) That it shall be unlawful for any person to enter the sealed premises for any purpose without written permission by the Director of the Department of Consumer and Regulatory Affairs.

“(E) A licensee shall pay a fine issued pursuant to subparagraph (A) or (B) of this paragraph within 20 days after adjudication. If the licensee fails to pay the fine within the specified time period, the Mayor may seal the premises until the fine is paid.

“(F) For the purposes of this paragraph, the term:

“(i) “Business days” means days in which the Office of Administrative Hearings is open for business.

“(ii) “Synthetic drug” means any product possessed, provided, distributed, sold, or marketed with the intent that it be used as a recreational drug, such that its consumption or ingestion is intended to produce effects on the central nervous system or brain function to change perception, mood, consciousness, cognition or behavior in ways that are similar to the effects of marijuana, cocaine, amphetamines or Schedule I narcotics under § 48-902.04. The term “synthetic drug” also includes any chemically synthesized product (including products that contain both a chemically synthesized ingredient and herbal or plant material) possessed, provided, distributed, sold or marketed with the intent that the product produce effects substantially similar to the effects created by compounds banned by District or federal synthetic drug laws or by the U.S. Drug Enforcement Administration pursuant to its authority under the Controlled Substances Act, approved October 27, 1970 (84 Stat. 1247; 21 U.S.C. § 812). The following factors shall be treated as indicia that a product is being marketed with the intent that it be used as a recreational drug:

“(I) The product is not suitable for its marketed use (such as a crystalline or powder product being marketed as “glass cleaner”);

“(II) The individual or business providing, distributing, displaying or selling the product does not typically provide, distribute, or sell products that are used for that product’s marketed use (such as liquor stores, smoke shops, or gas or convenience stores selling “plant food”);

“(III) The product contains a warning label that is not typically present on products that are used for that product’s marketed use including, “Not for human consumption”, “Not for purchase by minors”, “Must be 18 years or older to purchase”, “100% legal blend”, or similar statements;

“(IV) The product is significantly more expensive than products that are used for that product’s marketed use;

“(V) The product resembles an illicit street drug (such as cocaine, methamphetamine, or Schedule I narcotic) or marijuana; or

“(VI) The licensee or any employee of the licensee has been warned by a District government agency or has received a criminal incident report, arrest report, or equivalent from any law enforcement agency that the product or a similarly labeled product contains a synthetic drug.”.

ENROLLED ORIGINAL

Sec. 3. Section 106 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective March 8, 1991 (D.C. Law 8-237; D.C. Official Code § 2-1801.06), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) Strike the phrase “premises are primarily used” and insert the phrase “premises are used” in its place.

(2) Add a new sentence at the end to read as follows:

“Purchasing, selling, exchanging, or otherwise transacting any synthetic drug, as defined in D.C. Official Code § 47-2844(a-2)(1A)(F)(ii), shall be a per se imminent danger to the health or safety of the residents of the District.”.

(b) Subsection (c) is amended as follows:

(1) The existing text is designated as paragraph (1).

(2) The newly designated paragraph (1) is amended by striking the phrase “A licensee” and inserting the phrase “Except as provided in paragraph (2) of this subsection, a licensee” in its place.

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

“(2) A licensee engaged in the purchase, sale, exchange, or any other form of commercial transaction involving a synthetic drug in violation of D.C. Official Code § 47-2844(a-2)(1A) shall have the right to request a hearing within 2 business days after service of notice of the sealing of the premises. The Office of Administrative Hearings shall hold a hearing within 2 business days of receipt of a timely request, and shall issue a decision within 2 business days after the hearing.”.

Sec. 4. Fiscal impact statement.

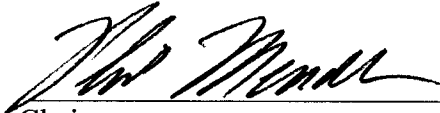
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-401

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

To amend, on an emergency basis, section 103 of Title 18 of the District of Columbia Municipal Regulations to repeal the requirement that every person who has never been issued a driver license must provide documentation that they have successfully completed an approved course of driver instruction before issuance of a provisional permit or driver license.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Mandatory Driver Instruction Regulation Emergency Amendment Act of 2016”.

Sec. 2. Section 103.11 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 103.11) is repealed.

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).

Sec. 4. Effective date.

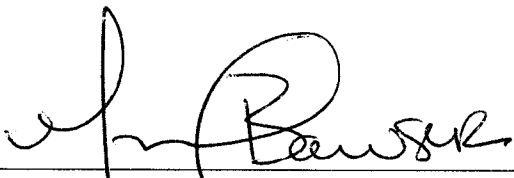
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-402

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 19, 2016

To amend, on an emergency basis, Chapter 18 of Title 47 of the District of Columbia Official Code to clarify the franchise tax rates so that they correspond with existing law regarding tax reform procedure and priority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Franchise Tax Clarification Emergency Amendment Act of 2016”.

Sec. 2. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1807.02(a)(6) is amended by striking the phrase “9%” and inserting the phrase “9.2%, 9%” in its place.

(b) Section 47-1808.03(a)(6) is amended by striking the phrase “9%” and inserting the phrase “9.2%, 9%” in its place.

Sec. 3. Applicability.

This act shall apply as of April 26, 2016.

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.

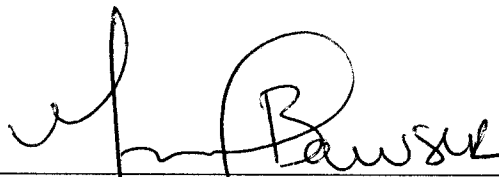
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
May 19, 2016

ENROLLED ORIGINAL

AN ACT

D.C. ACT 21-403

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 21, 2016

To amend, on an emergency basis, various acts to repeal outdated and unnecessary mandates for audits and other reports required of the District of Columbia Auditor.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Repeal of Outdated and Unnecessary Audit Mandates Emergency Amendment Act of 2016".

Sec. 2. The Compliance Unit Establishment Act of 2008, effective June 13, 2008 (D.C. Law 17-176; D.C. Official Code § 1-301.181 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-301.181) is amended as follows:

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

(A) Paragraph (1) is repealed.

(B) Paragraph (3) is amended by striking the phrase "sections 2350 and 2353" and inserting the phrase "section 2353" in its place.

(2) Subsection (c) is repealed.

(3) Subsection (d) is repealed.

(b) Section 3 (D.C. Official Code § 1-301.182) is amended as follows:

(1) Subsection (a) is repealed.

(2) Subsection (b) is repealed.

(3) Subsection (c) is amended by striking the phrase "sections 2350 and 2353" and inserting the phrase "section 2353" in its place.

(c) Section 4 (D.C. Official Code § 1-301.183) is repealed.

(d) Section 4a (D.C. Official Code § 1-301.184) is amended as follows:

(1) Subsection (a) is amended by striking the phrase ", and the quarterly reports of each government corporation required by section 2350(f) of the Act".

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

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase "and the information that each government corporation is required to submit pursuant to section 2350(f) of the Act".

(ii) Strike the phrase "or government corporation's".

(B) Paragraph (2) is amended by striking the phrase "and government corporations".

ENROLLED ORIGINAL

Sec. 3. Section 10 of An Act To establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 342; D.C. Official Code § 3-310), is repealed.

Sec. 4. Section 8(f) of the District of Columbia Boxing and Wrestling Commission Act, effective October 8, 1975 (D.C. Law 1-20; D.C. Official Code § 3-607(f)), is repealed.

Sec. 5. Section 305(a) of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1203.05(a)), is repealed.

Sec. 6. Section 126n(d) of the District of Columbia Theft and White Collar Crimes Act of 1982, effective June 8, 2001 (D.C. Law 13-301; D.C. Official Code § 22-3226.14(d)), is repealed.

Sec. 7. Paragraph 42(a)(6) of section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 984; D.C. Official Code § 34-912(a)(6)), is repealed.

Sec. 8. Section 4(c) of the Eastern Market Real Property Asset Management and Outdoor Vending Act of 1998, effective April 16, 1999 (D.C. Law 12-228; D.C. Official Code § 37-103(c)), is repealed.

Sec. 9. Section 9 of the District of Columbia Public School Food Services Act, approved October 8, 1951 (65 Stat. 370; D.C. Official Code § 38-807), is repealed.

Sec. 10. Section 2407 of the Auditor Personnel and Audit Reform Amendment Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 38-1231.01), is repealed.

Sec. 11. Section 205 of the School Modernization Financing Act of 2006, effective June 8, 2006 (D.C. Law 16-123; D.C. Official Code § 38-2973.05), is amended to read as follows:

“Sec. 205. Audit of capital improvement projects.

“(a) No later than September 30, 2020, and every 3 years thereafter until the completion of all school modernization projects in the Capital Improvement Plan, the District of Columbia Auditor shall prepare a report to the public on the use of the capital funds by the District of Columbia Public Schools during the preceding fiscal years. The report shall include a school- and project-specific audit of all expenditures for school facility capital improvements, maintenance, repairs, and operating costs, and an assessment of whether the District has met the process, quality, schedule, and cost objectives of the Capital Improvement Plan and Budget.

“(b) No later than September 30, 2017, and each year thereafter until the completion of all school modernization projects in the Capital Improvement Plan, except in a year where a

ENROLLED ORIGINAL

report is issued pursuant to subsection (a) of this section, the District of Columbia Auditor shall examine not less than a sample of capital projects related to school modernizations and shall determine whether the District has met the process, quality, schedule and cost objectives of sampled projects, and provide a report to the Council and the public on the findings.”.

Sec. 12. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Chapter 1 is amended as follows:

(1) The table of contents is amended as follows:

(A) Strike the section designation “47-111. Disbursing Officer, appointment; bond; general powers and duties; audit of accounts.” and insert the section designation “47-111. Disbursing Officer; appointment; bond; general powers and duties.” in its place.

(B) Strike the section designation “47-120. Liability of Auditor or employees.” and insert the section designation “47-120. Liability of Auditor or employees. [Repealed].” in its place.

(C) Strike the section designation “47-122. Checks to be countersigned.” and insert the section designation “47-122. Checks to be countersigned. [Repealed].” in its place.

(D) Strike the section designation “47-123. Chief Clerk of Auditor’s office.” and insert the section designation “47-123. Chief Clerk of Auditor’s office. [Repealed].” in its place.

(E) Strike the section designation “47-124. Accounts auditable by Auditor.” and insert the section designation “47-124. Accounts auditable by Auditor. [Repealed].” in its place.

(2) Section 47-111 is amended as follows:

(A) Subsection (b) is amended by striking the phrase “audited and approved by the Auditor of the District of Columbia, and certified by the Mayor as required by § 47-409”.

(B) Subsection (c) is repealed.

(3) Section 47-112 is amended by striking the phrase “nor the Auditor of the District of Columbia or” and inserting the phrase “nor” in its place.

(4) Section 47-116 is amended by striking the phrase “the Auditor of the District of Columbia in connection with the Disbursing Officer of the District of Columbia of the grounds of such objections resulting in said suspensions, in order that said Auditor in connection with said Disbursing Officer” and inserting the phrase “the Disbursing Officer of the District of Columbia of the grounds of such objections resulting in said suspensions, in order that said Disbursing Officer” in its place.

(5) Section 47-120 is repealed.

(6) Section 47-122 is repealed.

(7) Section 47-123 is repealed.

(8) Section 47-124 is repealed.

(b) Chapter 4 is amended as follows:

(1) The table of contents is amended as follows:

ENROLLED ORIGINAL

(A) Strike the section designation “47-409. Disbursement of taxes and appropriations; settlement of accounts.” and insert the section designation “47-409.

Disbursement of taxes and appropriations; settlement of accounts. [Repealed].” in its place.

(B) Strike the section designation “47-410. Payment of moneys into Treasury; requisitions and expenditures; disbursement accounts.” and insert the section designation “47-410. Payment of moneys into Treasury; requisitions and expenditures; disbursement accounts. [Repealed].” in its place.

(C) Strike the section designation “47-411. Trust fund deposits and disbursements.” and insert the section designation “47-411. Trust fund deposits and disbursements. [Repealed].” in its place.

(2) Section 47-409 is repealed.

(3) Section 47-410 is repealed.

(4) Section 47-411 is repealed.

(c) Chapter 28 is amended as follows:

(1) The table of contents is amended by striking the section designation “47-2851.17. Performance audit.” and inserting the section designation “47-2851.17. Performance audit. [Repealed].” in its place.

(2) Section 47-2851.17 is repealed.

Sec. 13. Fiscal impact statement.

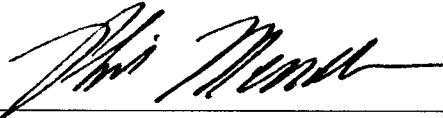
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 14. Effective date.

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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia

~~UNSIGN~~

Mayor
District of Columbia
May 19, 2016

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

B21-759 Bicycle Awareness Motor Vehicle License Plate Amendment Act of 2016

Intro. 5-20-16 by Councilmember Allen and referred to the Committee on Transportation and the Environment

PROPOSED RESOLUTIONS

PR21-732 Delivery of Online Instruction by a Postsecondary Educational Institution Rulemaking Approval Resolution of 2016

Intro. 5-9-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education

PR21-733 Working Conditions Agreement between the District of Columbia Government Homeland Security and Emergency Management Agency and National Association of Government Employees/Service Employee International Union, Local R3-08 Approval Resolution of 2016

Intro. 5-9-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

- PR21-734 Working Conditions Agreement between the District of Columbia Government Office of Unified Communications and National Association of Government Employees/Service Employee International Union, Local R3-07 Approval Resolution of 2016
Intro. 5-9-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR21-735 Board of Medicine Kelly Ann Colden Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-736 Board of Medicine Thomas Dawson Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-737 Board of Medicine Vikisha Fripp Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-738 Board of Medicine Jeffrey Smith Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-739 Board of Medicine Terrence Straub Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-740 Board of Pharmacy Emmanuel Bellegarde Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-741 Board of Nursing Layo George Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-742 Board of Nursing Laverne Plater Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-743 Board of Nursing Winslow Woodland Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-744 Commission on Fathers, Men, and Boys The Honorable Arthur Louis Burnett, Sr. Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary
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- PR21-745 Commission on Fathers, Men, and Boys Brett O. Greene Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary
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- PR21-746 Commission on Fathers, Men, and Boys Franklyn M. Malone Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary
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- PR21-747 Commission on Fathers, Men, and Boys Tristan Wilkerson Confirmation Resolution of 2016
Intro. 5-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary
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- PR21-750 Housing Finance Agency Board of Directors Sheila Miller Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development
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- PR21-751 Board of Psychology Teresa Grant Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-752 Board of Psychology Eric Jones Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-753 Board of Dietetics and Nutrition Annina Burns Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-754 Board of Dietetics and Nutrition Jennifer McCrindle Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services
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- PR21-755 Board of Architecture and Interior Designers Ms. Sharon K. Borton Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs
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- PR21-756 Board of Architecture and Interior Designers Ms. Melissa Cohen Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs
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- PR21-757 Board of Architecture and Interior Designers Mr. Trystin K. Francis Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs
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- PR21-758 Board of Architecture and Interior Designers Mr. Cametrick Nesmith Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs
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PR21-759 Commission on African Affairs Akua G. Asare Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-760 Commission on African Affairs Ndiogou F. Cisse Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-761 Commission on African Affairs Abdel Maliky Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-762 Commission on African Affairs Lydia Nylander Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-763 Commission on African Affairs Kedist Geremaw Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-764 Commission on Asian and Pacific Islander Community Development Meina Banh Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-765 Commission on Asian and Pacific Islander Community Development Karissa Mariko Barnett Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-766 Commission on Asian and Pacific Islander Community Development Ronak D. Desai Confirmation Resolution of 2016
Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-767 Commission on Asian and Pacific Islander Community Development Kishan Putta Confirmation Resolution of 2016

Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-768 Commission on Asian and Pacific Islander Community Development John Tinpe Confirmation Resolution of 2016

Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-769 Commission on Asian and Pacific Islander Community Development Martha Watanabe Confirmation Resolution of 2016

Intro. 5-12-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Community Development

PR21-770 Local Rent Supplement Program Contract No. 2014-LRSP-07A Approval Resolution of 2016

Intro. 5-12-16 by Chairman Mendelson at the request of the District of Columbia Housing Authority and Retained by the Council with comments from the Committee on Housing and Community Development

PR21-774 District of Columbia Board of Veterinary Medicine Daniel Teich Confirmation Resolution of 2016

Intro. 5-19-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services

PR21-775 District of Columbia Board of Veterinary Medicine Bonnie Loper Confirmation Resolution of 2016

Intro. 5-19-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health and Human Services

PR21-776 Historic Preservation Review Board Gretchen Pfaehler Confirmation Resolution of 2016

Intro. 5-19-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

PR21-777 Historic Preservation Review Board Linda Greene Confirmation Resolution of
2016

Intro. 5-19-16 by Chairman Mendelson at the request of the Mayor and referred
to the Committee of the Whole

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 21-445, "Closing of Public Streets and Dedication of Land for Street and Alley Purposes in and abutting Squares 3953, 3954, 4024, 4025, and Parcel 143/45, S.O. 14-20357, Act of 2015"

Bill 21-672, "Closing of Public Streets and the Dedication of Land for Street Purposes in Square 620, S.O. 15-54214, Act of 2016"

on

**Wednesday, June 15, 2016
10:30 a.m., Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on Bill 21-445, the "Closing of Public Streets and Dedication of Land for Street and Alley Purposes in and abutting Squares 3953, 3954, 4024, 4025, and Parcel 143/45, S.O. 14-20357, Act of 2015" and Bill 21-672, the "Closing of Public Streets and the Dedication of Land for Street Purposes in Square 620, S.O. 15-54214, Act of 2016." The hearing will be held at 10:30 a.m. on Wednesday, June 15, 2016 in room 412 of the John A. Wilson Building.

The stated purpose of **Bill 21-445** is to order the closing of a portion of 14th Street, NE between Montana Avenue, and 14th Street, adjacent to Squares 3954, 4024 and Parcel 143/45, and to accept the dedication of portions of land in Squares 3953, 3954, 4024, 4025, and Parcel 143/45 for public street and alley purposes, all in Northeast Washington, D.C. in Ward 5. The closing and dedications would support a Planned Unit Development for the Brentwood Village project. The stated purpose of **Bill 21-672** is to order the closing of First Terrace, N.W., between L Street, N.W., and M Street, N.W.; a portion of L Place N.W., between First Terrace N.W., and First Place, N.W.; and First Place N.W., between L Street, N.W., and L Place, N.W., adjacent to Square 620, Lots 247, 249, 250, 251, and 896; to accept the dedication and designation of First Place, N.W., extending approximately 214 feet north from L Street, N.W., for public street purposes; to authorize the improvement of the dedicated land for street purposes; to authorize modifications to the permanent system of highways in the District of Columbia; and to designate the dedicated street as First Place, N.W., in Ward 6. These actions would support redevelopment of the Sursum Corda community.

Those who wish to testify are asked to telephone the Committee of the Whole at (202) 724-8196, or email Evan Cash, Committee Director, at cow@dccouncil.us, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Monday, June 13, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on June 13, 2016 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. A copy of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Monday June 27, 2016.

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

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

on the

State of School-Based Athletics in Public Schools and

B21-601, “District of Columbia State Athletics Consolidation Act of 2016”

on

**Wednesday, June 15, 2016
10:00 a.m., Hearing Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso announces the scheduling of a public hearing of the Committee on Education on the state of school-based athletics in public schools and B21-601, “District of Columbia State Athletics Consolidation Act of 2016.” The hearing will be held at 10:00 a.m. on Wednesday, June 15, 2016 in Room 123 of the John A. Wilson Building.

The purpose of this hearing is to discuss the various issues pertaining to the operation and expansion of school-based athletic programs in public schools in the District of Columbia. The stated purpose of B21-601 is to establish the District of Columbia State Athletic Association (DCSAA) and require the DCSAA to consolidate all administrative and operational functions associated with school based athletic programs in the District.

Those who wish to testify may sign-up online at <http://bit.do/educationhearings> or call the Committee on Education at (202) 724-8061 by 5:00pm Monday, June 13. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on June 29, 2016.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

PR 21-733, Working Conditions Agreement between District of Columbia Government Homeland Security and Emergency Management Agency and National Association of Government Employees/Service Employees International Union, Local R3-08 Resolution of 2016

&

PR 21-734, Working Conditions Agreement between District of Columbia Government Office of Unified Communications and National Association of Government Employees/Service Employees International Union, Local R3-07 Resolution of 2016

on

**Wednesday, June 1, 2016
10:30 a.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public roundtable before the Committee of the Whole on **PR 21-733**, the “Working Conditions Agreement between District of Columbia Government Homeland Security and Emergency Management Agency and National Association of Government Employees/Service Employees International Union, Local R3-08 Resolution of 2016,” and **PR 21-734**, the “Working Conditions Agreement between District of Columbia Government Office of Unified Communications and National Association of Government Employees/Service Employees International Union, Local R3-07 Resolution of 2016.” The roundtable will be held at 10:30 a.m. on Wednesday, June 1, 2016 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PRs 21-733 and 21-734 is to approve the negotiated working conditions agreement submitted by Mayor Bowser for individuals employed by the District’s Homeland Security and Emergency Management Agency and Office of Unified Communications, respectively. Both agreements are effective through September 30, 2017. The purpose of this roundtable is to receive testimony from public witnesses as to the approval of these working condition agreements.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or email Christina Setlow, Deputy Committee Director at cow@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Monday, May 30, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on May 30, 2016 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of PRs 21-733 and 21-734 can be obtained on <http://lims.dccouncil.us>, or through the Legislative Services Division (Room 10) of the Secretary of the Council’s office.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 12:00 p.m. on Monday, June 6, 2016.

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. 21-190: Request to reprogram \$15,385 of Capital funds budget authority and allotment within the Department of General Services (DGS) was filed in the Office of the Secretary on May 17, 2016. This reprogramming is needed to eliminate a deficit in Plummer Elementary School (ES) Modernization project.

RECEIVED: 14 day review begins May 18, 2016

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Posting Date: May 13, 2016
Petition Date: June 27, 2016
Hearing Date: July 11, 2016
Protest Hearing: September 14, 2016

License No.: ABRA-098584
Licensee: Ima Pizza Store 12, LLC
Trade Name: & Pizza
License Class: Retailer’s Class “C” Restaurant
Address: 705 H Street, N.W.
Contact: Paul Pascal: (202) 544-2200

WARD 2

ANC 2C

SMD 2C01

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 September 14, 2016.

NATURE OF OPERATION

New Restaurant to prepare and sell pizza and pizza products. Total Occupancy Load is 99 seats.

HOURS OF OPERATON

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

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

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

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

Posting Date: May 13, 2016
Petition Date: June 27, 2016
Hearing Date: July 11, 2016
Protest Hearing: September 14, 2016

License No.: ABRA-098584
Licensee: Ima Pizza Store 12, LLC
Trade Name: & Pizza
License Class: Retailer's Class "C" Restaurant
Address: 705 H Street, N.W.
Contact: Paul Pascal: (202) 544-2200

WARD 2

ANC 2C

SMD 2C01

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 September 14, 2016.

NATURE OF OPERATION

New Restaurant to prepare and sell pizza and pizza products. Total Occupancy Load is 99 seats.

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

**Sunday through Thursday 7 am – 2 am, Friday and Saturday 7 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Posting Date: **May 27, 2016
 Petition Date: **July 11, 2016
 Roll Call Hearing Date: **July 25, 2016
 Protest Hearing Date: **September 21, 2016

License No.: ABRA-102653
 Licensee: A-Team Importers, LLC
 Trade Name: A-Team Importers
 License Class: Retailer’s Class “A” Liquor Store
 Address: 4221 Connecticut Avenue, N.W. (Rear Access)
 Contact: Cary Greene/Alyssa McTimpeny: 202-973-4244/503-778-5469

WARD 3

ANC 3F

SMD 3F02

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for September **21, 2016 at 4:30pm.

NATURE OF OPERATION

Online sales only.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND SERVICE

Sunday through Saturday 7am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: **May 6, 2016
 Petition Date: **June 20, 2016
 Roll Call Hearing Date: **July 5, 2016
 Protest Hearing Date: **September 14, 2016

License No.: ABRA-102653
 Licensee: A-Team Importers, LLC
 Trade Name: A-Team Importers
 License Class: Retailer’s Class “A” Liquor Store
 Address: 4221 Connecticut Avenue, N.W. (Rear Access)
 Contact: Cary Greene/Alyssa McTimpeny: 202-973-4244/503-778-5469

WARD 3

ANC 3F

SMD 3F02

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

NATURE OF OPERATION

Online sales only.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND SERVICE

Sunday through Saturday 7am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT**

Posting Date: **May 27, 2016
Petition Date: **July 11, 2016
Hearing Date: **July 25, 2016
Protest Date: **September 21, 2016

License No.: ABRA-102733
Licensee: Cordial Wharf, LLC
Trade Name: Cordial Fine Wine & Spirits
License Class: Retailer’s Class “A” Liquor Store
Address: 690 Water Street, S.W.
Contact: Erin Sharkey: (202) 686-7600

WARD 6

ANC 6D

SMD 6D04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on **September 21, 2016 at 1:30pm.

NATURE OF OPERATION

A neighborhood liquor store serving alcoholic beverages and offering tastings on premise.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 7:00 am- 2:00 am, Friday and Saturday 8:00 am – 3:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: **May 13, 2016
Petition Date: **June 27, 2016
Hearing Date: **July 11, 2016
Protest Date: **September 14, 2016

License No.: ABRA-102733
Licensee: Cordial Wharf, LLC
Trade Name: Cordial Fine Wine & Spirits
License Class: Retailer’s Class “A” Liquor Store
Address: 690 Water Street, S.W.
Contact: Erin Sharkey: (202) 686-7600

WARD 6 ANC 6D SMD 6D04

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

NATURE OF OPERATION

A neighborhood liquor store serving alcoholic beverages and offering tastings on premise.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE
SALES/SERVICE/CONSUMPTION

Sunday through Thursday 7:00 am- 2:00 am, Friday and Saturday 8:00 am – 3:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Posting Date: May 13, 2016
Petition Date: June 27, 2016
Hearing Date: July 11, 2016

License No.: ABRA-015698
Licensee: Eritrean Cultural Center
Trade Name: Eritrean Cultural & Civic Center
License Class: Retailer’s Class “C” Multipurpose Facility
Address: 1214 18th Street, N.W.
Contact: **Emanuel N. Mpras: (703) 642-9042

WARD 2

ANC 2B

SMD 2B06

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

NATURE OF SUBSTANTIAL CHANGE:

Transferring from 600 L Street, N.W. to a new location located at 1214 18th Street, N.W. Members and their guest only. Total Occupancy Load is 354.

HOURS OF OPERATON AND ALCOHOLC BEVERAGE

SALES/SERVICE/CONSUMPTION

Sunday through Thursday 9 am – 2 am, Friday and Saturday 9 am – 3 am

HOURS OF LIVE ENTERTAINMENT

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: May 13, 2016
Petition Date: June 27, 2016
Hearing Date: July 11, 2016

License No.: ABRA-015698
Licensee: Eritrean Cultural Center
Trade Name: Eritrean Cultural & Civic Center
License Class: Retailer’s Class “C” Multipurpose Facility
Address: 1214 18th Street, N.W.
Contact: **Jeff Jackson: 202 251-1566

WARD 2

ANC 2B

SMD 2B06

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

NATURE OF SUBSTANTIAL CHANGE:

Transferring from 600 L Street, N.W. to a new location located at 1214 18th Street, N.W. Members and their guest only. Total Occupancy Load is 354.

HOURS OF OPERATON AND ALCOHOLC BEVERAGE

SALES/SERVICE/CONSUMPTION

Sunday through Thursday 9 am – 2 am, Friday and Saturday 9 am – 3 am

HOURS OF LIVE ENTERTAINMENT

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

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
5/27/2016**

Notice is hereby given that:

License Number: ABRA-097182

License Class/Type: D Restaurant

Applicant: Mukundrai, Inc.

Trade Name: Flippin Pizza

ANC: 6D01

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

1250 - 1280 Maryland AVE SW

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

7/11/2016

A HEARING WILL BE HELD ON:

7/25/2016

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

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10:30 am - 9 pm	10:30 am - 9 pm
Monday:	10:30 am - 9 am	10:30 am - 9 am
Tuesday:	10:30 am - 9 am	10:30 am - 9 am
Wednesday:	10:30 am - 9 pm	10:30 am - 9 pm
Thursday:	10:30 am - 9 pm	10:30 am - 9 pm
Friday:	10:30 am - 9 pm	10:30 am - 9 pm
Saturday:	10:30 am - 9 pm	10:30 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 27, 2016
Petition Date: July 11, 2016
Hearing Date: July 25, 2016

License No.: ABRA-081479
Licensee: Bistro, Inc
Trade Name: French Bistro Bistro B Lounge
License Class: Retailer's Class "C" Tavern
Address: 1727 Connecticut Ave, N.W.
Contact: Jamal Bouzid: (202) 328-1640

WARD 2

ANC 2B

SMD 2B01

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 requested a Sidewalk Cafe endorsement with seating for 8.

CURRENT HOURS OF OPERATION ON PREMISE

Sunday 8 am - 2 am, Monday through Thursday 9 am - 2 am, Friday and Saturday 9 am - 3 am

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

Sunday 10 am - 2am, Monday through Thursday 9 am - 2 am, Friday and Saturday 9 am - 3 am

PROPOSED HOURS OF OPERATION FOR SIDEWALK CAFE

Sunday 8 am - 2 am, Monday through Thursday 9 am - 2 am, Friday and Saturday 9 am - 3 am

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

Sunday 9 am - 2 am, Monday through Thursday 9 am - 2 am, Friday and Saturday 9 am - 3 am

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

Posting Date: May 27, 2016
Petition Date: July 11, 2016
Hearing Date: July 25, 2016
Protest Date: September 21, 2016

License No.: ABRA-102921
Licensee: KCG 50 M, LLC
Trade Name: Homewood Suites by Hilton
License Class: Retailer's Class "D" Tavern
Address: 50 M Street, S.E.
Contact: Stephen J. O'Brien: 202-625-7700

WARD 6

ANC 6D

SMD 6D02

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for September 21, 2016 at 4:30 pm.

NATURE OF OPERATION

New "D" Tavern with 133 seats and a Total Occupancy Load of 143. Establishment has a rooftop Summer Garden with 35 seats. Establishment is a hotel with 195 rooms.

HOURS OF OPERATION FOR PREMISES

Sunday through Saturday 12am - 12am (24 hour operations)

HOURS OF OPERATION FOR SUMMER GARDEN

Sunday through Saturday 6 am - 11 pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION ON PREMISE AND IN SUMMER GARDEN

Sunday through Saturday 4 pm - 11 pm.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 27, 2016
Petition Date: July 11, 2016
Hearing Date: July 25, 2016

License No.: ABRA-077454
Licensee: Marleny's Restaurant, Inc
Trade Name: Marleny's Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 3201 Mt. Pleasant Street, N.W.
Contact: Ana De Leon: (202) 246-7601

WARD 1

ANC 1D

SMD 1D04

Notice is hereby given that this licensee has applied for Substantial Changes to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the 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 requested a Change of Hours to the premises and to add an Entertainment Endorsement to provide Live Entertainment.

CURRENT HOURS OF OPERATION

Sunday 6am – 1:30 am, Monday through Thursday 6 am – 12:30 am, Friday and Saturday 6 am – 2:30 am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday 10 am – 1:30 am, Monday through Thursday 10 am – 12:30 am, Friday and Saturday 10 am – 2:30 am

PROPOSED HOURS OF OPERATION

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

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALE/SERVICE/CONSUMPTION

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

PROPOSED HOURS FOR LIVE ENTERTAINMENT

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 27, 2016
 Petition Date: July 11, 2016
 Hearing Date: July 25, 2016
 Protest Hearing Date: September 21, 2016

License No.: ABRA-102918
 Licensee: Baby B & B, LLC
 Trade Name: Neal Place Tap & Garden
 License Class: Retailer’s Class “C” Tavern
 Address: 1300 4th Street, N.E.
 Contact: Paul Pascal: (202) 544-2200

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. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for September 21, 2016 at 1:30 pm.

NATURE OF OPERATION

A beer garden serving numerous varieties of beer on tap for on-premises consumption only. Beer served from a beer trailer offering a variety of foods provided by different daily food trucks with recorded music. Total number of seats: 150. Total Occupancy Load: 199. Total number of Summer Garden seats: 150.

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

Sunday 8am- 2am Monday through Friday 10am- 2am Saturday 8am – 2 am

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

Posting Date: May 27, 2016
Petition Date: July 11, 2016
Hearing Date: July 25, 2016
Protest Date: September 21, 2016

License No.: ABRA-102933
Licensee: Proper Ventures, LLC
Trade Name: Proper 21
License Class: Retailer's Class "C" Tavern
Address: 1319 F Street, N.W.
Contact: Erin Sharkey: (202) 686-7600

WARD 2

ANC 2C

SMD 2C01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on September 21, 2016 at 1:30pm.

NATURE OF OPERATION

A restaurant offering American cuisine with entertainment and dancing. Sidewalk Cafe with a Total Occupancy Load of 40 seats.

HOURS OF OPERATION FOR PREMISES AND SIDEWALK CAFE

Sunday through Thursday 7:00 am – 2:00 am, Friday and Saturday 7:00 am – 3:00 am

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

Sunday through Thursday 8:00 am – 2:00 am, Friday and Saturday 8:00 am – 3:00 am

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday 6:00 pm – 2:00 am, Friday and Saturday 6:00 pm – 3:00 am

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

Posting Date: **May 27, 2016
Petition Date: **July 11, 2016
Roll Call Hearing Date: **July 25, 2016
Protest Hearing Date: **September 21, 2016

License No: ABRA-102578
Licensee: Soapstone Market, LLC
Trade Name: Soapstone Market
License Class: Retailer's Class "B" Full-Service Grocery Store
Address: 4465 Connecticut Avenue, N.W.
Contact: Tracy Stannard: 202-409-8960

WARD 3

ANC 3F

SMD 3F04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on **September 21, 2016 at 4:30 pm.

NATURE OF OPERATION:

Grocery store with prepared food and deli also containing an eat-in café. Beer and wine available for on and off premises consumption. Tasting Endorsement.

HOURS OF OPERATON

Sunday through Saturday 6am – 12am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 8am – 12am

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

Posting Date: **May, 13, 2016
Petition Date: **June 27, 2016
Hearing Date: **July 11, 2016
Protest Date: **September 14, 2016

License No: ABRA-102578
Licensee: Soapstone Market, LLC
Trade Name: Soapstone Market
License Class: Retailer's Class "B" Full-Service Grocery Store
Address: 4465 Connecticut Avenue, N.W.
Contact: Tracy Stannard: 202-409-8960

WARD 3

ANC 3F

SMD 3F04

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

NATURE OF OPERATION:

Grocery store with prepared food and deli also containing an eat-in café. Beer and wine available for on and off premises consumption. Tasting Endorsement.

HOURS OF OPERATON

Sunday through Saturday 6am – 12am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 8am – 12am

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

Posting Date: **May 27, 2016
Petition Date: **July 11, 2016
Roll Call Hearing Date: **July 25, 2016
Protest Hearing Date: **September 21, 2016

License No: ABRA-102580
Licensee: Soapstone Market, LLC
Trade Name: Soapstone Market
License Class: Retailer's Class "D" Restaurant
Address: 4465 Connecticut Avenue, N.W.
Contact: Tracy Stannard: 202-409-8960

WARD 3

ANC 3F

SMD 3F04

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled on **September 21, 2016 at 4:30 pm.

NATURE OF OPERATION:

Restaurant-style food such as sandwiches, salads, and entrees made-to-order in a counter-service, grab-n-go style within a full-service grocery store. Beer and wine available for on premise consumption. Tasting Endorsement and Sidewalk Café seating 40 patrons. Total Occupancy Load of 100. Seating for 60 inside premises.

HOURS OF OPERATON FOR PREMISES AND SIDEWALK CAFE

Sunday through Saturday 7am – 12am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday through Saturday 8am – 12am

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

Sunday through Saturday 11am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Posting Date: **May, 13, 2016
Petition Date: **June 27, 2016
Hearing Date: **July 11, 2016
Protest Date: **September 14, 2016

License No: ABRA-102580
Licensee: Soapstone Market, LLC
Trade Name: Soapstone Market
License Class: Retailer’s Class “D” Restaurant
Address: 4465 Connecticut Avenue, N.W.
Contact: Tracy Stannard: 202-409-8960

WARD 3

ANC 3F

SMD 3F04

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

NATURE OF OPERATION:

Restaurant-style food such as sandwiches, salads, and entrees made-to-order in a counter-service, grab-n-go style within a full-service grocery store. Beer and wine available for on premise consumption. Tasting Endorsement and Sidewalk Café seating 40 patrons. Total Occupancy Load of 100. Seating for 60 inside premises.

HOURS OF OPERATON FOR PREMISES AND SIDEWALK CAFE

Sunday through Saturday 7am – 12am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday through Saturday 8am – 12am

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

Sunday through Saturday 11am – 12am

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

Posting Date: April 22, 2016
Petition Date: June 6, 2016
Hearing Date: June 20, 2016
Protest Date: September 7, 2016

License No.: ABRA-102025
Licensee: Coffee House Holdings, Inc.
Trade Name: Starbucks Coffee #9392
License Class: Retailer's Class "D" Restaurant
Address: 550 C Street, S.W.
Contact: Stephen O'Brien: (202) 625-7700

WARD 6

ANC 6D

SMD 6D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on September 7, 2016 at 1:30pm.

NATURE OF OPERATION

A coffee shop serving breakfast all day, along with savory small plates and desserts paired with wine and beer selections. Sidewalk Cafe with an occupancy load of 48 seats.

HOURS OF OPERATION FOR PREMISES

Sunday through Saturday 5:00 am – 11:00 pm

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday 12:00 pm – 11:00 pm, Monday through Friday 2:00 pm- 11:00 pm, Saturday 12:00 pm – 11:00 pm

HOURS OF OPERATION FOR SIDEWALK CAFE

Sunday through Thursday 7:00 am- 10:00 pm, Friday and Saturday 7:00 am- 11:00 pm

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

Sunday 12:00 pm- 10:00 pm, Monday through Thursday 2:00 pm- 10:00 pm, Friday 2:00 pm- 11:00 pm, Saturday 12:00 pm– 11:00 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 27, 2016
Petition Date: July 11, 2016
Hearing Date: July 25, 2016
Protest Hearing Date: September 21, 2016

License No.: ABRA-102521
Licensee: District Still, LLC
Trade Name: TBD
License Class: Retailer's Class "A" Liquor Store
Address: 175 R Street, N.E.
Contact: Emanuel Mpras: (703) 642-9042

WARD 5

ANC 5E

SMD 5E03

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on September 21, 2016 at 1:30pm.

NATURE OF OPERATION

A neighborhood liquor store serving alcoholic beverages and offering tastings on premise.

HOURS OF OPERATION/ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 7:00 am – 12:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: May 27, 2016
Petition Date: July 11, 2016
Hearing Date: July 25, 2016

License No.: ABRA-097774
Licensee: TG Cigars, Inc.
Trade Name: TG Cigars
License Class: Retailer's Class "C" Tavern
Address: 1118 9th Street, N.W.
Contact: C. Simms: 202-821-3043

WARD 2

ANC 2F

SMD 2F06

Notice is hereby given that this licensee has applied for Substantial Changes to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the 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 CHANGES

Applicant requested a new Summer Garden with seating for 36 patrons and a Sales/Operating Hours Change.

CURRENT HOURS OF OPERATION ON PREMISE

Sunday through Thursday 10am-12:30am, Friday & Saturday 10am- 2:30am

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

Sunday through Thursday 10am- 12am, Friday 10am – 2am, Saturday: 12pm - 2am

PROPOSED HOURS OF OPERATION ON PREMISE

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

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALE/SERVICE/CONSUMPTION ON PREMISE

Sunday through Thursday 10am – 2am, Friday & Saturday 12pm – 3am

HOURS OF OPERATION OF SUMMER GARDEN

Sunday through Thursday 10am – 12:30am, Friday & Saturday 10am- 2:30am

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

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

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
5/27/2016**

Notice is hereby given that:

License Number: ABRA-090403

License Class/Type: C Restaurant

Applicant: Convene, LLC

Trade Name: Thally

ANC: 2F06

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

1316 9TH ST NW

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

7/11/2016

A HEARING WILL BE HELD ON:

7/25/2016

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 - 1 am	8 am - 1 am
Monday:	6 am - 1 am	8 am - 1 am
Tuesday:	6 am - 1 am	8 am - 1 am
Wednesday:	6 am - 1 am	8 am - 1 am
Thursday:	6 am - 1 am	8 am - 1 am
Friday:	6 am - 2 am	8 am - 2 am
Saturday:	6 am - 2 am	8 am - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****READVERTISEMENT****

Posting Date: **May 27, 2016
Petition Date: **July 11, 2016
Hearing Date: **July 25, 2016

License No.: ABRA-095107
Licensee: The Pitch, LLC
Trade Name: The Pitch
License Class: Retailer’s Class “C” Tavern
Address: 4015 Georgia Avenue, N.W.
Contact: Jeff Jackson: (202) 251-1566

WARD 4

ANC 4C

SMD 4C07

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 requested a Summer Garden endorsement with seating for 20.

CURRENT HOURS OF OPERATION ON PREMISE

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

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

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

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALE/SERVICE/CONSUMPTION FOR SUMMER GARDEN

Monday through Thursday 8 am – 10 pm, Friday and Saturday 8 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND****

Posting Date: **May 13, 2016
Petition Date: **June 27, 2016
Hearing Date: **July 11, 2016

License No.: ABRA-095107
Licensee: The Pitch, LLC
Trade Name: The Pitch
License Class: Retailer’s Class “C” Tavern
Address: 4015 Georgia Avenue, N.W.
Contact: Jeff Jackson: (202) 251-1566

WARD 4

ANC 4C

SMD 4C07

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 requested a Summer Garden endorsement with seating for 20.

CURRENT HOURS OF OPERATION ON PREMISE

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

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

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

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALE/SERVICE/CONSUMPTION FOR SUMMER GARDEN

Monday through Thursday 8 am – 10 pm, Friday and Saturday 8 am – 12 am

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

Posting Date: May 6, 2016
Petition Date: June 20, 2016
Hearing Date: July 5, 2016
Protest Hearing: September 14, 2016

License No.: ABRA-102592
Licensee: Dock 79 Restaurant, LLC
Trade Name: The Salt Line
License Class: Retailer's Class "C" Restaurant
**Address: 79 Potomac Avenue, S.E.
Contact: Stephen O'Brien: 202 625-7700

WARD 6

ANC 6D

SMD **6D07

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

NATURE OF OPERATION

New restaurant, specializing in oysters. Total Occupancy Load is 130. Summer Garden with 120 seats.

HOURS OF OPERATON OF PREMISES AND SUMMER GARDEN

Sunday through Thursday 8 am – 2:30 am, Friday and Saturday 8 am – 3:30 am

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

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

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

Posting Date: May 6, 2016
Petition Date: June 20, 2016
Hearing Date: July 5, 2016
Protest Hearing: September 14, 2016

License No.: ABRA-102592
Licensee: Dock 79 Restaurant, LLC
Trade Name: The Salt Line
License Class: Retailer's Class "C" Restaurant
**Address: 7 Potomac Avenue, S.E.
Contact: Stephen O'Brien: 202 625-7700

WARD 6

ANC 6D

SMD **6D02

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

NATURE OF OPERATION

New restaurant, specializing in oysters. Total Occupancy Load is 130. Summer Garden with 120 seats.

HOURS OF OPERATON OF PREMISES AND SUMMER GARDEN

Sunday through Thursday 8 am – 2:30 am, Friday and Saturday 8 am – 3:30 am

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

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

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

Posting Date: May 27, 2016
Petition Date: July 11, 2016
Hearing Date: July 25, 2016
Protest Date: September 21, 2016

License No.: ABRA-102914
Licensee: Quintanilla Foods, LLC
Trade Name: Tony's Place
License Class: Retailer's Class "C" Restaurant
Address: 622 Kennedy Street, N.W.
Contact: Sindy E. Rodriquez: 202-480-6548

WARD 4

ANC 4D

SMD 4D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on September 21, 2016 at 4:30pm.

NATURE OF OPERATION

New C Restaurant serving American breakfast, lunch, and dinner with a Total Occupancy Load of 11 seats.

HOURS OF OPERATION

Sunday through Saturday 6:00 am – 1:00 am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 11:00 am – 1:00 am

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF PUBLIC HEARING AND PRELIMINARY FINDINGONRECERTIFICATION APPLICATION FOR ADAMS MORGAN PARTNERSHIP INC.

Notice is hereby given that, pursuant to section 6 of the Business Improvement Districts Act of 1996 ("Act"), D.C. Official Code § 2-1215.06, the Department of Small and Local Business Development (DSLBD) will hold a public hearing on the recertification application of the Adams Morgan Partnership Business Improvement District.

The public hearing will be held at 4:00 p.m. Tuesday, June 21, 2016 in Suite 805S, 441 4th Street, N.W., Washington, D.C.

On Tuesday, April 19, 2016, the DSLBD Director Ana R. Harvey sent a letter to the Adams Morgan Partnership Business Improvement District, announcing her preliminary determination that the filing criteria set forth in D.C. Official Code § 2-1215.04 have been met and that the application is otherwise in conformity with the Act.

The public hearing will determine whether the BID plan meets the purposes of the Act, the definition of BID activity set forth in D.C. Official Code § 2-1215.02, and all other BID application requirements.

The BID application is available for review by the public during normal business hours on weekdays at 1640 Columbia Road, N.W., in the offices of the Adams Morgan Partnership Business Improvement District; at 441 4th Street, N.W., Suite 850N, in the offices of DSLBD; and on <http://www.adamsmorganonline.org/about/documents> and <http://dslbd.dc.gov/AMPBID>.

DSLBD invites the public to testify at the public hearing. Witnesses should bring a copy of their written testimony to the public hearing. Additional written statements are encouraged and will be made part of the official record, if received before 5:00 p.m. on Tuesday, June 28, 2016. Written statements may be submitted by e-mail to lincoln.lashley@dc.gov or mailed to: Lincoln Lashley, DSLBD, 441 4th Street, N.W., Suite 850N, Washington, DC 20001.

The public hearing record will close five business days following the conclusion of the hearing, or Tuesday, June 28, 2016. Persons submitting written statements for the record should observe this deadline.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, JULY 12, 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 FOUR

19301 **Application of the Republic of The Gambia**, pursuant to 11 DCMR §§
ANC-4A 1002 and 206 of the Foreign Missions Act, to allow the location of a chancery in
the SSH-1/R-1-B District at premises 5630 16th Street N.W. (Square 2721W, Lot
27).

WARD ONE

19270 **Application of 3636 Woodner, LP and Rock Creek Plaza-Woodner,**
ANC-1D **LP**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the
commercial adjunct requirements under § 354.5, and a special exception from the
commercial adjunct requirements under § 354, to permit a new gym/fitness
center in an existing apartment house in the R-5-D District at premises 3636 16th
Street N.W. (Square 2624, Lots 831-833).

WARD ONE

19298 **Application of Evergreen Properties II LLC**, pursuant to 11 DCMR §
ANC-1B 3103.2, for variances from the lot occupancy requirements under § 403.2, the rear
yard requirements under § 404.1, and the off-street parking requirements under §
2101.1, to construct a new three-story building and a new third-story rear
addition to an existing building for residential uses in the R-4 District at premises
1901, 1903, and 1905 9 1/2 Street N.W. (Square 361, Lots 124-126).

WARD TWO

19299 **Application of Peet's Coffee & Tea**, pursuant to 11 DCMR § 3104.1, for a
ANC-2E special exception from the prepared food shop requirements under §§ 712 and
721.3(t), to operate a prepared food (coffee) shop with greater than 18 seats in the
C-2-A District at premises 3299 M Street N.W. (Square 1206, Lot 34).

BZA PUBLIC HEARING NOTICE

JULY 12, 2016

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WARD SIX

19300
ANC-6A **Application of Capitol Holdings II LLC**, pursuant to 11 DCMR § 3104.1, for a special exception from the use requirements under § 336, to convert a two-story, one-family dwelling into a three-unit apartment house in the R-4 District at premises 1121 G Street N.E. (Square 983, Lot 850).

WARD FIVE

19302
ANC-5E **Application of Johann Lee**, pursuant to 11 DCMR §§ 3104.1 and 411, for special exceptions from the use requirements under § 336, and the roof structure requirements under § 411.11, to convert a two-story, one-family dwelling into a three-story, three-unit apartment house in the R-4 District at premises 232 S Street N.E. (Square 3569, Lot 56).

WARD SIX

19307
ANC-6A **Application of Lock7 Development, LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to renovate and expand an existing apartment house in the C-2-A District at premises 11 15th Street N.E. (Square 1070, Lot 93).

WARD SIX

19308
ANC-6A **Application of 1111 H Street, LLC**, pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the rear yard requirements under § 774, the court requirements under § 776, the off-street parking requirements under § 2101.1, and the HS overlay design requirements under § 1324.4, and a special exception from the single-enclosure penthouse requirements under § 411.6, to renovate an existing structure into an apartment building containing up to eight dwelling units with ground-floor retail in the HS-R/C-2-C District at premises 1111 H Street N.E. (Square 982, Lot 57).

WARD TWO

19309
ANC-2B **Application of Valor P Street, LLC**, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 772.1, and the rear yard requirements under § 774.1, to renovate an existing structure to create a mixed-use building containing eight dwelling units with a ground-floor restaurant in the DC/C-2-C District at premises 2147-2149 P Street N.W. (Square 67, Lot 835).

WARD EIGHT

19313
ANC-8B **Application of Emmanuel Baptist Church**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the off-street parking requirements under § 2101.1, and a special exception from the residential development requirements under § 353, to construct a new 74-unit apartment building in the R-5-A District at premises 2409-2412 Ainger Place S.E. (Square 5740, Lots 8, 190, and 851).

BZA PUBLIC HEARING NOTICE
JULY 12, 2016
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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, 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, ANITA BUTANI D'SOUZA, AND A MEMBER OF THE ZONING COMMISSION, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.

**BOARD OF ZONING ADJUSTMENT
REVISED PUBLIC HEARING NOTICE**

TUESDAY, JULY 19, 2016

441 4TH STREET, N.W.

**JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
 WASHINGTON, D.C. 20001**

Cases added: 19319	Cases revised: N/A	Cases removed: N/A
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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 THREE

17527A **Application of John R. Klein, II**, pursuant to 11 DCMR § 3104.1, for a
 ANC-3F special exception from the parking lot requirements under § 213, to permit the
 continued operation of an accessory parking lot in the R-1-B District at premises
 (rear) 4418-4420 Connecticut Avenue N.W. (Square 1971, Lot 825).

WARD ONE

19278 **Application of Orpel Tucker (Sanders)**, pursuant to 11 DCMR § 3104.1,
 ANC-1A for a special exception from the child development center requirements under §
 330.5(c), to operate a child development center for 28 children and 14 staff in the
 R-4 District at premises 424 Irving Street N.W. (Square 3050, Lot 138).

WARD FIVE

19292 **Application of Orpel Tucker (Sanders)**, pursuant to 11 DCMR § 3104.1,
 ANC-5B for a special exception from the child development center requirements under §
 330.5(c), to operate a child development center for 28 children and 14 staff in the
 R-4 District at premises 629 Columbia Road N.W. (Square 3052, Lot 150).

WARD SIX

19293 **Application of Gonzaga College High School**, pursuant to 11 DCMR §§
 ANC-6E 3103.2 and 3104.1, for a variance from the private school requirements under §
 206.1, and special exceptions from the limitation on number of stories
 requirements under § 400.1, and the height requirements under § 770.1, to permit
 the installation of four monopole light arrays to serve existing athletic fields on
 the campus of a private school in the R-4/C-2-A District at premises 19 I Street
 N.W. (Square 622, Lots 93, 844-845).

BZA PUBLIC HEARING NOTICE

JULY 19, 2016

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WARD FOUR

19295
ANC-4A **Application of Michael Maddox**, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the rear yard requirements under § 404.1, to construct a rear deck addition to an existing one-family dwelling in the R-3 District at premises 1363 Rittenhouse Street N.W. (Square 2789, Lot 118).

WARD FOUR

19304
ANC-4C **Application of 320 Webster St LLC**, pursuant to 11 DCMR §§ 3104.1 and 411, for special exceptions from the use requirements under § 336, and the roof structure requirements under § 411.11, to convert a two-story, one-family dwelling into a three-story, three-unit apartment house in the R-4 District at premises 320 Webster Street N.W. (Square 3310, Lot 68).

WARD SIX

19310
ANC-6B **Application of Kenneth A. Golding**, pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the penthouse height requirements under § 400.5, and the nonconforming structure requirements under § 2001.3, and special exceptions from the apartment house expansion requirements under § 336.13, and the penthouse setback requirements under § 411.11, to renovate and expand an existing apartment house in the R-4 District at premises 622-624 North Carolina Avenue S.E. (Square 871, Lot 42).

WARD TWO

19314
ANC-2B **Application of American Geophysical Union**, pursuant to 11 DCMR §§ 3103.2, 3104.1 and 411, for a variance from the off-street parking requirements under § 2101.1, and a special exception from the penthouse setback requirements under §§ 777 and 411.18, to renovate an existing office building including the installation of a rooftop solar array in the DC/C-3-B District at premises 2000 Florida Avenue N.W. (Square 90, Lot 33).

WARD SIX

19319
ANC-6B **Application of Capitol Hill Squash Club Associates**, pursuant to 11 DCMR § 3104.1, for a special exception from the nonconforming use requirements under § 2003, to use the second floor of a building as a group instruction (exercise) studio in the CAP/R-4 District at premises 218 D Street S.E. (Square 763, Lot 2).

BZA PUBLIC HEARING NOTICE

JULY 19, 2016

PAGE NO. 3

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

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

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (Department), pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2012 Repl.)), Mayor's Order 98-140, dated August 20, 1998, and the Omnibus Health Regulation Amendment Act of 2014, effective March 26, 2014 (D.C. Law 20-0096; 61 DCR 3751(April 11, 2014)) (the Act), hereby gives notice of the intent to take final rulemaking action to adopt the following new Chapter 92 of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR), entitled "Teaching Licenses for Dentistry and Dental Hygiene," in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The adoption of Chapter 92 is necessary to implement Section 508b of the Act, D.C. Official Code § 3-1205.08b, which authorizes the Board of Dentistry to issue teacher's licenses in dentistry and dental hygiene.

Chapter 92, TEACHING LICENSES FOR DENTISTRY AND DENTAL HYGIENE, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is added as follows:

CHAPTER 92 TEACHING LICENSES FOR DENTISTRY AND DENTAL HYGIENE

- Secs.**
- 9200 General Provisions**
- 9201 Licensure Required to Teach Dentistry or Dental Hygiene**
- 9202 Term of License**
- 9203 Eligibility Requirements for a Teacher's License in Dentistry**
- 9204 Education and Professional Prerequisites for a Teacher's License in Dentistry**
- 9205 Application for a Teacher's License in Dentistry**
- 9206 Eligibility Requirements for a Teacher's License in Dental Hygiene**
- 9207 Education and Professional Prerequisites for a Teacher's License in Dental Hygiene**
- 9208 Application for a Teacher's License in Dental Hygiene**
- 9209 Scope of Practice for a Teacher's License in Dentistry**
- 9210 Scope of Practice for a Teacher's License in Dental Hygiene**
- 9299 Definitions**

9200 GENERAL PROVISIONS

9200.1 This chapter shall apply to applicants for and holders of a teacher's license in dentistry or dental hygiene.

9200.2 Chapter 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), 42 (Dentistry), and 43 (Dental Hygiene) of Title 17 of the District of Columbia Municipal Regulations shall supplement this chapter.

9200.3 A holder of a teacher's license in dentistry shall comply with all the requirements for the practice of dentistry under this chapter and the Act.

9200.4 A holder of a teacher's license in dental hygiene shall comply with all the requirements for the practice of dental hygiene under this Act.

9201 LICENSURE REQUIRED TO TEACH DENTISTRY OR DENTAL HYGIENE

9201.1 No person unlicensed to practice dentistry or dental hygiene in the District of Columbia shall be permitted to teach dentistry or dental hygiene, respectively, within the District, without a teacher's license.

9201.2 For a period of one year after the effective date of these regulations an applicant who is not eligible to teach dentistry under § 9203 of this chapter, or is not eligible to teach dental hygiene under § 9206 of this chapter, may engage in the teaching of dentistry or dental hygiene, respectively, if the applicant:

- (a) Has received training to enable him or her to competently and safely teach dentistry; and
- (b) Engages in dental or dental hygiene teaching under the general supervision of a licensed dentist.

9202 TERM OF LICENSE

9202.1 A teacher's license in dentistry and a teacher's license in dental hygiene shall expire on the earlier of:

- (a) The date set in § 9202.3, unless the license is renewed for an additional term; or
- (b) The date when the licensee ceases to be a full-time or part-time faculty member at the institution named on the license.

9202.2 The holder of a teacher's license in dentistry or dental hygiene shall surrender the license to the Board within thirty (30) days of ceasing to be a full-time or part-time faculty member at the institution named on the license.

9202.3 Subject to § 9202.4, a teacher's license in dentistry and a teacher's license in dental hygiene issued pursuant to this chapter shall expire at 11:59 PM of December 31st of each odd-numbered year.

9202.4 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a teacher's license in dentistry and a teacher's license in dental hygiene issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birthdate of the holder of the registration or other date established by the Director.

9203 ELIGIBILITY REQUIREMENTS FOR A TEACHER'S LICENSE IN DENTISTRY

9203.1 To be eligible for a teacher's license in dentistry, an applicant shall:

- (a) Have an appointment or a promise of an appointment as a full-time or part-time faculty member at an accredited dental school located in the District of Columbia and the institution where the dentist is appointed shall provide documentation satisfactory to the Board of the appointment;
- (b) Meet the education and professional prerequisites set forth under § 9204.1, or § 9204.2;
- (c) Have successfully completed Part I and Part II of the examination of the Joint Commission on National Dental Examinations;
- (d) Be at least twenty-one (21) years of age;
- (e) Be of good moral character and professionally competent;
- (f) Not have failed the ADEX clinical examination, or its successor, for a license to practice dentistry in the District of Columbia, unless having subsequently passed;
- (g) Be a United States citizen or an alien lawfully admitted to the United States;
- (h) Not be currently under investigation or pending charges by any state licensing board, peer review authority, or law enforcement authority;
- (i) Not have a health professional license that is suspended, revoked, or otherwise not in good standing, as determined by the Board, in another state or jurisdiction; and
- (j) Not have been convicted or disciplined by a court of any state or country for a crime involving moral turpitude or that bears directly upon the fitness of the applicant to be licensed.

9204 EDUCATION AND PROFESSIONAL PREREQUISITES FOR A TEACHER'S LICENSE IN DENTISTRY

9204.1 Except as otherwise provided in § 9204.2, an applicant shall furnish proof satisfactory to the Board that the applicant:

- (a) Has successfully completed an educational program in the practice of dentistry at an institution accredited by the Commission on Dental Accreditation of the American Dental Association ("CODA"), and holds a Degree of Doctor of Dental Surgery (DDS), Doctor of Dental Medicine (DMD), or its equivalent, from a college or university that is authorized by any state of the United States or any province of Canada to grant a degree and is recognized by the Board of Dentistry as requiring adequate professional collegiate training and as maintaining an acceptable course of dental instruction; and
- (b) Is licensed to practice dentistry, in good standing, in any other state.

9204.2 An applicant that does not meet the requirements set forth in § 9204.1, may be granted licensure if the dean of the dental school where the dentist will practice requests that the dentist be granted the license, circumstances exist that justify granting the request, and the applicant furnishes proof satisfactory to the Board that the applicant:

- (a) Holds a DDS or DMD degree, or an equivalent degree from a school, college, or faculty of dentistry, recognized by the appropriate civil authorities of the jurisdiction in which the institution is located, which includes completion of a total of not less than six (6) total academic years of pre-professional and professional education, including courses in general chemistry, organic chemistry, biology or zoology, and physics, and for which at least four (4) academic years shall be professional dental education; and
- (a) Has at least two (2) years of clinical dental experience.

9205 APPLICATION FOR A TEACHER'S LICENSE IN DENTISTRY

9205.1 To apply for a teacher's license in dentistry an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:

- (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
 - (ii) Submit proof acceptable to the Board that he or she is legally authorized to be in the United States, such as a Resident Alien Card, a valid foreign passport with a visa, or a work permit card from the Department of Homeland Security (I-766 or I-688B);
- (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
- (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity; and
- (b) Submit a formal request for licensure and promise of appointment or confirmation of appointment from the Dean of the dental school where the applicant will be appointed. The request shall be submitted in a sealed envelope bearing the seal of the institution;
- (c) Submit an official transcript mailed directly from the educational institution(s) in a sealed envelope, which shall verify that the applicant has successfully met the education requirements set forth in § 9204.1 or § 9204.2 of this chapter;
- (d) Submit the applicant's examination results, which have been certified or validated by the Joint Commission of National Dental Examiners;
- (e) Submit proof acceptable to the Board that the applicant has not failed the ADEX clinical examination, or its successor, or proof that the applicant subsequently passed the examination which shall be certified or validated by the ADEX or its successor;
- (f) Submit a copy of his or her current dental license; or if not licensed in another state, proof acceptable to the Board of having two (2) years of active clinical practice;
- (g) Obtain verification from each state in which the applicant holds or has ever held a professional health occupation license, if applicable, that the license is current and in good standing, or if the license is no longer active, that it was in good standing immediately prior to its expiration. The licensure verification form shall be sent directly to the Board by the verifying board;

- (h) Pass the District of Columbia Dental Law Examination;
- (i) Submit two letters of recommendation from the applicant's clinical colleagues, which shall certify to the board the good moral character of the applicant, and the applicant's qualifications, background, and experience.
- (j) Undergo a criminal background check; and
- (k) Pay all required fees.

9206 ELIGIBILITY REQUIREMENTS FOR A TEACHER'S LICENSE IN DENTAL HYGIENE

9206.1 To be eligible for a teacher's license in dental hygiene, an applicant shall:

- (a) Have an appointment or a promise of an appointment as a full-time or part-time faculty member in a dental hygiene program at an accredited dental school located in the District of Columbia and the institution where the dental hygienist is appointed provides documentation satisfactory to the Board of the appointment.
- (b) Meet the education and professional prerequisites set forth under § 9207.1;
- (c) Have successfully completed the National Board of Dental Hygiene Examination;
- (d) Be of good moral character and professionally competent;
- (e) Not have failed the ADEX clinical examination, or its successor, unless having subsequently passed;
- (f) Be a United States citizen or an alien lawfully admitted to the United States;
- (g) Not be currently under investigation or pending charges by any state licensing board, peer review authority, or law enforcement authority;
- (h) Not have a health professional license that is suspended, revoked, or otherwise not in good standing, as determined by the Board, in another state or jurisdiction; and
- (i) Not have been convicted or disciplined by a court of any state or country for a crime involving moral turpitude or that bears directly upon the fitness of the applicant to be licensed.

9207 EDUCATION AND PROFESSIONAL PREREQUISITES FOR A TEACHER'S LICENSE IN DENTAL HYGIENE

9207.1 An applicant shall furnish proof satisfactory to the Board that the applicant:

- (a) Has successfully completed an educational program in the practice of dental hygiene of at least two academic years at an institution accredited by the CODA at the time the applicant graduated; or the applicant demonstrates to the satisfaction of the Board that the applicant's education and training are substantially equivalent to the requirements of this section; and
- (b) Submits evidence satisfactory to the Board that the applicant has been actively engaged in the practice of dental hygiene for the three (3) years immediately preceding the application, and has at least one hundred and fifty (150) hours of active dental hygiene practice.

9208 APPLICATION FOR A TEACHER'S LICENSE IN DENTAL HYGIENE

9208.1 To apply for a teacher's license in dental hygiene, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:
 - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
 - (ii) Submit proof acceptable to the Board that he or she is legally authorized to be in the United States, such as a Resident Alien Card, a valid foreign passport with a visa, or a work permit card from the Department of Homeland Security (I-766 or I-688B);
 - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
 - (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity; and

- (b) Submit a formal request for licensure and promise of appointment or confirmation of appointment from the Dean of the dental school or dental hygiene school where the applicant will be appointed. The request shall be submitted in a sealed envelope bearing the seal of the institution;
- (c) Submit an official transcript mailed directly from the educational institution(s) in a sealed envelope, which shall verify that the applicant has successfully met the education requirements set forth in § 9207.1 of this chapter;
- (d) Submit the applicant's examination results, which have been certified or validated by the National Board of Dental Hygiene Examination;
- (e) Submit proof acceptable to the Board that the applicant has not failed the ADEX clinical examination, or its successor, or proof that the applicant subsequently passed the examination which shall be certified or validated by the ADEX or its successor;
- (f) Submit proof acceptable to the Board that the applicant has been actively engaged in the practice of dental hygiene for the three (3) years immediately preceding the application, and has at least one hundred fifty (150) hours of active dental hygiene practice;
- (g) Obtain verification from each state in which the applicant holds or has ever held a professional health occupation license, if applicable, that the license is current and in good standing, or if the license is no longer active, that it was in good standing immediately prior to its expiration. The licensure verification form shall be sent directly to the Board by the verifying board;
- (h) Pass the District of Columbia Dental Law Examination;
- (i) Submit two (2) letters of recommendation from the applicant's clinical colleagues, which shall certify to the board the good moral character of the applicant, and the applicant's qualifications, background, and experience.
- (j) Undergo a criminal background check; and
- (k) Pay all required fees.

9209 SCOPE OF PRACTICE FOR A TEACHER'S LICENSE IN DENTISTRY

9209.1 The holder of an active teacher's license in dentistry shall:

- (a) Teach dentistry at only the institution named on the license, which includes, and is limited to the primary facilities within the dental school,

and shall not engage in clinical teaching at a satellite location or other off-campus sites, such as clinics, unless the location or site is part of a program operated by the institution as confirmed by formal affiliation agreements; and

- (b) Practice, adjunct to instruction, only at the institution named on the license to the same extent as other faculty members who hold general licenses to practice dentistry; provided that a licensed dentist employed by the school provides general supervision in all clinical practice.

9209.2 For purposes of this chapter, “teach” shall mean to provide clinical and didactic instruction and training at the institution to students formally enrolled in an educational program in the practice of dentistry at that institution.

9209.3 The holder of a teacher’s license in dentistry shall not establish a dental practice in the District of Columbia, or engage in the practice of dentistry in any manner outside of the educational institution named on the license, without first obtaining an unrestricted dental license to practice dentistry in the District of Columbia.

9210 SCOPE OF PRACTICE FOR A TEACHER’S LICENSE IN DENTAL HYGIENE

9210.1 The holder of an active teacher’s license in dental hygiene shall:

- (a) Teach dental hygiene only at the institution named on the license, which includes, and is limited to the primary facilities within the dental school, and shall not engage in clinical teaching at a satellite location or other off-campus sites, such as clinics, unless the location or site is part of a program operated by the institution as confirmed by formal affiliation agreements; and
- (b) Practice, adjunct to instruction, only at the institution named on the license to the same extent as other faculty members who hold general licenses to practice dental hygiene, and only under the direct supervision of a licensed dentist employed by the institution named on the license.

9210.2 For purposes of this chapter, “teach” shall mean to provide clinical and didactic instruction and training at the institution to students formally enrolled in an educational program in the practice of dental hygiene at that institution.

9210.3 The holder of a teacher’s license in dental hygiene shall not engage in the practice of dental hygiene in any manner outside of the educational institution named on the license, without first obtaining an unrestricted license to practice dental hygiene in the District of Columbia.

9299 DEFINITIONS

As used in this chapter, the following terms shall have the meaning as ascribed:

Act – the Omnibus Health Regulation Amendment Act of 2014, effective March 26, 2014 (D.C. Law 20-0096; 61 DCR 3751 (April 11, 2014)).

Board – the Board of Dentistry.

Direct supervision- means that a licensed dentist is physically present and reviews the work of the holder of a teacher’s license in dental hygiene before a patient leaves.

Director – the Director of the Department of Health.

General supervision – means that a licensed dentist is physically present or available by telecommunications device to supervise the holder of a teacher’s license in dentistry.

Licensed Dentist – a person who is licensed by the Board as a Dentist.

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

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED 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) (2014 Repl. & 2015 Supp.), hereby gives notice of its intent to adopt amendments to Chapter 5 (Taxicab Companies and Associations) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would amend Chapter 5 to enhance customer service standards and establish greater parity in operating and licensing rules throughout the taxicab industry by: (1) establishing requirements for independent taxicab owners applying for new and renewed certificates of operating authority; and (2) modifying operating requirements of independent taxicab owners to make more uniform the requirements for independent taxicab owners, taxicab companies, and taxicab associations.

The Commission also hereby gives notice of its intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*. Directions for submitting comments may be found at the end of this notice.

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

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

**CHAPTER 5 TAXICAB COMPANIES, ASSOCIATIONS, FLEETS, AND
INDEPENDENT TAXICABS**

Section 505, INDEPENDENT TAXICABS, is amended to read as follows:

Subsection 505.2 is amended as follows:

Paragraphs (a), (b), (d), (g) and (h) are amended to read as follows:

- (a) The applicant’s name, residence and business addresses;
- (b) The applicant’s home and mobile telephone numbers, fax number, and email address;
- (d) The make, model, year of manufacture, body type, and vehicle identification number of the applicant’s vehicle;

- (g) Whether the applicant's vehicle is wheelchair accessible or other specially equipped;
- (h) The type of fuel used by the applicant's vehicle;

New Paragraphs (i) through (n) are added to read as follows:

- (i) Certification of tax compliance from the Internal Revenue Service for the prior tax year;
- (j) A copy of Certificate of Occupancy for the applicant's administrative office, if applicable;
- (k) A statement by the applicant that the applicant will not discriminate against customers and will provide service throughout the District of Columbia;
- (l) Clean Hands certification that the applicant has complied with the District of Columbia Office of Tax and Revenue registration and filing requirements, including but not limited to filing the FR-500 Combined Business Tax Registration Application Form and the FR-500T, Taxicab and Limousine Supplemental Information Form;
- (m) Verification that the applicant has applied for and is pre-approved for insurance that complies with District of Columbia insurance requirements and the requirements of Chapter 9 of this title; and
- (n) The trade name and any design, insignia, logo, term, symbol, lettering, or other exterior object, pursuant to § 503 of this chapter.

New Subsections 505.12 through 505.14 are added to read as follows:

- 505.12 Each independent taxicab owner shall maintain a computerized data system capable of electronically submitting to the Office all information required by this Title and other applicable law.
- 505.13 Each independent taxicab owner shall provide one or more safety devices for all its owned and associated vehicles which conforms to the equipment standards of § 603.8(n)(3), as specified in an administrative issuance, including a device which also provides for driver's safety.
- 505.14 Each independent taxicab owner shall maintain a website containing only current and accurate information about the company or association.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting the Secretary to the Commission, District of Columbia Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dctc@dc.gov or by mail to the D.C. Taxicab Commission, 2235 Shannon Place, S.E., Suite 3001, Washington D.C. 20020, Attn: Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF THIRD EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl. & 2015 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 1920, entitled “Day Habilitation Services,” of Chapter 19 (Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The third emergency and proposed rules establish standards governing reimbursement of day habilitation one-to-one services and day habilitation small group services provided to participants in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia (Council) and renewed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for a five-year period beginning November 20, 2012. An amendment to the ID/DD Waiver was approved by the Council through the Medicaid Assistance Program Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 1-307.02(a)(8)(E) (2015 Supp.)). CMS approved the amendment to the ID/DD Waiver effective September 24, 2015.

Day habilitation services are aimed at developing activities and skills acquisition to support or further integrate community opportunities outside of a person’s home and assist the person in developing a full life within the community. Day habilitation one-to-one services are provided to persons with intense medical behavioral supports who require a behavioral support plan or require intensive staffing and supports. The most recent Notice of Final Rulemaking for 29 DCMR § 1920 (Day Habilitation Services) was published in the *D.C. Register* on November 8, 2013, at 60 DCR 015530. A Notice of Emergency and Proposed Rulemaking, published in the *D.C. Register* on October 23, 2015, at 62 DCR 013880, was adopted and became effective on October 14, 2015, and remained in effect until February 11, 2016. The first emergency and proposed rules amended the previously published final rules by: (1) clarifying the purpose of day habilitation services; (2) adding a nursing component to the service definition for the purpose of medication administration, and staff training and monitoring of waiver participants’ Health Care Management Plans; (3) modifying the rate to reflect the approved methodology in accordance with the ID/DD Waiver; (4) adding small group day habilitation for people with higher intensity needs and describing the conditions in which services may be delivered; (5) specifying that the required staff to person ratio for small group day habilitation is 1:3; (6) introducing a small group day habilitation rate for the staffing ratio of 1:3; (7) adding the provision of one nutritionally

adequate meal per day for persons who live independently or with their families and who select to receive a meal; (8) adding to the list of activities that day habilitation shall consist of, including requiring activities to support community integration and inclusion; (9) requiring the development of a Positive Personal Profile, Job Search and Community Participation Plan; (10) requiring an individualized daily schedule; (11) requiring that, if day habilitation is provided in a facility, it must provide opportunities for community engagement, inclusion and integration; (12) requiring that all day habilitation providers comply with Section 1938 of Chapter 19 of Title 29 DCMR; (13) requiring that quarterly reports include a description of the person's activities in the community that support community integration and inclusion; and (14) barring the payment of stipends by the day habilitation provider to a waiver beneficiary.

DHCF received public comments on the first emergency and proposed rulemaking requesting clarification for the staffing ratios and billing rates. A Notice of Second Emergency and Proposed Rulemaking, published in the *D.C. Register* on February 12, 2016, at 63 DCR 001707, was adopted on February 1, 2016 effective immediately, and will remain in effect until May 31, 2016, or publication of a final rulemaking in the *D.C. Register*. DHCF promulgated the second emergency and proposed rulemaking to continue the program changes reflected in the first emergency and proposed rules as described above and to further amend the rules by: (1) clarifying the staffing ratios for day habilitation and small group day habilitation; (2) clarifying the billing rates for day habilitation and small group day habilitation; (3) providing further details about provider responsibility for offering activities that support community integration and inclusion; and (4) including rates that align with Waiver Year 4. Although DHCF did not receive public comments on the second emergency and proposed rulemaking, further amendment was necessary to clarify existing information and add new requirements.

Accordingly, this Notice of Third Emergency and Proposed Rulemaking continues the cumulative changes as reflected in the second emergency and proposed rules as described above and further amends the rules by: (1) clarifying that all persons in day habilitation services must receive individualized services; (2) specifying requirements for activities to support community integration and inclusion; (3) requiring compliance with the DDS guidance on individualized schedules; (4) describing provider staffing requirements; and (5) requiring that all small group day habilitation settings fully comply with the federal Home and Community-Based Settings Rule.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of ID/DD Waiver services. The ID/DD Waiver serves some of the District's most vulnerable residents. As discussed above, these amendments clarify certain requirements that assist in preserving the health, safety and welfare of ID/DD Waiver participants.

The emergency rulemaking was adopted on May 11, 2016, and became effective immediately. The emergency rules shall remain in effect for one hundred and twenty (120) days from the adoption date or until September 8, 2016, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication on this notice in the *D.C. Register*.

Chapter 19, HOME AND COMMUNITY-BASED SERVICES WAIVER FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

Section 1920, DAY HABILITATION SERVICES, is amended to read as follows:

1920 DAY HABILITATION SERVICES

- 1920.1 The purpose of this section is to establish standards governing Medicaid eligibility for day habilitation for persons enrolled in the Home and Community-Based Services (HCBS) Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver), and to establish conditions of participation for providers of day habilitation services.
- 1920.2 Day habilitation services are aimed at developing meaningful adult activities and skills acquisition to: support or further community integration, inclusion, and exploration, improve communication skills; improve or maintain physical, occupational and/or speech and language functional skills; foster independence, self-determination and self-advocacy and autonomy; support persons to build and maintain relationships; facilitate the exploration of employment and/or integrated retirement opportunities; help a person achieve valued social roles; and to foster and encourage persons on their pathway to community integration, employment and the development of a full life in the person's community.
- 1920.3 Day habilitation services are intended to be different and separate from residential services. These services are delivered in group settings or can be provided as day habilitation one-to-one services.
- 1920.4 Day habilitation services may also be delivered in small group settings at a ratio of one-to-three for persons with higher intensity support needs. Small group day habilitation settings must include integrated skills building in the community and support access to the greater community. It cannot be:
- (a) Provided in the same building as a large day habilitation facility setting; or
 - (b) Delivered in groups larger than fifteen (15) persons.
- 1920.5 To be eligible for day habilitation services:
- (a) The service shall be requested by the person and recommended by the person's Support Team and included in the Individualized Support Plan (ISP) and Plan of Care; and

- (b) A person shall have a demonstrated personal and/or social adjustment need that can be addressed through participation in a habilitation program that is individualized to meet their goals, preferences, and needs.

1920.6 Day habilitation one-to-one services shall consist of:

- (a) Intense behavioral supports that require a behavioral support plan; or
- (b) Services for a person who has medical needs that require intensive staffing and supports.

1920.7 To be eligible for day habilitation one-to-one services, a person shall meet at least one of the following requirements:

- (a) Exhibit elopement which places the health, safety, or well-being of the person at risk;
- (b) Exhibit behavior that poses serious bodily harm to self or others;
- (c) Exhibit destructive behavior that poses serious property damage, including fire-setting;
- (d) Have any other intense behavioral problem that has been deemed to require one-to-one supervision;
- (e) Exhibit sexually predatory behavior; or
- (f) Have a medical history of, or high risk for, falls with injury, be physically fragile or have physical needs that do not require professional nursing but require intensive staffing, and have a physician's order for one-to-one staffing support.

1920.8 Day habilitation one-to-one services shall be authorized and approved in accordance with DDS/DDA policies and procedures available at <http://dds.dc.gov/page/policies-and-procedures-dda>.

1920.9 Day habilitation services shall be provided pursuant to the following service delivery criteria:

- (a) The service may be provided in a group setting. However, persons within the group must also receive individualized services to meet their goals, preferences and needs;
- (b) The services provided in a community-based venue shall offer skill-building activities to enhance the person's habilitation needs; and

- (c) The service shall be provided in the most integrated setting appropriate to the needs of the person.

1920.10

Day habilitation services shall consist of the following activities that are based on what is important to and for the person as documented in his or her Individualized Support Plan and reflected in his or her Person-Centered Thinking and Discovery tools:

- (a) Training and skills development that increase participation in community activities, enhance community inclusion, and foster greater independence, self-determination and self-advocacy;
- (b) A diversity of activities that allow the person the opportunity to choose and identify his or her own areas of interest and preferences;
- (c) Activities that provide opportunities for socialization and leisure activities in the community, community explorations, and activities that support the person to build and maintain relationships;
- (d) Training in the safe and effective use of one or more modes of accessible public transportation;
- (e) Coordination of transportation to enable the person to participate in community activities;
- (f) Activities to support community integration and inclusion:
 - (1) These must occur in the community in groups not to exceed four (4) participants for regular day habilitation or three (3) participants for persons in small group day habilitation;
 - (2) The activities, frequency and duration of these activities must be based on a person's interests and preferences as reflected in his or her Individualized Support Plan and Person-Centered Thinking and Discovery tools;
 - (3) There should be documentation that efforts were made to match persons together in community outings based on common interests, goals, and/ or friendships, including that a person is given a choice as to whom he or she would like to spend time with during these activities;
 - (4) Except when a person's ISP indicates a lower frequency, each person must be offered the opportunity to engage in community integration and inclusion activities at least once per week, and more if indicated by the ISP;

- (5) The Department on Disability Services (DDS) encourages the use of learning logs for documentation of community integration and inclusion activities;
 - (6) At least quarterly there must be a community integration activity in which a Program Coordinator, Assistant Director, and/or a Qualified Intellectual and Developmental Disabilities Profession participates to ensure: proper matching of participants; that the community outings reflect each person's interests, goals, or friendships; that each person receiving supports has opportunities to engage with people while in the community and to coach Direct Support Professionals (DSPs) on the skills needed to successfully connect persons receiving supports with the broader community; and
 - (7) Each day habilitation provider must have, and must train their DSP staff on, written protocols regarding how DSPs are expected to support persons in the community and requirements for documenting progress notes regarding community engagement activities; and
- (g) Individualized or group services that enable the person to attain his/her maximum functional level based on the ISP and Plan of Care.

1920.11 Day habilitation services shall include a nursing component for the purposes of:

- (a) Medication administration;
- (b) Staff training in components of the Health Care Management Plan (regardless of the author of the plan); and
- (c) Oversight of Health Care Management Plans (regardless of the author of the plan).

1920.12 Day habilitation services shall include a nutritionally adequate meal for participants who live independently or in the family home and who select to receive a meal. The meal shall be provided during lunch hours, meet one-third of a person's daily Recommended Dietary Allowance, be based on the person's preferences, and not be medically contraindicated.

1920.13 Each day habilitation provider shall develop a day habilitation plan for each person that corresponds with the person's ISP and Plan of Care that supports the interests, choices, goals and prioritized needs of the person. In order to develop this plan, the provider must first develop a Positive Personal Profile (PPP) and Job Search and Community Participation Plan; the initial PPP and Job Search and

Community Participation Plan shall be developed within thirty (30) days of the initiation of services and shall be updated at least annually. Activities set forth in the day habilitation plan shall be functional, chosen by the person, correspond with habilitation needs and provide a pattern of life experiences common to other persons of similar age and the community-at-large. To develop the plan, the provider shall:

- (a) Use observation, conversation, and other interactions, including assessments such as a vocational assessment, as necessary, to develop a functional analysis of the person's capabilities within the first month of participation and annually thereafter;
- (b) Use the functional analysis, the ISP and Plan of Care, Person-Centered Thinking and Discovery tools, and other information available to identify what is important to and for the person and to develop a plan with measurable outcomes that develops to the extent possible the skills necessary to allow the person to reside and work in the community while maintaining the person's health and safety; and
- (c) Focus on enabling each person to attain his or her maximum functional level by coordinating Waiver services with other services provided by any licensed professionals listed in the person's ISP and Plan of Care.

1920.14 Each provider of Medicaid reimbursable day habilitation services shall develop, with the person, an individualized schedule of daily activities that meets all requirements in the DDS guidance on daily schedules, including that it is based upon the person's goals and activities as identified in his or her ISP, and consistent with what is in his or her Person-Centered Thinking and Discovery tools, of meaningful adult activities that support the person on his or her pathway to employment and community integration and inclusion.

1920.15 Day habilitation providers may not pay a stipend to a person for attendance or participation in activities at the day habilitation program.

1920.16 Each day habilitation provider shall meet the following provider qualification and enrollment requirements:

- (a) Comply with the requirements described under Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR;
- (b) Maintain the required staff-to-person ratio, indicated on the person's ISP and Plan of Care, to a maximum staffing ratio of 1:4 for regular day habilitation or 1:3 for persons in small group day habilitation;

- (c) Shall have at least one individual on staff as a full-time employee or consultant basis that has experience developing adult education programs for a person with intellectual disabilities, to ensure outcome-based learning is taking place; and
- (d) Shall have one individual on staff as a full-time employee or consultant basis that has experience developing adult senior curriculums for persons with intellectual disabilities, to ensure outcome-based learning is taking place.

1920.17 In addition to the requirements at Subsection 1920.16, each small group day habilitation provider shall meet the following provider qualifications and enrollment requirements:

- (a) Fully comply with all requirements of the HCBS Settings Rule as that phrase is defined in Section 1999 (Definitions); and
- (b) Provide documentation that the program manager of the HCBS Waiver provider agency has at least three (3) years of experience working with persons with intellectual and developmental disabilities who have complex medical and/or behavioral needs.

1920.18 Each DSP providing day habilitation services for a provider shall comply with Section 1906 (Requirements of Direct Support Professionals) of Chapter 19 of Title 29 DCMR.

1920.19 To receive Medicaid reimbursement, day habilitation services shall be provided in the community or in a facility-based setting that provides opportunities for community engagement, inclusion and integration.

1920.20 Each provider of Medicaid reimbursable day habilitation services shall comply with the requirements under Section 1938 (Home and Community-Based Settings Requirements) of Chapter 19 of Title 29 DCMR.

1920.21 All day habilitation services shall be authorized in accordance with the following requirements:

- (a) DDS shall provide a written service authorization before the commencement of services;
- (b) The day habilitation DSP providing one-to-one services shall be trained in physical management techniques, positive behavioral support practices and other training required to implement the person's health care management plan and behavioral support plan, as applicable;
- (c) The service name and provider entity delivering services shall be identified in the ISP and Plan of Care;

- (d) The ISP, Plan of Care and Summary of Supports and Services shall document the amount and frequency of services to be received;
- (e) Completion of the person's day habilitation plan;
- (f) Approval of the behavioral support plan or the physician's order for one-to-one staffing support for persons receiving day habilitation one-to-one services; and
- (g) When required by a person's BSP, accurate completion by the DSP of the behavioral data sheets for persons receiving day habilitation one-to-one services.

1920.22 Each provider shall comply with the requirements described under Section 1908 (Reporting Requirements) of Chapter 19 of Title 29 DCMR and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR. Additionally, quarterly reports shall include a description of the person's activities in the community that support community integration and inclusion.

1920.23 Each provider shall comply with the requirements described under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR.

1920.24 The reimbursement rate for regular day habilitation services shall be twenty-one dollars and eighty cents (\$21.80) per hour. Services shall be provided for a maximum of eight (8) hours per day. The billable unit of service for regular day habilitation services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service. The reimbursement rate for regular day habilitation services shall be five dollars and forty-five cents (\$5.45) per billable unit.

1920.25 The reimbursement rate for day habilitation one-to-one services shall be forty-one dollars and twenty-four cents (\$41.24). The billable unit of service for day habilitation one-to-one services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service. The reimbursement rate for day habilitation one-to-one services shall be ten dollars and thirty-one cents (\$10.31) per billable unit.

1920.26 The reimbursement rate for small group day habilitation services shall be thirty-two dollars and eighty-eight cents (\$32.88). The billable unit of service for small group day habilitation shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service. The reimbursement rate for small group day habilitation services shall be eight dollars and twenty-two cents (\$8.22) per billable unit.

- 1920.27 For persons who live independently or with family and select to receive a meal, the rate is increased by seven dollars and thirty-two cents (\$7.32) per day that the person receives a meal, and an additional five dollars and two cents (\$5.02) per day that the person receives a meal, if that meal is delivered by a third-party vendor.
- 1920.28 Day habilitation services, small group day habilitation, and day habilitation one-to-one services shall be provided for a maximum of eight (8) hours a day, not to exceed forty (40) hours per week and two thousand eighty hours (2080) hours annually.
- 1920.29 Day habilitation services shall not be provided concurrently with Individualized Day Supports, Companion, Supported Employment or Employment Readiness services.
- 1920.30 No payment shall be made for care and supervision normally provided by the family or natural caregivers, residential provider, or employer.
- 1920.31 Provisions shall be made by the day habilitation provider for persons who arrive early and depart late.
- 1920.32 Time spent in transportation to and from the program shall not be included in the total amount of services provided per day.

Section 1999, DEFINITIONS, is amended by adding the following:

Behavioral Support Plan (BSP) - A plan that is a component of the ISP that outlines positive supports and strategies to help a person ameliorate and/or eliminate the negative impact of one or more challenging behaviors that have a negative impact on a person's ability to achieve his or her goals.

Day Habilitation Plan - A person-centered plan developed by the day habilitation provider, based on a person-centered planning process that takes into account the results of a functional analysis, ISP, Plan of Care and other available information which lists services and outlines preferences, interests, and measurable outcomes to enable the person to reside, work and participate in the community, and maintain the person's health.

Direct Support Professional (DSP) - A person who works directly with persons with developmental disabilities with the aim of assisting the individual to become integrated into his or her community or the least restrictive environment.

Family - Any person who is related to the person by blood, marriage, or adoption.

Functional Analysis - The process of identifying a person's specific strengths, preferences, developmental needs, and need for services by identifying the person's present developmental level, health status, expressed needs and desires of the person and his or her family, and environmental or other conditions that would facilitate or impede the person's growth and development.

Small Group Day Habilitation – Day habilitation services delivered in small group settings at a ratio of one-to-three for persons with higher intensity support needs in a setting not to exceed fifteen (15) people.

Staffing Plan - A written document that includes the numbers and titles of staff assigned to the particular person, for a specified time period and scheduled for a given site and/or shift to successfully provide oversight and to ensure the maintenance of the health, safety and well-being of the person receiving services.

Stipend – Nominal fee paid to a person for attendance and/ or participation in activities designed to achieve his or her goals, as identified in the person's ISP.

Summary of Supports and Services - A written document that lists the various supports and services to be received by a person and a component of the person's ISP.

Support Team - A group of people providing support to a person with an intellectual/developmental disability, who have the responsibility of performing a comprehensive person-centered evaluation to support the development, implementation and monitoring of the person's person-centered ISP and Plan of Care.

Comments on these third emergency and proposed rules shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, District of Columbia Department of Health Care Finance, 441 Fourth Street, N.W., Suite 900 South, Washington D.C. 20001, by telephone on (202) 442-8742, by email at DHCFPublicComments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of these third emergency and proposed rules may be obtained from the above address.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2014 Repl. & 2015 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 42 (Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

This Emergency and Proposed rulemaking, amending Section 4202 (Written Individualized Service Plan Required), Section 4208 (Reimbursement Rates: Case Management Services), and Section 4217 (Program Services: Case Management Services), implements parts of the amendment to the Home and Community-Based Services Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD Waiver), approved by the Centers for Medicare and Medicaid Services (CMS) to be effective on October 20, 2015, and updates previously published final rules governing service plans and case management under the EPD Waiver.

This rulemaking aligns the EPD Waiver with the person-centered planning requirements CMS finalized in 2014, which are codified at 42 C.F.R. § 441.301. Person-centered planning is a process designed to produce a person-centered service plan (PCSP) reflective of the beneficiary's goals and preferences. At minimum, the goals and preferences should relate to community participation, employment, income, savings, and education. Person-centered planning is directed by the beneficiary, and the process may include the involvement of a representative and/or others who the beneficiary has chosen to contribute.

This rulemaking also updates the goal and scope of case management to include transitional case management, in accordance with the 2015 EPD Waiver Amendment. Transitional case management incorporates the enhanced level of coordination needed to reintegrate a beneficiary into home and community based settings following discharge from the hospital or a nursing facility. Finally, this rulemaking implements per member per month reimbursement for case management, also in accordance with the 2015 EPD Waiver Amendment.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of EPD waiver beneficiaries. The EPD Waiver provides access to health care to some of the District's most vulnerable citizens. Promulgating rules to implement person-centered planning, while refining and expanding the scope of case management, is necessary to ensure timely access to the services best suited to meet their unique needs. Further, expanding the scope of case management to address transition following hospital or nursing facility discharge helps facilitate smooth reentry into home and community-based settings at a time when a beneficiary's health is at an enhanced level of fragility. To preserve beneficiaries' health, safety, and welfare, and to

avoid any lapse in access to these critical components of case management, these rules must be published on an emergency basis.

The emergency rulemaking was adopted on May 16, 2016 and became effective for services rendered on or after that date. The emergency rules shall remain in effect for one hundred and twenty (120) days, or until September 13, 2016, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

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

Section 4202, WRITTEN INDIVIDUALIZED SERVICE PLAN REQUIRED, is amended to read as follows:

4202 WRITTEN PERSON-CENTERED SERVICE PLAN (PCSP) REQUIRED

4202.1 Home and community-based services under the District's Waiver for Persons who are Elderly and Individuals with Physical Disabilities (EPD) Waiver shall be provided to eligible beneficiaries pursuant to a written Person-Centered Service Plan (PCSP) developed for each individual.

4202.2 The PCSP shall be developed by the Case Manager in full consideration of the beneficiary's needs, preferences, strengths, and goals, which are key hallmarks of person-centered planning as defined in Subsection 4217. A PCSP shall be subject to the approval of DHCF, or its designee.

4202.3 A PCSP shall be updated and revised at least annually or whenever a change in a beneficiary's health needs warrants updates to the plan.

4202.4 Except in the circumstances outlined in Subsection 4202.7, a PCSP shall be required for the initiation and provision of any EPD Waiver service and shall be reviewed by the Case Manager at least quarterly.

4202.5 A PCSP shall, at a minimum, address and/or document the following:

(a) The beneficiary's, strengths, positive attributes, and preferences for plan development at the beginning of the plan including:

(1) Consideration of the beneficiary's significant milestones, and important people in the beneficiary's life; and

(2) The beneficiary's preferences in order to tailor the plan to reflect

any unique cultural/spiritual needs or be developed in a language or literacy level that the beneficiary and/or representative can understand;

- (b) The beneficiary's goals, including:
 - (1) Consideration of the beneficiary's current employment, education, and community participation along with aspirations for changing employment, continuing education, and increasing level of community participation; and
 - (2) How the goals tie to the amount, duration, and scope of services that will be provided;
- (c) Other contributors selected by the beneficiary and invited to engage in planning and monitoring of the PCSP;
- (d) End of life plan, as appropriate;
- (e) Medicaid and non-Medicaid services and supports preferred by the beneficiary, including supports from family, friends, faith-based entities, recreation centers, or other community resources;
- (f) The specific individuals, health care providers, and/or other entities currently providing services and supports;
- (g) Potential risks faced by the beneficiary and a risk-mitigation plan to be addressed by the beneficiary and his/her interdisciplinary team;
- (h) Approaches to be taken to prevent duplicative, unnecessary, or inappropriate services;
- (i) Assurances regarding the health and safety of the beneficiary, and if restrictions on his or her physical environment are necessary, descriptions and/or inclusion of the following:
 - (1) Explicit safety need(s) with explanation of related condition(s);
 - (2) Positive interventions used in the past to address the same or similar risk/safety need(s) and assurances that the restriction will not cause harm to the beneficiary;
 - (3) Necessary revisions to the PCSP to address risk(s)/safety need(s), including the time needed to evaluate effectiveness of the restriction, results of routine data collection to measure effectiveness, and continuing need for the restriction; and

- (4) Beneficiary's and/or representative's understanding and consent to proposed modification(s); and
 - (j) Components of self-direction (if the beneficiary has chosen self-directed delivery under the *Services My Way* program, set forth in Chapter 101 of Title 29 DCMR.
- 4202.6 Upon completion of development of the PCSP, the Case Manager shall ensure the following:
- (a) The PCSP receives final approval and signature from all those who participated in its planning and development, including the Case Manager, beneficiary, and/or beneficiary's representative; and
 - (b) All contributors and others who were included in PCSP development receive a copy of the completed plan or any specific component of the plan, as determined by the beneficiary.
- 4202.7 A beneficiary may access waiver services in the absence of a Department of Health Care Finance-approved PCSP under the following circumstances:
- (a) DHCF determines a delay in the receipt of services would put the beneficiary's health and safety at risk; or
 - (b) DHCF determines, in accordance with Subsection 4217.8(d), services are needed to effectuate a timely discharge from a hospital or nursing facility.
- 4202.8 If waiver services are provided in accordance with Subsection 4202.7, a PCSP shall be completed within thirty (30) days of the date that services were initiated.

Section 4208, REIMBURSEMENT RATES: CASE MANAGEMENT SERVICES, is amended to read as follows:

4208 REIMBURSEMENT RATES: CASE MANAGEMENT SERVICES

- 4208.1 Case management services shall be reimbursable on a per member per month (PMPM) basis.
- 4208.2 The PMPM reimbursement rate during Waiver Year 5 shall be two hundred forty-five dollars and ninety-six cents (\$245.96), contingent on performance of the monthly and ongoing care coordination activities outlined in Section 4217.
- 4208.3 In order for a case management agency to receive reimbursement for case management services, each Case Manager must perform case management duties either on a full-time or on a part-time basis. At any point in time, no more than forty-five (45) beneficiaries shall be assigned to each Case Manager.

- 4208.4 The case management agency shall ensure case management services are available during regular business hours and shall be on call during weekends and evenings in case of emergency.
- 4208.5 Reimbursement for transitional case management services provided during a hospital or nursing facility (*i.e.*, institutional) stay shall not exceed one hundred twenty (120) days. Reimbursement shall be contingent on the Case Manager's performance of activities during the institutional stay that facilitate transition to the community, consistent with the transitional case management standards set forth in Subsection 4217.8.
- 4208.6 Reimbursement for transitional case management services shall be made only after the beneficiary returns to the home or community setting and not during the beneficiary's institutional stay.

Section 4217, PROGRAM SERVICES: CASE MANAGEMENT SERVICES, is amended to read as follows:

4217 PROGRAM SERVICES: CASE MANAGEMENT

- 4217.1 The goal of case management shall be to ensure EPD Waiver beneficiaries have access to the services and supports needed to live in the most integrated setting including:
- (a) EPD Waiver Services,
 - (b) Non-waiver Medicaid funded services under the Medicaid State Plan; and
 - (c) Other public, and private services including medical, social, and/or educational services and supports.
- 4217.2 Case management shall consist of the following:
- (a) Initial evaluation of the beneficiary's current and historical medical, social, and functional status to determine levels of service needs;
 - (b) Person-centered process for service planning ("person-centered planning"), including development and maintenance of the Person-Centered Service Plan (PCSP) in accordance with Section 4202;
 - (c) Monthly and/or ongoing care coordination activities, in accordance with Subsection 4217.7 and transitional case management services set forth in Subsection 4217.8; and
 - (d) Annual reassessment activities, in accordance with Subsection 4217.11.

- 4217.3 Consistent with Subsection 4217.2, each Case Manager shall conduct an in-person evaluation of the beneficiary within forty-eight (48) hours of receiving notice of his or her enrollment in the EPD Waiver.
- 4217.4 The Case Manager shall complete the evaluation, develop the PCSP, and submit the PCSP to DHCF, or its designee, within ten (10) business days of conducting the evaluation.
- 4217.5 The Case Manager shall use a person-centered planning process to develop the PCSP, described in Section 4202, with consideration of the following:
- (a) The beneficiary's personal preferences in developing goals to meet the beneficiary's needs;
 - (b) Convenience of time and location for the beneficiary and any other individuals included in the planning, including potential in-person discussions with all parties and representatives of the beneficiary's interdisciplinary team;
 - (c) Incorporating feedback from the beneficiary's interdisciplinary team and other key individuals who cannot attend in-person discussions where the beneficiary is present;
 - (d) Ensuring information aligns to the beneficiary's acknowledged cultural preferences and communicated in a manner that ensures the beneficiary and/or any representative(s) understand the information;
 - (e) Ensuring access to effective, understandable, and respectful services in accordance with the U.S. Department of Health and Human Services' National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care, <http://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>, and providing auxiliary aids and services, if necessary;
 - (f) Providing interpreters and appropriate materials for those with low literacy or Limited English Proficiency (LEP) to ensure meaningful access for beneficiaries and/or their representatives;
 - (g) Incorporating a strengths-based approach which identifies the beneficiary's positive attributes, and assesses strengths, preferences, and needs;
 - (h) Exploration of housing and employment in integrated settings, where planning is consistent with the goals and preferences of the beneficiary; and

- (i) Ensuring that a beneficiary under guardianship, other legal assignment, or who is being considered as a candidate for such an arrangement, has the opportunity to address concerns related to the PCSP development process.

4217.6 Except for services approved to be delivered sooner, DHCF, or its designee, shall prior authorize the services recommended in the PCSP within seven (7) business days of its receipt.

4217.7 Following approval of services by DHCF, or its designee, the Case Manager shall follow-up with the selected service providers within five (5) working days to ensure services are in place at the quantity and quality that is sufficient to meet the beneficiary's needs, unless services are needed earlier and not receiving them would place the beneficiary's health in jeopardy.

4217.8 In order for case management services to be reimbursable, a Case Manager shall perform the following ongoing and/or monthly care coordination activities:

- (a) Direct observation of the beneficiary, including the evaluation described in Subsection 4217.3;
- (b) Follow-up to ensure DHCF, or its designee, timely uploads the beneficiary's level of care determinations into DHCF's electronic management system;
- (c) PCSP development and monitoring in accordance with Section 4202 and Subsection 4217.4;
- (d) Assist the beneficiary to select eligible EPD Waiver providers;
- (e) Coordinate the beneficiary's waiver services to ensure safe, timely, and cost effective delivery;
- (f) Provide information, assistance, and referrals to the beneficiary , where appropriate, related to public benefits and community resources, including other Medicaid services, Medicare, SSI, transit, housing, legal assistance, and energy assistance;
- (g) Support for the beneficiary and family as needed through additional visits, telephone calls, as well as identifying, addressing and resolving problems;
- (h) Monitor performance of supplies and equipment and refer malfunction(s) to appropriate providers;
- (i) Maintain records related to EPD Waiver services a beneficiary receives and upload all information into DHCF's electronic case management system;

- (j) Ensure all information uploaded into DHCF's electronic management system is legible, including monthly assessment/status updates and telephone contacts;
- (k) Assess appropriateness of beneficiary's continued participation in the waiver;
- (l) Provide information to the beneficiary, authorized representative(s), family members, and/or legal guardian(s) about the beneficiary's rights, Waiver provider agency procedures for protecting confidentiality, and other matters relevant to the beneficiary's decision to accept services;
- (m) Identify and resolve problems as they occur;
- (n) Acknowledge and respond to beneficiary inquiries within twenty-four (24) hours of receipt, unless a quicker response is needed to address emergencies;
- (o) Develop and implement a utilization review plan to achieve appropriate service delivery, ensure non-duplication of services, and evaluate the appropriateness, efficiency, adequacy, scope, and coordination of services;
- (p) Conduct at least monthly, or more frequently as needed, in-person monitoring visits in the beneficiary's home;
- (q) Supplement in-person monitoring visits described in Paragraph 4217.7(p) with ongoing telephone contact, as required by the individual needs of the beneficiary;
- (r) Respond to requests received during monitoring activity within forty-eight (48) hours, making necessary updates to the PCSP within seven (7) days of monitoring activity or the beneficiary and/or representative's request to update the PCSP, and ensure the process and all updates comport with Section 4202, including in-person requirements;
- (s) Ensure that the updated PCSP is conducted in-person with the beneficiary, the interdisciplinary team, and others chosen by the person and other requirements of the PCSP planning and development process described in this section;
- (t) Review the implementation of the PCSP at least quarterly, and as needed, in accordance with Subsection 4217.12;
- (u) Promptly communicate any major updates, issues, or problems to DHCF, or its designee;

- (v) Conduct all other activities related to the coordination of EPD Waiver services, including ensuring that services are utilized and are maintaining the beneficiary in the community;
- (w) Provide transitional case management services for a period not to exceed one hundred twenty (120) days during an institutional stay in order to facilitate the beneficiary's transition back to the community, in accordance Subsection 4217.8; and
- (x) Perform other service-specific responsibilities and annual reassessment activities described in Subsections 4217.9 and 4217.13.

4217.9 In order for transitional case management services to be reimbursable by Medicaid, a Case Manager shall perform the following activities:

- (a) Maintain contact with the beneficiary and/or representative during the institutional stay;
- (b) Ensure the beneficiary stays connected to community resources (*e.g.*, housing) during the institutional stay and provide assistance to connect to new or reconnect to existing community resources upon discharge;
- (c) Participate in-person in the discharge planning meetings at the provider site; and
- (d) Secure prior authorization(s) for service(s) to ensure they are in place on the first day of the beneficiary's discharge.

4217.10 In addition to the duties described under Subsections 4217.7 and 4217.8, a Case Manager shall perform the following service-specific care coordination responsibilities, if applicable:

- (a) Ensure occupational or physical therapy services are provided within the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) are fully utilized and waiver services neither replace nor duplicate EPSDT services for a beneficiary ages eighteen (18) through twenty-one (21);
- (b) Examine existing responsibilities of the landlord or homeowner pursuant to the lease agreement (or other applicable residential contracts, laws, and regulations) prior to ordering chore aide services through the PCSP if the beneficiary needs chore aide services and resides in a rental property or a residential facility (*e.g.*, assisted living); and

- (c) Assist the beneficiary with home adaptation assessments, evaluations, or bids in accordance with this Chapter if the beneficiary requires EAA services.

4217.11 In accordance with Chapter 101 of Title 29 DCMR, for the participant directed services program, *Services My Way*, Case Managers shall complete a standard training course on that program conducted by DHCF and participate in all required, ongoing training. Case Managers shall also perform activities related to *Services My Way* as follows:

- (a) Provide waiver applicants/beneficiaries with information about *Services My Way* as follows: at the time an EPD Waiver beneficiary is initially evaluated; when a beneficiary is reassessed for continued EPD Waiver eligibility; when the PCSP is updated; and at any other time upon request of the beneficiary or authorized representative;
- (b) Assist applicants/beneficiaries who want to enroll in *Services My Way* by overseeing the beneficiary's completion of enrollment forms and incorporating program goals into the initial PCSP or a revision of an existing PCSP;
- (c) Submit all *Services My Way* forms to the designated DHCF program coordinator;
- (d) Communicate with support brokers to address health and safety concerns identified for *Services My Way* participants; and
- (e) Facilitate transition from *Services My Way* to agency-based personal care aide services when a beneficiary is voluntarily or involuntarily terminated from the program.

4217.12 Case Managers shall also perform any other duties specified under the individual program services sections of this chapter.

4217.13 When conducting PCSP quarterly reviews, the Case Manager shall perform the following activities:

- (a) Review and update risk factors;
- (b) Review stated goals, identified outcomes, services, and supports to ensure the beneficiary is receiving appropriate services for his or her needs;
- (c) Review service utilization;
- (d) Communicate with other providers regarding the beneficiary's goals and progress;

- (e) Identify and resolve problems;
- (f) Provide referrals or linkages to community resources;
- (g) Revise the PCSP, if needed, to reflect changes in needs, goals, and services; and
- (h) Document results of PCSP quarterly reviews in DHCF's electronic case management system, including a summary of the status of the beneficiary's receipt of services and supports.

4217.14 The Case Manager shall ensure a beneficiary timely completes Medicaid reassessment(s) as part of the annual recertification requirements. This includes, but is not limited to, the following activities:

- (a) Collecting and submitting documentation to DHCF, or its designee, such as medical assessments and clinician authorization forms;
- (b) Assisting the beneficiary to receive an annual, and as needed, level of care assessment from DHCF, or its designee, to verify the beneficiary's need for EPD Waiver services;
- (c) Ensuring information is uploaded to DHCF's electronic case management system at least sixty (60) days prior to the expiration of the beneficiary's current certification period;
- (d) Collecting financial eligibility (*i.e.*, income) information from the beneficiary and/or the authorized representative and transmitting to DHCF, or its designee;
- (e) Reevaluating the beneficiary's goals, level of service and support needs, and updating and/or revising the PCSP to reflect any;
- (f) Assessing progress in meeting established goals, as documented in the PCSP and ensuring that the information is forwarded to DHCF;
- (g) Coordinating any change requests, including adding new services; and
- (h) After the approval of services by DHCF, or its designee, following-up with selected service providers within five (5) working days of authorization to ensure services are in place.

Comments on the emergency and proposed rule shall be submitted, in writing, to Claudia Schlosberg, Senior Deputy Director/State Medicaid Director, Department of Health Care

Finance, 441 4th Street, N.W., 9th Floor, Suite 900 South, Washington D.C. 20001, via email at DHCFPubliccomments@dc.gov, online at www.dcregs.dc.gov, or via telephone on (202) 442-8742 within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING**

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with Title XXI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-620.01 *et seq.* (2012 Repl. & 2015 Supp.)); the Health Care Benefits Expansion Amendment Act of 2005, effective April 4, 2006 (D.C. Law 16-82; D.C. Official Code § 32-706 (2012 Repl.)); and Title 26 of the United States Code §§ 125(a) and 152(a)(d)(2), hereby gives notice of the adoption, on an emergency basis, of an amendment to Section 2129, entitled "Optional Health Benefits Coverage for Domestic Partners," of Chapter 21 (Health Benefits), of Title 6 (Personnel), Subtitle B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR).

A Notice of Proposed and Emergency Rulemaking was initially published in the *D.C. Register* on May 20, 2016 at 63 DCR 007755. This notice did not provide a full explanation for the required updates and all impacted provisions that will be revised. Therefore, this second notice is being issued to supersede the previously published emergency rulemaking.

Premium conversion tax benefits, provided under Title 26 of the United States Code (U.S.C.) § 125(a), allow employees who are eligible for health insurance to pay their portion of the health insurance premium cost from their gross salary on a pre-tax basis. Employees are also allowed to enroll their spouse, as defined by District law, and dependent(s), as defined in 26 U.S.C. § 152, in their health insurance plan. The pre-tax benefit does not extend to domestic partners, unless the domestic partner qualifies as a "dependent" pursuant to 26 U.S.C. § 152(a). A domestic partner is considered a "dependent" if the individual receives more than half of his or her support from the employee for the calendar year in which the taxable year of the employee begins and is related to the employee through one of the relationships defined in 26 U.S.C. § 152(d)(2).

This rule will require an employee who enrolls a domestic partner for health insurance coverage under the D.C. Employee Health Benefits Program to deduct the health insurance premium cost on an after tax basis, unless the domestic partner meets the definition of "dependent" pursuant to 26 U.S.C. § 152(a). The utilization of emergency rulemaking is the only available means of complying with this requirement and, thereby, providing for the payment of health insurance premiums on an after-tax basis, as required by the Internal Revenue Service. Therefore, to ensure that the health insurance premium payments are in compliance with federal law, action was taken on April 22, 2016 to adopt the following rules on an emergency basis, effective April 22, 2016. These rules will remain in effect for up to one hundred twenty (120) days from the adoption date, expiring August 20, 2016, unless earlier superseded by another rulemaking notice.

The Director also gives notice of the intent to adopt this rule in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Upon adoption, this rule will amend Chapter 21 (Health Benefits) of Title 6-B DCMR (Government Personnel), published at 50 DCR 3027 (April 18, 2003) and 56 DCR 003667 (May 8, 2009).

D.C. PERSONNEL REGULATIONS

Chapter 21, HEALTH BENEFITS, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended as follows:

Subsections 2129.7 through 2129.13 of Section 2129, OPTIONAL HEALTH BENEFITS COVERAGE FOR DOMESTIC PARTNERS, are being amended to read as follows:

- 2129.7 Any health insurance premiums pursuant to this section shall be deducted on an after-tax basis directly from the employee's paycheck.
- 2129.8 A domestic partner may qualify as a dependent, if he or she meets the definition of a dependent, as defined in Title 26 of the United States Code § 152.
- 2129.9 Health benefits for a domestic partner and eligible dependents shall be terminated upon the death of the employee. A surviving domestic partner enrolled as a dependent may convert to an individual health insurance policy directly through the health insurance provider.
- 2129.10 Upon termination of District government service, the eligible employee may elect to continue health benefits coverage as specified in Section 2130 of this chapter, and may include continued health benefits coverage for his or her domestic partner and eligible dependents of the domestic partner.
- 2129.11 An eligible employee shall inform his or her personnel authority, in writing, of any change in the circumstances attested to in the Affidavit of Domestic Partnership for Health Insurance Benefits referenced in Subsection 2129.4 of this section.
- 2129.12 A domestic partnership may be terminated, with or without the consent of both partners, by filing a termination of domestic partnership statement with the D.C. Department of Health. The termination of the domestic partnership shall become effective six (6) months after the date it is filed with the D.C. Department of Health.
- 2129.13 An employee whose domestic partnership is terminated as specified in Subsection 2129.12 of this section shall notify his or her personnel authority within thirty (30) days of the filing of the termination of domestic partnership statement. Health benefits enrollment of the domestic partner and his or her dependents shall continue, at the cost specified in Subsection 2129.6 of this section, during the six (6) months that the termination of the domestic partnership is pending, provided District government employment is maintained.

Comments on this emergency and proposed regulation should be submitted, in writing, within thirty (30) days of the date of the publication of this notice to Mr. Justin Zimmerman, Associate

Director, Policy and Compliance Administration, D.C. Department of Human Resources, 441 4th Street, N.W., Suite 330S, Washington, D.C. 20001, or via email at justin.zimmerman@dc.gov. Additional copies of this proposed regulation is available at the above address.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, JUNE 1, 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

Show Cause Hearing (Status) **9:30 AM**
Case # 15-CMP-00928; Lucky 7, LLC, t/a Lucky 7 Liquors, 2314 Rhode Island
Ave NE, License #90270, Retailer A, ANC 5C
Operating after Hours

Show Cause Hearing (Status) **9:30 AM**
Case # 15-CMP-00962; Cuckoo Marans, LLC, t/a Music & Arts,
Club/Tropiicalia, 2001 14th Street NW, License #83264, Retailer CN, ANC 1B
Substantial Change in Operation Without Board Approval

Show Cause Hearing (Status) **9:30 AM**
Case # 16-CMP-0068; 1723 DuPont, LLC, t/a Salty Dog Tavern, 1723
Connecticut Ave NW, License #98331, Retailer CT, ANC 2B
**No ABC Manager on Duty, Change in Corporate Officers without Board
Approval**

Fact Finding Hearing* **9:30 AM**
Case # Unlicensed Establishment; D.C. Dragons Martial Arts Training Center
1731 Rhode Island Ave NE, ANC 5C
**Operated without Obtaining an ABC License or One Day Temporary
License**

Public Hearing* **10:00 AM**
Langdon Park Proposed Moratorium Request

BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA AT 1:00 PM

Board's Calendar

June 1, 2016

Show Cause Hearing*

1:30 PM

Case # 15-251-00157; 2461 Corporation, t/a Madam's Organ, 2416 18th Street
NW, License #25273, Retailer CT, ANC 1C

Interfered with an Investigation

**The Board will hold a closed meeting for purposes of deliberating these
hearings pursuant to D.C. Official Code §2-574(b)(13).**

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

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, JUNE 1, 2016
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On June 1, 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-CC-00060 Atlas Brew Works, 2052 WEST VIRGINIA AVE NE, Retailer B
Manufacturer , License#:ABRA-091282

2. Case#16-CC-00054 Heist, 1216 18TH ST NW, Retailer C Nightclub , License#: ABRA-087101

3. Case#16-CMP-00397 District Taco, 1309 F ST NW, Retailer D Restaurant , License#: ABRA-090757

4. Case#16-CC-00055 Barrel House Liquors, 1339 14TH ST NW, Retailer A Retail - Liquor Store , License#: ABRA-023984

5. Case#16-251-00077 Bravo Bravo, 1001 CONNECTICUT AVE NW, Retailer C Nightclub , License#: ABRA-071564

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, JUNE 1, 2016 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Request for Change of Hours. *Approved Hours of Operation for Premises and Summer Garden:* Saturday and Sunday 8am to 12am, Monday-Friday 6am to 12am. *Approved Hours of Alcoholic Beverage Sales and Consumption for Premises and Summer Garden:* Sunday-Saturday 11am to 12am. *Proposed Hours of Operation for Premises and Summer Garden:* Saturday and Sunday 8am to 2am, Monday-Friday 6am to 2am. *Proposed Hours of Alcoholic Beverage Sales and Consumption for Premises and Summer Garden:* Sunday-Saturday 11am to 2am. ANC 3F. SMD 3F01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Acacia Wellness Bistro*, 4340 Connecticut Avenue NW, Retailer CR, License No. 080916.

2. Review Request for Change of Hours. *Approved Hours of Operation and Alcoholic Beverage Sales:* Sunday-Saturday 9am to 10pm. *Proposed Hours of Operation and Alcoholic Beverage Sales:* Sunday-Saturday 8am to 12am. ANC 2F. SMD 2F06. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Modern Liquors*, 901 M Street NW, Retailer A Liquor Store, License No. 084387.

3. Review Request for Change of Hours. *Approved Hours of Operation and Alcoholic Beverage Sales:* Sunday-Saturday 8am to 10pm. *Proposed Hours of Operation:* Sunday-Saturday 7am to 11pm. *Proposed Hours of Alcoholic Beverage Sales:* Sunday-Saturday 8am to 11pm. ANC 1B. SMD 1B05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Streets Market & Cafe*, 2400 14th Street NW, Retailer B, License No. 092095.

4. Review Request for Change of Hours. *Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:* Sunday 12pm to 6pm, Monday-Saturday 10:45am to 4:30pm. *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:* Sunday 12pm to 6pm, Monday-Wednesday and Friday-Saturday 10:45am to 4:30pm, Thursday 10:45am to 8:30pm. ANC 2B. SMD 2B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *The Phillips Collection*, 1600 21st Street NW, Retailer CX, License No. 019017.

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5. Review Request for Change of Hours. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption for Premises:*** Sunday 10:30am to 1am, Monday-Thursday 11:30am to 1am, Friday 11:30am to 2am, Saturday 10:30am to 2am. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Café:*** Sunday-Saturday 11:30am to 11pm. ***Proposed Hours of Operation for Premises:*** Sunday 9am to 1am, Monday-Thursday 11am to 1am, Friday 11am to 2am, Saturday 10am to 2am. ***Proposed Hours of Operation for Sidewalk Cafe:*** Sunday 9am to 11pm, Monday-Friday 11am to 11pm, Saturday 10am to 11pm. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Premises:*** Sunday 10am to 1am, Monday-Thursday 11am to 1am, Friday 11am to 2am, Saturday 10am to 2am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Sidewalk Cafe:*** Sunday 10am to 11pm, Monday- Friday 11am to 11pm, Saturday 10am to 11pm. ANC 3C. SMD 3C09. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. ***Café Deluxe***, 3226-3230 Wisconsin Avenue NW, Retailer CR, License No. 085876.
-
6. Review Request for Change of Hours of Sidewalk Café. ***Approved Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Café:*** Sunday-Thursday 11am to 11pm, Friday-Saturday 11am to 12am. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Café:*** Sunday-Thursday 11am to 1am, Friday-Saturday 11am to 12am. ANC 1C. SMD 1C07. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Grand Central***, 2447 18th Street NW, Retailer CR, License No. 076693.
-
7. Review Application for Sidewalk Café with seating for 69 patrons. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Café:*** Sunday-Thursday 11am to 11pm, Friday-Saturday 11am to 1am. ANC. 1B. SMD 1B01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Howard Theatre***, 620 T Street NW, Retailer CX, License No. 088646.
-
8. Review Application for Sidewalk Café with seating for 6 patrons. ***Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Sidewalk Cafe:*** Sunday 9am to 2am, Monday-Thursday 11am to 2am, Friday 11am to 3am, Saturday 9am to 3am. ANC 6B. SMD 6B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Beuchert's Saloon***, 623 Pennsylvania Avenue SE, Retailer CR, License No. 089616.
-

9. Review Application for Summer Garden with seating for 15 patrons. ***Proposed Hours of Operation for Summer Garden:*** Sunday 10am to 2am, Monday-Thursday 11am to 2am, Friday 11am to 3am, Saturday 10am to 3am. ***Proposed Hours of Alcoholic Beverage Sales and Consumption for Summer Garden:*** Sunday 10:30am to 2am, Monday-Thursday 11am to 2am, Friday 11am to 3am, Saturday 11:30am to 3am. ANC 2B. SMD 2B04. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***Dupont Italian Kitchen***, 1637 17th Street NW, Retailer CR, License No. 008949.
-

10. Review Request to reduce premises seat count from 252 to 127 (including 24 Summer Garden seats). ANC 2A. SMD 2A02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. ***West End Cinema Beverage Service***, 2301 M Street NW, Retailer DX Multipurpose Facility, License No. 100805.
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11. Review Application for Manager's License. ***Kristina C. Zaumseil***-ABRA 102984.
-

***In accordance with D.C. Official Code §2-574(b) of the Open Meetings Amendment Act, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**CONSTRUCTION CODES COORDINATING BOARD****NOTICE OF SPECIAL MEETINGS**

Special Meetings of the Construction Codes Coordinating Board have been scheduled as follows:

Thursday, June 2, 2016

10:30 AM – 12 PM

Thursday, July 7, 2016

10:30 AM - 12 PM

Department of Consumer and Regulatory Affairs

1100 Fourth Street, SW

Third Floor Conference Room (E380)

Washington, D.C. 20024.

The meeting location is on the Metro Green Line, at the Waterfront/SEU stop. Limited paid parking is available on site.

Board meeting agendas and minutes are available on the website of the Department of Consumer and Regulatory Affairs at <http://dcra.dc.gov/page/construction-codes-coordinating-board-cccb-meetings> and/or on the website of the Board of Ethics and Government Accountability, Office of Open Government at <http://www.open-dc.gov/public-bodies/meetings>.

E.L. HAYNES PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Special Education Related Services and Evaluations**

E.L. Haynes Public Charter School is accepting proposals to provide school-based special education related services and evaluations by making available qualified Occupational Therapists, Speech Language Pathologists, Physical Therapists, Behavior Analysts, Educational Audiologists, School Psychologists, Psychiatrists, Assistive Technology Professionals, and/or academic tutors to provide agreed upon regularly scheduled weekly services and any 'as needed' therapy services, evaluation, and support, at the request of the School. Proposals for any component of the requested services included in the scope of work will be considered.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Monday, June 6, 2016. We will notify the final vendor of selection following the review process. The full RFP with bidding requirements can be obtained by contacting:

Kristin Yochum
E.L. Haynes Public Charter School
Phone: 202.667-4446 ext 3504
Email: kyochum@elhaynes.org

DEPARTMENT OF ENERGY AND ENVIRONMENT**PUBLIC NOTICE****AIR QUALITY TITLE V OPERATING PERMIT AND
GENERAL PERMIT FOR ROUBIN & JANEIRO, INC.**

Notice is hereby given that Roubin & Janeiro, Inc. has applied for a Title V air quality permit pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3) to operate a 75 million Btu per hour (MMBtu/hr) dual fuel fired burner, a 1.41 MMBtu/hr dual fuel-fired oil heater, a baghouse for operational emissions, a McCloskey 144 R impactor crusher powered by a 350 horsepower Caterpillar engine, a McCloskey ST80T stacking conveyor powered by a 49 horsepower Caterpillar engine, various storage piles of rock and asphalt, a small silo of mineral filler, two 20,000 gallon storage tanks for liquid asphalt, one 1,000 gallon storage tank of an "anti-strip" agent, and one 10,000 gallon tank of No. 2 fuel oil, all associated with the production of paving asphaltic concrete at its facility located at 4901 Shepherd Parkway SW, Washington DC. The contact person for the facility is Joe Roubin, Vice President at (703) 491-9100.

This facility would have the potential to emit more than 25 tons per year (TPY) of oxides of nitrogen (NO_x) if the facility operated twenty-four (24) hours per day, seven (7) days per week, and fifty-two (52) weeks per year. The facility took a maximum asphaltic concrete production limit of 800,000 tons per year to avoid New Source Review (NSR) applicability in the previously issued Chapter 2 permits. With this production limit in place, the facility has the potential to emit 24.2 TPY of NO_x, 7.70 TPY of sulfur dioxide (SO₂), 21.0 TPY of total particulate matter, 13.6 TPY of volatile organic compounds (VOC), 53.2 TPY of carbon monoxide (CO), and 3.02 TPY of total hazardous air pollutants (HAPs). All of these levels are below the major source thresholds of 25 TPY of NO_x and VOC, 10 TPY of any individual HAP, 25 TPY of total HAPs, and 100 TPY of any other pollutant. In this case, the Chapter 3 permitting process is being used to make the limits in the permit federally enforceable and enforceable as a practical matter.

The Department of Energy and Environment (DOEE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft permit #048 has been prepared.

The application, the draft permit, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the Department of Energy and Environment, 1200 First Street NE, 5th Floor, Washington DC 20002. Copies of the draft permit and related fact sheet are available at <http://doee.dc.gov/service/public-notice-hearings>.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action. Hearing requests or comments should be

directed to Stephen S. Ours, DOEE Air Quality Division, 1200 First Street NE, 5th Floor, Washington DC 20002 or stephen.ours@dc.gov. Questions about this permitting action should be directed to Abraham T. Hagos at (202) 535-1354 or abraham.hagos@dc.gov. No comments or hearing requests postmarked after June 27, 2016 will be accepted.

DEPARTMENT OF ENERGY AND ENVIRONMENT**NOTICE OF SOLICITATION OF PUBLIC COMMENT****Notification by DC Water of Distribution of Class A Exceptional Quality Biosolids (Bloom™) in the District of Columbia**

The Director of the Department of Energy and Environment (the Department) is hereby provides public notice that the Department has issued a permit by rule to DC Water to distribute Class A Exceptional Quality Biosolids (Bloom™) in the District of Columbia in accordance with Chapter 17 (Biosolids Distribution) of Title 21 of District of Columbia Municipal Regulations (DCMR) (Water and Sanitation).

A Distribution Permit has been issued by rule pursuant to the authority provided in the rulemaking on April 22, 2016 at 63 DCR 0006199. On May 11, 2016, DC Water submitted to the Director a notice of intent to Distribute Exceptional Quality Biosolids (Bloom™) in the District of Columbia". A person may obtain a copy of the notification letter by any of the following means:

Download from the Department's website, at www.doe.dc.gov, under the "Laws & Regulations" and "Public Notices & Hearings" tab;

Email a request to collin.burrell@dc.gov with "Request copy of Notification of Distribution of Class A Exceptional Quality Biosolids" in the subject line;

Pick up a copy in person from the Department reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. Call Collin Burrell at (202) 535-2600 to make an appointment and mention this Notification by name;

Write the Department at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Notification of Distribution of Class A Exceptional Quality Biosolids" on the outside of the envelope.

The Department is committed to considering the public's comments while finalizing this Permit. Interested persons may submit written comments on the Notification, which must include the person's name; telephone number; affiliation, if any; mailing address; a statement outlining their concerns; and any facts underscoring those concerns. **All comments must be submitted by Monday, June 27, 2016.**

Comments should be clearly marked "Notification of Distribution of Class A Exceptional Quality Biosolids" and either:

- 1) Mailed or hand-delivered to the Department of Energy and Environment, Water Quality Division, 1200 First Street, NE, 5th Floor, Washington, DC 20002, Attention:, or
- 2) E-mailed to collin.burrell@dc.gov.

The Department will consider all timely received comments before finalizing the Permit. All comments will be treated as public documents and will be made available for public viewing on the Department's website. When the Department identifies a comment containing copyrighted material, the Department will provide a reference to that material on the website. If a comment is sent by e-mail, the email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Department's website. If the Department cannot read a comment due to technical difficulties, and the email address contains an error, the Department may not be able to contact the commenter for clarification and may not be able to consider the comment.

FRIENDSHIP PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

Friendship Public Charter School is seeking bids from prospective vendors to provide;

- Musical Instruments
- Budget Software and Implementation

The competitive Request for Proposal can be found on FPCS website at

<http://www.friendshipschools.org/procurement>. Proposals are due no later than 4:00 P.M., EST, April 8th 2016. No proposal will be accepted after the deadline. Questions can be addressed to: ProcurementInquiry@friendshipschools.org

HARMONY DC PUBLIC CHARTER SCHOOL**INVITATION FOR BID****Food Service Management Services**

Harmony DC Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2016-2017 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **5/27/2016** from **Evren Culha at 202-529-7500 or eculha@harmonydc.org**

Proposals will be accepted at 62 T St NE Washington, DC 20002 by **June 21, 2016**, not later than **3:00 pm.**

All bids not addressing all areas as outlined in the IFB will not be considered.

HOWARD UNIVERSITY MIDDLE SCHOOL OF MATHEMATICS AND SCIENCE**INVITATION FOR BID****Food Service Management Services**

Howard University Middle School of Mathematics and Science is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2016-2017 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on **May 27, 2016** at 10:00am from Dayton Watkins on (202) 806-7845 or Dayton.Watkins@hu-ms2.org

Proposals will be accepted at **Howard University Middle School | 405 Howard Place, NW | Washington, DC 20059** on **June 21, 2016** not later than **2 p.m.**

All bids not addressing all areas as outlined in the IFB will not be considered.

KINGSMAN ACADEMY PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Multiple Services**

Kingsman Academy Public Charter School is seeking competitive proposals for the following services for the 2016-2017 school year: speech language therapy services; occupational therapy services; psychological evaluations; and student transportation. For details and information, email rfp@kingsmanacademy.org. Deadline for submissions is 5:00 pm on Friday, May 6, 2016. **No phone calls please.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-31**

April 14, 2016

VIA EMAIL

Mr. Vaughn Bennett

RE: FOIA Appeal 2016-31

Dear Mr. Bennett:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the Office of Partnership and Grant Services ("OPGS") improperly withheld records you requested under the DC FOIA.

Background

On December 8, 2015, you submitted a request under the DC FOIA to OPGS seeking a range of documents related to donations from a non-profit entity to a public school in the District.

On January 14, 2016, OPGS granted your request, and provided you with a heavily redacted responsive document.

On January 28, 2016, you appealed OPGS's response, questioning the adequacy of the search and the propriety of redactions.

On February 1, 2016, this Office requested your consent to suspend your appeal to allow OPGS's FOIA officer further time to resolve your request. That same day, you consented by email.

On March 17, 2016, OPGS's FOIA officer sent you a letter explaining that no further responsive documents were located. Additionally, the letter explained that in order to resume your appeal you should contact this Office.

Having not heard from you, this Office sent you an email on April 5, 2016, inquiring whether you wished to proceed with your appeal. To date this Office has not received a response.

Conclusion

In light of the fact that OPGS has completed its response to your request, and you have not indicated that you wish to pursue your appeal, we hereby dismiss this matter as moot.

Mr. Vaughn Bennett
Freedom of Information Act Appeal 2016-31
April 14, 2016
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This constitutes the final decision of this office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Jim Slattery, Mayor's Correspondence Officer, EOM (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-32**

February 17, 2016

VIA ELECTRONIC MAIL

Mr. Moses Cook

RE: FOIA Appeal 2016-32

Dear Mr. Cook:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”), which this Office received on February 4, 2016. In your appeal you assert that the Department of Corrections (“DOC”) failed to respond to a request you submitted to DOC on December 21, 2015.

Background

On February 16, 2016, DOC informed this Office that it responded to your request, advising you to obtain responsive agency documents from DOC’s website. DOC further indicated that in response to this appeal it conducted a second search and identified two additional documents, one of which DOC significantly redacted under D.C. Official Code § 2-534(a)(2) (“Exemption 2”). DOC provided this Office with redacted and unredacted versions of the document for our *in camera* review. DOC claims that “[DOC] did not deny Mr. Cook’s request, and no record has been withheld from him.”

Because your appeal is based on a lack of response from DOC and DOC has since responded, we would normally dismiss this matter as moot; however, as a matter of efficiency, and because DOC has provided us with a copy of the document it redacted, we will reach the merits of the withholding.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. Under DC FOIA, an agency is required to disclose materials only if they were “retained by a public

Mr. Moses Cook
Freedom of Information Act Appeal 2016-32
February 17, 2016
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body.” D.C. Official Code § 2-502(18). That right is subject to various exemptions, which may form the basis for a denial of a request. *See* D.C. Official Code § 2-534.

The document DOC redacted is a guide required to be disclosed under D.C. Code § 536(a)(2). DOC redacted the document based on its claim that the redaction protects “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” D.C. Official Code § 2-534(a)(2). After an *in camera* review, this Office concludes that none of the information DOC redacted is of a personal nature and disclosing the document would not constitute an “unwarranted invasion of personal privacy.”

DOC’s argument that the redacted information “could facilitate an unauthorized access to JACCS and, in addition, potentially enable an unauthorized change to computed sentences” is baseless. Exemption 2 is concerned solely with protecting the interest of personal information; the cyber security of a closed prison computer system is not an interest contemplated by Exemption 2. Further, the connection between the redacted information and the proposed harm is dubious. It is unclear how the document’s release could “facilitate an unauthorized access to JACCS.” The redacted information merely posits that the information is on a computer hard drive in a folder. There is no password or explanation of how one would access the system remotely or without authorization. Exemption 2 does not protect a written step-by-step instruction for basic computer use, and therefore does not apply to the material DOC redacted.

Conclusion

Based on the foregoing, we remand this matter to DOC to provide you with an unredacted copy of the withheld document within (7) business days from the date of this decision.

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

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker

cc: Segun Obebe, FOIA Officer, DOC (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-33**

February 9, 2016

VIA ELECTRONIC MAIL

Mr. Moses Cook

RE: FOIA Appeal 2016-33

Dear Mr. Cook:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), which this Office received on February 4, 2016. In your appeal you assert that the Metropolitan Police Department ("MPD") failed to respond to a request you submitted to MPD on December 21, 2015.

On February 8, 2016, MPD informed this Office that it responded to your request on February 5, 2016.

Based on the foregoing, we consider your appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to MPD's substantive response.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Ronald Harris, Deputy General Counsel, MPD (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-34**

February 18, 2016

VIA ELECTRONIC MAIL

Mr. Judah Ariel

RE: FOIA Appeal 2016-34

Dear Mr. Ariel:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), which this Office received on February 4, 2016. In your appeal you assert that the District of Columbia Water and Sewer Authority ("WASA") failed to respond to a request you submitted to DCWASA on December 17, 2015 through the FOIAxpress system.

Background

When this Office notified WASA of your appeal, WASA replied that it was unaware that it had an account on FOIAxpress and therefore had not received your initial request. WASA further indicated that it considers your request to be broad and has attempted to contact you on a few occasions in an attempt to narrow it.

Discussion

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

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 312 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe local law. *Washington Post Co. v. Minority Bus. Opportunity Comm'n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Ordinarily when an appeal is submitted to this Office on the grounds that an agency failed to respond to an initial FOIA request, we dismiss the appeal as moot once the agency indicates that it will respond to the request. Here, you submitted an appeal on the grounds that WASA failed to respond to your FOIA request, and WASA has indicated that it is now in receipt of your request

Mr. Judah Ariel
Freedom of Information Act Appeal 2016-34
February 18, 2016
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and has initiated a search for responsive records. The remaining issue is whether your request is overly broad, as WASA maintains.

In the context of FOIA, an agency is not required to conduct a search that is unreasonably burdensome. *Goland v. CIA*, 607 F.2d 339, 353 (D.C. Cir. 1978); *American Federation of Government Employees, Local 2782 v. U.S. Dep't of Commerce*, 907 F.2d 203, 209 (D.C. Cir. 1990). In accordance with the District of Columbia's Municipal Regulations, a request must be "reasonably describe[d]." 1 DCMR § 402.4. When a FOIA request "is not sufficient to permit the identification and location of the record by the agency without an unreasonable amount of effort," the agency should contact the requester and ask for additional information necessary to respond to the request. 1 DCMR § 402.5.

This Office has no knowledge of WASA's record-keeping system or what would be entailed in locating the documents you are seeking¹; however, on the surface your request appears to adequately describe the records you are seeking for a three-month time period on a particular block in the District.

In an email message sent to you yesterday, of which we received a copy, WASA stated that it will continue to process your request on the assumption that you do not wish to narrow your request unless you indicate otherwise.

Conclusion

Based on the foregoing, we remand this matter to WASA to, within ten (10) business days from the date of this decision, respond to your request as currently described unless you provide additional clarification in the interim.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Allyson Kitchel, Principal Counsel, WASA (via email)

¹ We note that DC FOIA the burden of production is not a valid exemption to disclosure under DC FOIA; the burden considered is an agency's ability to identify responsive documents based on the description of the request. *See, e.g.,* FOIA Appeal 2016-14.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-35**

February 23, 2016

Mr. Vaughn Bennett

RE: FOIA Appeal 2016-35

Dear Mr. Bennett:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal, you assert that the District of Columbia Public Schools ("DCPS") improperly withheld records you requested under the DC FOIA.

Background

On November 24, 2015, you submitted a request under the DC FOIA to DCPS seeking documents relating to "chess tournaments held at Woodrow Wilson High School in June of 2012."

On December 19, 2015, DCPS sent you a partial response that included responsive records retrieved from the initial search it conducted pursuant to your request. In its response, DCPS indicated that the agency would conduct a further search of the email account of the former DCPS employee who was responsible for oversight of the 2012 chess tournament and disclose the responsive emails subject to applicable exemptions. On January 7, 2016, DCPS sent you its final response to your request, which included responsive emails retrieved during the agency's supplemental search.

On appeal you argue that DCPS improperly withheld records because DCPS's response did not address several of the elements raised in your request. Further, you challenge the adequacy of DCPS's search on the grounds that you believe additional responsive documents should exist that have not been provided to you.

DCPS provided this Office with a response to your appeal on February 12, 2016.¹ In its response, DCPS states that it released to you all responsive documents in its possession. DCPS' FOIA Officer also describes the two searches the agency conducted to locate records responsive to your request. DCPS asserts that the searches it conducted were reasonable, and that DCPS cannot provide records that it no longer maintains or possesses.

Discussion

¹ A copy of DCPS's response is attached for your reference.

Mr. Vaughn Bennett
Freedom of Information Act Appeal 2016-35
February 23, 2016
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It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534. Under the DC FOIA, an agency is required to disclose materials only if they were “retained by a public body.” D.C. Official Code § 2-502(18).

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

Since DCPS asserts that no responsive records were withheld from you, the primary issues in this appeal are your belief that more records exist and your contention that DCPS conducted an inadequate search. DC FOIA requires only that, under the circumstances, a search is reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation, unsupported by any factual evidence, that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. U.S. Dep't of Justice*, 578 F.2d 261 (9th Cir. 1978).

In order to establish the adequacy of a search,

‘the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.’ [*Oglesby v. United States Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)]. . . The court applies a ‘reasonableness test to determine the ‘adequacy’ of a search methodology, *Weisberg v. United States Dep't of Justice*, 227 U.S. App. D.C. 253, 705 F.2d 1344, 1351 (D.C. Cir. 1983) . . .

Campbell v. United States DOJ, 164 F.3d 20, 27 (D.C. Cir. 1998).

To conduct a reasonable and adequate search, an agency must: (1) make a reasonable determination as to the locations of records requested; and (2) search for the records in those locations. *Doe v. D.C. Metro. Police Dep't*, 948 A.2d 1210, 1220-21 (D.C. 2008) (citing *Oglesby*, 920 F.2d at 68). This first step may include a determination of the likely electronic databases where such records are to be located, such as email accounts and word processing files, and the relevant paper-based files that the agency maintains. *Id.* Second, the agency must affirm that the relevant locations were in fact searched. *Id.* Generalized and conclusory allegations cannot suffice to establish an adequate search. *See In Def. of Animals v. NIH*, 527 F. Supp. 2d 23, 32 (D.D.C. 2007).

Here, DCPS’s initial written responses to your request focused primarily on identifying the records that DCPS was disclosing. In response to your appeal, however, DCPS provided this

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Page 3

Office with a detailed written description of the searches it conducted and affirmed that all responsive records were provided to you. DCPS identified the relevant locations for records responsive to your request as the electronic and paper files maintained by the Office of Family and Public Engagement and the emails of a former DCPS employee. DCPS's response also affirms that the relevant locations were searched. You believe that additional records have not been disclosed based on language in some records you received suggesting that additional responsive documents exist.² Under applicable FOIA law, the test is not whether any additional documents related to the 2012 chess tournament might conceivably exist, but whether DCPS's search for responsive documents was adequate. *Weisberg*, 705 F.2d at 1351. Based on DCPS's description in response to your appeal, we find that the search it conducted was adequate.

Conclusion

Based on the foregoing, we affirm the DCPS's decision and hereby dismiss your appeal. This constitutes the final decision of this office.

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

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

/s/ John A. Marsh

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

cc: Eboni J. Govan, FOIA Officer, DCPS (via email)

² On page 4 of your appeal, you also claim that a specific email is missing because an email from Ms. Williams references "comments below in red," but the document you received does not include these comments. DCPS provided this office with a PDF copy of the emails that were disclosed to you. After reviewing the emails, we found Ms. Williams' email on page 56 of the PDF, the referenced comments on page 57. As a result, we find no evidence of missing emails.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-36**

February 24, 2016

VIA ELECTRONIC MAIL

Kayla Kaplan, Esq.

RE: FOIA Appeal 2016-36

Dear Ms. Kaplan:

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

Background

On November 30, 2015, you sent a ten-part request to the DOC for records relating to a named contractor that provides halfway house services to the DOC. On December 17, 2015 and January 15, 2016, DOC responded, granting in part and denying in part your requests. In specific, DOC withheld documents responsive to request number 10 on the grounds that the records are maintained by a private contractor and contain trade secrets protected under D.C. Official Code § 2-534(a)(1) (“Exemption 1”).¹

On appeal, you challenge DOC’s withholding of responsive records associated with request number 10. You object to the withholding because the records were generated pursuant to a contract and are therefore inherently public according to D.C. Official Code § 2-532(a-3). Additionally, you dispute the applicability of Exemption 1 to the documents at issue.² Further, you argue that even if Exemption 1 were applicable, DOC should have reasonably segregated the withheld documents.

DOC provided this office with a response to your appeal on February 23, 2016, in which DOC changed its position vis a vis the withheld documents. Whereas DOC previously advised you that it was withholding the records under Exemption 1, on appeal DOC stated to this Office that it does not possess the records; they are maintained by Hope Village. As part of its response, DOC

¹ Exemption 1 exempts from disclosure “trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained.”

² Because of the analysis below, we will not reach the Exemption 1 issue in this appeal.

Ms. Kayla Kaplan
Freedom of Information Act Appeal 2016-36
February 24, 2016
Page 2

provided this office with a declaration describing the search the agency conducted in response to your request.³

Discussion

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

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

The crux of this matter is DOC’s assertion that it has not withheld the documents; the records were not created or obtained by DOC and were not under the agency’s control at the time of your FOIA request. DOC does not address D.C. Official Code § 2-532(a-3), which you raise on appeal and which may control here.

D.C. Official Code § 2-532(a-3) mandates that:

A public body shall make available for inspection and copying any record produced or collected pursuant to a contract with a private contractor to perform a public function, and the public body with programmatic responsibility for the contractor shall be responsible for making such records available to the same extent as if the record were maintained by the public body.

A contract with a private contractor to perform a public function is generally considered a “public record” under the DC FOIA, subject to applicable exemptions under § 2-534. Here, DOC affirms that the records at issue were “created and maintained by Hope Village, Inc., a D.C. government contractor that provides a variety of rehabilitation services to halfway house inmates of the DOC.”⁴ Thus, the relevant issue is whether the documents responsive to request number 10 were produced or collected pursuant to the contract between Hope Village and DOC. There is no evidence before us that DOC has attempted to discern whether this is the case, despite its statutory obligation under D.C. Official Code § 2-532(a-3).

In addition to claiming it has no obligation to produce the responsive records, DOC states that Hope Village has asserted proprietary rights to the records, thus they are protected from disclosure under Exemption 1 of DC FOIA. Considering that DOC contends it does not possess the records, presumably it has not reviewed them to determine whether Exemption 1 actually

³ Copies of DOC’s response and declaration are attached.

⁴ *See* DOC Response to Appeal at p. 1.

Ms. Kayla Kaplan
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applies. Moreover, even when an agency establishes that it has properly withheld a document under an asserted exemption, it must disclose all reasonably segregable, nonexempt portions of the document. *See, e.g., Roth v. U.S. Dep't of Justice*, 642 F.3d 1161, 1167 (D.C. Cir. 2011). "To demonstrate that it has disclosed all reasonably segregable material, 'the withholding agency must supply a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'" *Judicial Watch, Inc. v. U.S. Dep't of Treasury*, 796 F. Supp. 2d 13, 29 (D.D.C. 2011) (quoting *Jarvik v. CIA*, 741 F. Supp. 2d 106, 120 (D.D.C. 2010)). Here, DOC cannot broadly assert that Exemption 1 protects the documents without having reviewed them. If the documents are public records under D.C. Official Code § 2-532(a-3), DOC must review them for disclosure instead of relying solely on Hope Village's representation that they are protected in their entirety.

Conclusion

Based on the foregoing, we reverse and remand DOC's decision. Within seven business days from the date of this decision, DOC, as the public body with programmatic responsibility for Hope Village, shall: (1) determine whether the documents requested were collected or produced by Hope Village pursuant to the contract with DOC; (2) if the records were collected or produced pursuant to the contract, review and make reasonable redactions based on appropriate DC FOIA exemptions; and (3) disclose to you non-exempt portions.

This constitutes the final decision of this Office; however, you are free to initiate a subsequent appeal based on the substantive response DOC has been ordered to provide in accordance with the guidance of this decision.

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

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Oluwasegun Obebe, Records, Information & Privacy Officer, DOC (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-37**

March 2, 2016

BY U.S. MAIL

James McCoy

RE: Freedom of Information Act Appeal 2016-37

Dear Mr. McCoy:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), which this Office received on February 18, 2016. In your appeal, you assert that the Department of Health ("DOH") denied your request for information under DC FOIA dated November 4, 2015.

Your request to DOH sought records relating to the accreditation of the director of a forensic laboratory in the District. On January 27, 2016, DOH responded to your request, explaining that the agency does not have any responsive records, as DOH does not license laboratories. Further, DOH recommended that you submit your request to the Department of Consumer and Regulatory Affairs, a District agency that issues business licenses.

On appeal, you claim that DOH has denied your request. DOH provided this Office with a response to your appeal on March 1, 2016, in which it reiterated that the agency is not withholding any responsive records; rather, it does not maintain them.¹

This Office's jurisdiction is limited to determining whether a District agency improperly withheld a public record. D.C. Official Code § 2-537(a). Here, DOH has attested that it does not possess the types of records you are seeking. You have not articulated a reason to believe that DOH would maintain such records or failed to conduct an adequate search for them. We therefore accept DOH's representation.

You raise a second issue on appeal with regard to DOH's failure to answer the following question, which you posed in your request: "I would like to know if a Laboratory has not completed their accreditation process according to N.R.C. recommendations, would that Laboratory still be capable of conducting DNA tests in and for a criminal trial." Courts have consistently held that an agency has no duty to answer questions or requests for explanations of policies or procedures. *See, e.g., Jimenez v. Exec. Office for United States Attys.*, 764 F.Supp. 2d 174, 182 (D.D.C. 2001). Your question does not constitute a request for a public record, thus DOH has no duty to respond to it under DC FOIA.

¹ A copy of DOH's response is attached.

Mr. James McCoy
Freedom of Information Act Appeal 2016-37
March 2, 2016
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Conclusion

Based on the foregoing, we affirm DOH's decision and hereby dismiss your appeal.

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

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Edward Rich, Esq., DOH (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-38**

March 2, 2016

VIA ELECTRONIC MAIL

Ms. Sarah Plotnick

RE: FOIA Appeal 2016-38

Dear Ms. Plotnick:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"), which this Office received on February 24, 2016. In your appeal you assert that the Office of the State Superintendent of Education ("OSSE") failed to respond to a request you submitted to OSSE on January 6, 2016.

This Office notified OSSE of your FOIA appeal on February 24, 2016. On March 2, 2016, OSSE responded indicating that it provided you with records responsive to your request on the same date.¹

Based on the foregoing, we consider your appeal to be moot and it is dismissed; provided, that the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to OSSE's substantive response.

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Mona Patel, FOIA Officer, OSSE (via email)

¹ A copy of OSSE's response is attached.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-39**

March 11, 2016

VIA ELECTRONIC MAIL

Mr. Ronald Robinson

RE: FOIA Appeal 2016-39

Dear Mr. Robinson:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537(a) ("DC FOIA"). You assert that the Metropolitan Police Department ("MPD") improperly withheld records in response to a request you submitted to MPD under DC FOIA dated October 27, 2015.

Background

Your FOIA request sought records pertaining to the investigation and prosecution that led to your convictions. In response, by letter dated January 7, 2016, MPD granted in part and denied in part your FOIA request. MPD asserted that the records in question are investigatory files that are exempt from disclosure pursuant to D.C. Official Code § 2-534(a)(3)(A)(i). The portions of the record that were provided to you were redacted to protect privacy interests in accordance with D.C. Official Code §§ 2-534(a)(2), (a)(3)(C).

On appeal, you challenge MPD's partial denial of your request on the grounds that MPD is improperly asserting a "blanket withholding" of all of the files in the investigative record. You do not appear to challenge the redactions made to the document MPD released. Further, you argue that any "enforcement proceeding" has long since closed, as you have been prosecuted, convicted, and sentenced for the crime at issue. As a result, you characterize MPD's assertion of an open investigation as "disingenuous" and made "not in good faith."

By email dated March 9, 2016, MPD provided this Office with a response to your appeal¹, in which it reasserts the agency's position that the further release of any responsive records in its possession would interfere with an ongoing MPD enforcement proceeding.²

Discussion

It is the public policy of the District of Columbia government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who

¹ A copy of MPD's response is attached.

² The proceeding is related to MPD's investigation of the December 17, 1993 murder of Frank Blakeney.

Mr. Ronald Robinson
Freedom of Information Act Appeal 2016-39
March 11, 2016
Page 2

represent them as public officials and employees.” D.C. Official Code § 2- 531. In aid of that policy, DC FOIA creates the right “to inspect ... and ... copy any public record of a public body . . .” *Id.* at § 2-532(a). That right, however, is subject to various exemptions. *Id.* at § 2-534.

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

The DC FOIA contains an exemption for investigatory records that: (1) were compiled for law enforcement purposes; and (2) whose disclosure would interfere with enforcement proceedings. The purpose of the exemption is to prevent “the release of information in investigatory files prior to the completion of an actual, contemplated enforcement proceeding.” *National Labor Relations Bd. v. Robbins Tire & Rubber Co.*, 437 U.S. 224, 232 (1978). “So long as the investigation continues to gather evidence for a possible future criminal case, and that case would be jeopardized by the premature release of the evidence, the investigatory record exemption applies.” *E.g. Fraternal Order of Police, Metro. Labor Comm. v. D.C.*, 82 A.3d 803, 815 (D.C. 2014) (internal quotation and citation omitted).

Conversely, “where an agency fails to demonstrate that the documents sought relate to any ongoing investigation or would jeopardize any future law enforcement proceedings, the investigatory records exemption would not provide protection to the agency’s decision.” *Id.*

In asserting an investigatory records exemption it is impermissible for an agency to issue a “blanket exemption” that exempts from disclosure all records in a file by virtue of the records’ location in that file. *Crooker v. Bureau of Alcohol, Tobacco & Firearms*, 789 F.2d 64, 66 (D.C. Cir. 1986). Agencies may, however, justify their withholdings on a “category-of-document by category-of-document” basis. *Id.*

In asserting the investigatory records exemption under the generic approach, the task of the agency is “three-fold.” *Bevis v. Department of State*, 801 F.2d 1386, 1388 (D.C. Cir. 1986). The agency must: (1) define its categories functionally; (2) conduct a document-by-document review in order to assign documents to the proper category; and (3) explain to the court how the release of each category would interfere with enforcement proceedings. *Id.* This process is designed to “allow the court to trace a rational link between the nature of the document and the alleged likely interference.” *Crooker*, 789 F.2d at 67. An agency must sustain its burden “by identifying a pending or potential law enforcement proceeding or providing sufficient facts from which the likelihood of such a proceeding may reasonably be inferred.” *Durrani v. United States Dep’t of Justice*, 607 F.Supp.2d 77, 90 (D.D.C. 2009).

Here, the issue is not whether the records you seek were compiled for law enforcement purposes but instead whether their release would interfere with an enforcement proceeding. In response to the instant appeal, MPD provided a detailed declaration which specifically identifies all documents within the investigatory file and the reasons why their release would be harmful to an

Mr. Ronald Robinson
Freedom of Information Act Appeal 2016-39
March 11, 2016
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enforcement proceeding.³ MPD's declaration explains facts "from which the likelihood of . . . a proceeding may reasonably be inferred," or from which this Office could "trace a rational link between the nature of the document and the alleged likely interference." *Id*; *Crooker*, 789 F.2d at 67.⁴ This Office accepts MPD's position that the case at issue is an open homicide file, as there are still suspects who have not been charged.⁵ As a result, the investigation at issue cannot be considered closed. Having determined that an open investigation remains, we conclude that release of the remaining documents you seek could interfere with an enforcement proceeding and have been properly withheld.

Conclusion

Based on the foregoing, the decision of MPD is affirmed. This constitutes the final decision of this Office.

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

Sincerely,

/s Melissa Tucker

Melissa Tucker
Associate Director

³ A copy of MPD's declaration is attached.

⁴ This burden may be met by an affidavit that provides the "identification of the targets of the investigation." *Boyd v. Criminal Div. of U.S. Dep't of Justice*, 475 F.3d 381, 386 (D.C. Cir. 2007).

⁵ MPD's position is supported by the facts set forth in *Robinson v. United States*, 797 A.2d 698 (D.C. 2002), which indicate that only two of the four persons involved in the December 12, 1993 murder of Frank Blakeney have been apprehended and charged.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-40**

March 16, 2016

Ms. Anna Maria Agolli

RE: FOIA Appeal 2016-40

Dear Ms. Agolli:

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Office of Unified Communications (“OUC”) did not adequately respond to your request under the DC FOIA.

Background

On January 28, 2016, you filed a FOIA request for 911 and 311 records from the OUC. This request was substantively identical to the request we reviewed in FOIA Appeal 2016-17. OUC provided you with documents in its possession. You allege OUC’s search was inadequate, as OUC did not produce a series of 311 and 911 you believe to have taken place. Additionally, you make arguments concerning the veracity of the documents you received, claiming they are doctored and falsified. These are not arguments which this Office will adjudicate.¹

OUC provided a response to this Office on March 3, 2016, stating that it has not withheld any records from you. This response was accompanied by a detailed affidavit by OUC’s FOIA officer describing the search she conducted to respond to your request.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534. Under the DC FOIA, an agency is required to disclose materials only if they were “retained by a public body.” D.C. Official Code § 2-502(18).

¹ *See Jimenez v. Exec. Office For the United States Attys.*, 764 F.Supp.2d 174, 182 (D.D.C. 2011)(“[agency] is not obligated to respond to questions, requests for research **or, as in this case, a request to authenticate or verify the contents of a particular document.**”) (emphasis added)

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

The crux of this matter is the adequacy of OUC's search. DC FOIA requires that a search be reasonably calculated to produce the relevant documents. The test is not whether any additional documents might conceivably exist, but whether the government's search for responsive documents was adequate. *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Speculation unsupported by any factual evidence that records exist is not enough to support a finding that full disclosure has not been made. *Marks v. United States (Dep't of Justice)*, 578 F.2d 261 (9th Cir. 1978).

To establish the adequacy of a search,

'the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.' [*Oglesby v. United States Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)]. . . The court applies a 'reasonableness test to determine the 'adequacy' of a search methodology, *Weisberg v. United States Dep't of Justice*, 227 U.S. App. D.C. 253, 705 F.2d 1344, 1351 (D.C. Cir. 1983) . . .

Campbell v. United States DOJ, 164 F.3d 20, 27 (D.C. Cir. 1998).

In conducting an adequate search, an agency must make reasonable determinations as to the location of records requested and search for the records in those locations. *Doe v. D.C. Metro. Police Dep't*, 948 A.2d 1210, 1220-21 (D.C. 2008) (citing *Oglesby*, 920 F.2d at 68). The determinations as to likely locations of records would involve knowledge of the agency's record creation and maintenance practices. *See Pub. Emps. for Env'tl. Responsibility v. U.S. Section Int'l Boundary and Water Comm'n.*, 839 F. Supp. 2d 304, 317-18 (D.D.C. 2012). Generalized and conclusory allegations cannot suffice to establish an adequate search or the availability of exemptions. *See In Def. of Animals v. NIH*, 527 F. Supp. 2d 23, 32 (D.D.C. 2007).

In response to your appeal, OUC's FOIA officer, Tammie Creamer, submitted an affidavit to this Office demonstrating that she conducted an adequate search in response to your request. The affidavit states that Ms. Creamer identified the repositories most likely to contain responsive records: the Computer Aided Dispatch system and the NICE INFORM software application. She then queried the systems for records relating to your street address and telephone numbers associated with the dates you specified. OUC's response indicates that all responsive documents located in that search were provided to you. This Office accepts OUC's representations and concludes that OUC's search was adequate.

OUC has further offered an explanation as to why the calls you believe to have taken place were not produced: calls made to 311 are maintained for only 90 days. As a result, your 2015 and 2016 FOIA requests for 311 calls made in 2013 yielded no results because the recordings were

Ms. Anna Maria Agolli
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March 16, 2016
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no longer maintained in accordance with OUC's document retention policy. OUC therefore did not withhold any 311 calls.

Your belief that additional recordings exist and have been withheld is insufficient to overcome Ms. Creamer's representations as to the search she conducted and the records she located and produced to you. Broad arguments of bad faith, absent proof, are not legally cognizable or relevant in evaluating the propriety of an agency's search under FOIA. *Jimenez v. Exec. Office For the United States Attys.*, 764 F.Supp.2d 174, 182 (D. D. C. 2011) ("And Plaintiff's speculation as to the existence of additional records, absent support for his allegations of agency misconduct or bad faith . . . does not render the searches inadequate.").

Conclusion

Based on the foregoing, we affirm OUC's decision.

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

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Adrienne Day, Acting General Counsel, OUC (via email)
Tammie Creamer, FOIA Officer, OUC (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-41**

May 4, 2016

VIA ELECTRONIC MAIL

Ms. Pamela Tortora

RE: FOIA Appeal 2016-41

Dear Ms. Tortora:

This letter responds to the administrative appeals you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”) concerning a request you submitted to the District’s Department of Consumer and Regulatory Affairs (“DCRA”).

In your initial appeal you contend that DCRA failed to provide you with a copy of your landlord’s basic business license application, which you had requested. Subsequently, DCRA’s FOIA officer sent you what he believed was the document you were seeking. You then submitted another appeal to this office, stating that the “[i]nformation forwarded is not what was requested. Need signed and dated Self Certification form by [a particular applicant].”

Your second appeal prompted DCRA’s FOIA officer to advise both you and this Office that he was uncertain whether the agency maintained the signed self-certification form you were seeking, but that he would contact DCRA’s Basic Business Licensing and Information Systems divisions for guidance. This Office suspended your appeal while you and DCRA’s FOIA officer continued to engage in an ongoing, productive dialogue about the nature of your request. On May 3, 2016, DCRA notified you and this Office that it does not possess a self-certification form submitted by the individual you identified in your FOIA request.

Discussion

It is the public policy of the District of Columbia that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” D.C. Official Code § 2-532(a). The right created under the DC FOIA to inspect public records is subject to various exemptions that may form the basis for denial of a request. *See* D.C. Official Code § 2-534. Under the DC FOIA, an agency is required to disclose materials only if they were “retained by a public body.” D.C. Official Code § 2-502(18).

Ms. Pamela Tortora
Freedom of Information Act Appeal 2016-41
May 4, 2016
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This Office was copied on correspondence between you and DCRA's FOIA officer in which you clarified the record you were seeking, and the FOIA officer described his communications with various divisions of DCRA to determine if the record exists. The FOIA officer concluded, based on the information he received from the Basic Business Licensing division, that the record you seek does not exist because such forms accompany basic business license applications that are submitted in person or by mail, and the application at issue was submitted online. DCRA's response to your request is proper under the DC FOIA in that an agency is required to disclose records only if they were retained by an agency.

Conclusion

Based on the foregoing, we accept DCRA's representation that it does not maintain a record that is responsive to your request and hereby dismiss your appeal.

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

Sincerely,

/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Brandon Bass, FOIA Officer, DCRA (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-42**

March 28, 2016

VIA REGULAR MAIL

Mr. Raoul Hughes

RE: FOIA Request 2016-42

Dear Mr. Hughes:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). Your appeal relates to the denial issued by the Metropolitan Police Department (“MPD”) in response to a request you submitted to MPD for records related to a vehicle reported as stolen in the District in 2008.

Background

On or about January 21, 2016,¹ you sent a request to MPD for a copy of any documents and photos related to the theft and recovery of a vehicle reported to MPD as stolen. You identified the documents you were seeking by the date of the initial report, the location, and the complainant. You asked that MPD provide you with incident reports, towing receipts, case summaries, and other related records.

The MPD denied your request on February 5, 2016, on the grounds that “[a] request for such records under the Freedom of Information Act on someone other than yourself, absent authorization, cannot be granted. A release of such information and/or records would constitute a clearly unwarranted invasion of privacy and is exempt from disclosure pursuant to D.C. Official Code § 2-534(a)(2).”

Subsequently, you appealed MPD’s denial and this Office requested that MPD respond to your appeal. We received a response on March 23, 2016, in which MPD reiterated its position that: (1) disclosing the requested records would constitute a clearly unwarranted invasion of personal privacy; and (2) you had not identified any public interest that would outweigh the privacy interest of the person identified in the records you seek.² At our request, MPD provided us with copies of the withheld documents for our *in camera* review.

Discussion

¹ Although your letter is dated January 21, 2015, we believe 2015 was a typographical error.

² A copy of MPD’s response is attached.

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

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

The crux of this matter is whether MPD was overbroad in its application of D.C. Official Code § 2-534(a)(2)³ to the two responsive documents it withheld from you: (1) an “Internal Packet” consisting of an “Offense Report”; and (2) a “Public Incident Packet” consisting of a “Public Incident Report.” MPD’s primary argument in withholding the two responsive documents is that releasing them to you would constitute a clearly unwarranted invasion of the privacy of the individual who reported the car stolen.

This Office conducted an *in camera* review of the two withheld reports. Both contain accounts of the same event – the alleged theft of a vehicle in a public space. The Public Incident Packet contains details about the date, time, and location where the report was taken. The individual who reported the vehicle as stolen is identified in strictly generic terms (i.e., “victim” and “owner”). There is no personally identifiable information about the individual, such as the individual’s home address, phone number, or race. As we held in FOIA Appeal 2015-15, the information contained in the “Public Narrative” section of a Public Incident Report does not contain what courts have identified as information that could be used to identify an individual. *Dep’t of the Air Force v. Rose*, 425 U.S. 352, 377 (1976) (finding that examples of identifying information include where an individual was born, the names of his parents, where he has lived, his high school or other school records, results of examinations, and evaluations of his work performance.).

In your request, you asked for documents associated with a particular CCN,⁴ and the Public Incident Report at issue contains the matching CCN. Although your request names the individual who reported the vehicle as stolen, the Public Incident Report does not identify this individual. Additionally, the report does not identify witnesses, suspects, or other individuals associated with the incident. Therefore, under applicable law, disclosure of the report would not constitute a clearly unwarranted invasion of anyone’s privacy. *Rose*, 425 U.S. at 382 (holding that the

³ This Exemption (“Exemption 2”) provides for the withholding of “Information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy[.]”

⁴ A CCN is a criminal complaint number assigned to a matter by MPD.

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privacy exemption “does not protect against disclosure every incidental invasion of privacy - only such disclosures as constitute ‘clearly unwarranted’ invasions of personal privacy.”).

The Internal Packet differs from the Public Incident Report in that it does contain the complainant’s identity, home phone number, and other information that is arguably protected under Exemption 2 (e.g., the stolen vehicle’s vehicle identification number). Instead of redacting this information, MPD posits that it cannot disclose any portion of the reports to you without the consent of the complainant. We disagree. MPD has not indicated that this matter is an open criminal investigation or a law enforcement record that is otherwise protected under DC FOIA. The only individual who may have a cognizable privacy interest in the reports is the complainant, and this interest relates solely to this individual’s personal information contained in the Internal Packet. MPD has failed to proffer a reason why the Internal Packet cannot be disclosed in redacted form. We believe such disclosure is required in accordance with D.C. Official Code § 2-534(b), subject to the above-described redactions.

Conclusion

Based on the foregoing, we reverse MPD’s decision. Within 5 business days from the date of this decision, MPD shall: (1) provide you with an unredacted copy of the Public Incident Report that is responsive to your request; and (2) provide you with a copy of the responsive Internal Packet that is redacted in accordance with the guidance in this decision.

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

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Ronald B. Harris, Deputy General Counsel, MPD (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-43**

March 16, 2016

VIA E-MAIL

Mr. Moses A. Cook

RE: FOIA Appeal 2016-43

Dear Mr. Cook:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Metropolitan Police Department (“MPD”) improperly withheld records you requested pertaining to two named police officers.

Background

On February 2, 2016, you submitted a FOIA request to the MPD for “reprimands, investigations for misconduct, citizens’ complaints, etc.” pertaining to two named officers of the MPD. On February 18, 2016, the MPD denied your request, stating that without admitting or denying the existence of the requested records, the disclosure thereof would constitute an unwarranted invasion of personal privacy under D.C. Official Code § 2-534(a)(2) (“Exemption 2”) and D.C. Official Code § 2-534(a)(3)(C) (“Exemption 3(C)”).

On appeal you challenge the MPD’s response, asserting that the requested information does not involve personal privacy concerns. Further, you claim that if exemptions to disclosure apply the MPD must still release any reasonable segregable portion of the records. Finally, you argue that the MPD failed to provide a sufficient justification for withholding records under various FOIA exemptions.

The MPD sent this Office a response to your appeal on March 15, 2016.¹ The MPD reaffirmed its earlier position that the records are exempt under Exemption 2 and Exemption 3(C) and cited case law in support thereof. Further, the MPD challenged your claim that the requested information does not concern the personal privacy of identified officers, stating, “[you] requested disciplinary records of officers which are inherently personal. The fact that the officers are public employees does not vitiate their privacy rights with respect to this information.” The MPD argues that the “purpose of FOIA is to permit citizens to find out how the government is carrying out its responsibilities,” and you have not identified any facts suggesting that the MPD, as opposed to its named employees, has engaged in improper actions warranting disclosure of the requested records.

¹ A copy of the MPD’s response is attached to this determination.

Discussion

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

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 312 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe local law. *Washington Post Co. v. Minority Bus. Opportunity Comm’n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Exemptions 2 and 3(C) of the DC FOIA relate to personal privacy. Exemption 2 applies to “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” Exemption 3(C) provides an exemption for disclosure for “[i]nvestigatory records compiled for law-enforcement purposes, including the records of Council investigations and investigations conducted by the Office of Police Complaints, but only to the extent that the production of such records would . . . (C) Constitute an unwarranted invasion of personal privacy.” While Exemption 2 requires that the invasion of privacy be “clearly unwarranted,” the word “clearly” is omitted from Exemption 3(C). Thus, the standard for evaluating a threatened invasion of privacy interests under Exemption 3(C) is broader than under Exemption 2. *See United States Dep’t of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 756 (1989).

Records pertaining to investigations conducted by the MPD are exempt from disclosure under Exemption 3(C) if the investigations focus on acts that could, if proven, result in civil or criminal sanctions. *Rural Housing Alliance v. United States Dep’t of Agriculture*, 498 F.2d 73, 81 (D.C. Cir. 1974). *See also Rugiero v. United States Dep’t of Justice*, 257 F.3d 534, 550 (6th Cir. 2001) (The exemption “applies not only to criminal enforcement actions, but to records compiled for civil enforcement purposes as well.”). Since the records you seek relate to investigations that could result in civil or criminal sanctions, Exemption 3(C) applies to your request.

Determining whether disclosure of a record would constitute an invasion of personal privacy requires a balancing of one’s individual privacy interests against the public interest in disclosing the disciplinary files. *See Reporters Comm. for Freedom of Press*, 489 U.S. at 756. On the issue of privacy interests, the D.C. Circuit has held:

[I]ndividuals have a strong interest in not being associated unwarrantedly with alleged criminal activity. Protection of this privacy interest is a primary purpose of Exemption 7(C)². “The 7(C) exemption recognizes the stigma potentially

² Exemption 7(C) under the federal FOIA is the equivalent of Exemption 3(C) under the DC FOIA.

associated with law enforcement investigations and affords broader privacy rights to suspects, witnesses, and investigators.”

Stern v. FBI, 737 F.2d 84, 91-92 (D.C. Cir. 1984) (quoting *Bast v. United States Dep’t of Justice*, 665 F.2d 1251, 1254 (D.C. Cir. 1981)).

Here, we find that there is a sufficient privacy interest associated with a police officer who is being investigated for wrongdoing based on allegations. “[I]nformation in an investigatory file tending to indicate that a named individual has been investigated for suspected criminal activity is, at least as a threshold matter, an appropriate subject for exemption under [(3)(C)].” *Fund for Constitutional Government v. National Archives & Records Service*, 656 F.2d 856, 863 (D.C. Cir. 1981). An agency is justified in not disclosing documents that allege wrongdoing even if the accused individual was not prosecuted for the wrongdoing, because the agency’s purpose in compiling the documents determines whether the documents fall within the exemption, not the ultimate use of the documents. *Bast*, 665 F.2d at 1254.

As discussed above, the D.C. Circuit in the *Stern* case held that individuals have a strong interest in not being associated with alleged criminal activity and that protection of this privacy interest is a primary purpose of the investigatory records exemption. *Stern*, 737 F.2d at 91-92. We find that the same interest is present with respect to civil disciplinary sanctions that could be imposed on an MPD officer. The records you seek may consist of mere allegations of wrongdoing, the disclosure of which could have a stigmatizing effect regardless of accuracy.

We say “may consist” because the MPD has maintained that it will neither confirm nor deny whether complaint records exist relating to the two MPD officers. This type of response is referred to as a “Glomar” response, and it is warranted when the confirmation or denial of the existence of responsive records would, in and of itself, reveal information exempt from disclosure. *Wilner v. Nat’l Sec. Agency*, 592 F.3d 60, 68 (2nd Cir. 2009). Here, the Glomar response is justified because if a written complaint or subsequent investigation against the officers you have named exists, identifying the record’s existence would likely result in the privacy harm that the DC FOIA exemptions were intended to protect. As a result, the issue of segregability is not applicable.

With regard to the second part of the privacy analysis under Exemption 3(C), we examine whether the individual privacy interest is outweighed by the public interest to require disclosure. On appeal, you assert that the records involving the individual officers would provide information regarding their official public duties. The public interest in the disclosure of a public employee’s disciplinary files was addressed by the court in *Beck v. Department of Justice, et al.*, 997 F.2d 1489 (D.C. Cir. 1993). In *Beck*, the court held:

The public’s interest in disclosure of personnel files derives from the purpose of the [FOIA]--the preservation of “the citizens’ right to be informed about what their government is up to.” *Reporters Committee*, 489 U.S. at 773 (internal quotation marks omitted); see also *Ray*, 112 S. Ct. at 549; *Rose*, 425 U.S. at 361. This statutory purpose is furthered by disclosure of official information that “sheds light on an agency’s performance of its statutory duties.” *Reporters*

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Committee, 489 U.S. at 773; *see also Ray*, 112 S. Ct. at 549. Information that “reveals little or nothing about an agency’s own conduct” does not further the statutory purpose; thus the public has no cognizable interest in the release of such information. *See Reporters Committee*, 489 U.S. at 773. The identity of one or two individual relatively low-level government wrongdoers, released in isolation, does not provide information about the agency’s own conduct.

Id. at 1492-93.

In the instant matter, disclosing the records you are seeking would not shed light on MPD’s performance of its statutory duties and would constitute an invasion of the individual police officers’ privacy interests under Exemptions 3(C) and (2) of the DC FOIA.³

Conclusion

Based on the forgoing we affirm the MPD’s decision and dismiss your appeal.

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

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

/s/ John A. Marsh

John A. Marsh
Staff Attorney

cc: Ronald B. Harris, Deputy General Counsel, MPD (via email)

³ We also note that any public interest that would be served by disclosing the wrongdoings of police officers might be served by the Office of Police Complaints’ (“OPC”) annual, redacted, online report of all sustained findings of misconducts, along with extensive data regarding the type of allegations made and the demographics of complainants. *See Antonelli v. Fed. Bureau of Prisons*, 591 F. Supp. 2d 15, 25 (D.D.C. 2008). OPC’s annual reports may be found at <http://policecomplaints.dc.gov/page/annual-reports-for-OPC>

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-44**

March 14, 2016

VIA ELECTRONIC MAIL

Mr. Moses Cook

RE: FOIA Appeal 2016-44

Dear Mr. Cook:

This letter responds to the administrative appeal you filed with the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 ("DC FOIA"). In your appeal you assert that the Metropolitan Police Department ("MPD") failed to respond to a request you submitted on February 2, 2016, relating to "arrest packets."

Upon receiving your appeal, this Office requested a response from MPD. On March 9, 2016, MPD responded, stating that the appeal was filed prematurely. In further correspondence dated March 11, 2016, MPD indicated that it responded to your request on the same date.

Since your appeal was based on MPD's failure to respond to your FOIA request, we consider it to be moot and it is dismissed; however, the dismissal shall be without prejudice to you to assert any challenge, by separate appeal, to MPD's substantive response.

Sincerely,

/s/ Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Ronald Harris, Deputy General Counsel, MPD (via email)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2016-45**

March 25, 2016

VIA ELECTRONIC MAIL

Ms. Megan Gibson, Esq.

RE: FOIA Appeal 2016-45

Dear Ms. Gibson:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Metropolitan Police Department (“MPD”) improperly denied records you requested under the DC FOIA on behalf of your client.

Background

On October 22, 2015, you sent a FOIA request to MPD seeking records related to a collision that occurred between a pedestrian (your client) and an MPD vehicle on October 12, 2015. You indicate that on November 19, 2015, MPD allowed you and two other civilians to observe a video of the incident,¹ and MPD informed you that it would release the video to you after its investigation was closed. In a letter dated February 3, 2016, MPD partially granted and partially denied your FOIA request. MPD disclosed a large number of photographs but withheld one photograph and the video you viewed on November 19, 2015, claiming that both are protected under D.C. Official Code § 2-534(a)(2) (“Exemption 2”).² MPD also indicated that parts of your request are still being processed.

On March 7, 2016, you appealed to the Mayor on the grounds that MPD has improperly withheld records under a vague assertion of personal privacy. Upon receipt of your appeal, this Office notified MPD and asked it to formally respond. MPD responded to this Office on March 21, 2016, reiterating its position as to why your request for the video should be denied.³ This Office had remaining questions about MPD’s reason for withholding the video and requested a supplementary response, which MPD provided on March 22, 2016. At our request, MPD also provided us with the withheld video and photograph for our *in camera* review.

¹ The video was captured by a camera maintained by a business located near the site of the collision.

² Exemption 2 prevents disclosure for “[i]nformation of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”

³ MPD also defended its withholding of one photograph, although you do not appear to be challenging this withholding. Copies of MPD’s responses are attached.

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MPD asserts broadly that the video must be withheld to maintain the privacy interest of third-party pedestrians captured by the footage, which MPD does not have the technological capacity to redact. MPD defends the withholding of one photograph because it reveals the address and other information about an alleged sexual assault.⁴

Discussion

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

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

The crux of your appeal is whether MPD has properly withheld, in its entirety, a video recording related to the collision involving an MPD vehicle and your client. In order to properly withhold records under Exemption 2, a two-step analysis is conducted. First, a determination is made as to whether disclosure of a record would constitute a clearly unwarranted invasion of personal privacy. A privacy interest is cognizable if it is substantial, which is anything greater than *de minimis*. *Multi AG Media LLC v. Dep’t of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008).

In general, there is a sufficient privacy interest in personal identifying information.

Information protected under Exemption 6 [the equivalent of Exemption (2) under the federal FOIA] includes such items as a person's name, address, place of birth, employment history, and telephone number. *See Nat’l Ass’n of Retired Fed. Employees v. Horner*, 879 F.2d 873, 875 (D.C. Cir. 1989); *see also Gov’t Accountability Project v. U.S. Dep’t of State*, 699 F.Supp.2d 97, 106 (D.D.C. 2010) (personal email addresses); *Schmidt v. Shah*, No. 08–2185, 2010 WL 1137501, at *9 (D.D.C. Mar. 18, 2010) (employees' home telephone numbers); *Schwaner v. Dep’t of the Army*, 696 F.Supp.2d 77, 82 (D.D.C. 2010) (names, ranks, companies and addresses of Army personnel); *United Am. Fin., Inc. v. Potter*, 667 F.Supp.2d 49, 65–66 (D.D.C.2009) (name and cell phone number of an “unknown individual”).

Skinner v. United States Dep’t of Justice, 806 F. Supp. 2d 105, 113 (D.D.C. 2011).

⁴ The sexual assault appears to be entirely unrelated to the collision at issue. It is not clear why the photograph is responsive to your request.

Ms. Megan Gibson
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Information such as names, phone numbers, and home addresses are considered to be personally identifiable information and are therefore exempt from disclosure. *See, e.g., Department of Defense v. FLRA*, 510 U.S. 487, 500 (1994) (“An individual’s interest in controlling the dissemination of information regarding personal matters does not dissolve simply because that information may be available to the public in some form.”).

If a privacy interest is found to exist, the second step of the analysis entails balancing the privacy interest against the public interest in disclosure. *See Beck v. Dep’t of Justice*, 997 F.2d 1489, 1491 (D.C. Cir. 1993).

In the instant appeal, MPD withheld a photograph containing the home address where an alleged sexual assault occurred. Release of this information would constitute an unwarranted breach of privacy. Because MPD maintains that it does not have the ability to redact the photograph, we concur that the photograph was properly withheld under Exemption 2.

With respect to the video recording at issue, MPD provided a response explaining its withholding. MPD cites a series of previous FOIA appeal decisions to support its position that the pedestrians captured on the withheld recording have a privacy interest that is greater than *de minimis*. Having reviewed the video, this Office does not find MPD’s arguments or citations to be persuasive.

First, MPD cites to FOIA Appeal 2015-12, which addresses a request for all body-worn camera footage on a particular date. This appeal is inapposite, as it was decided under the broader privacy standards set forth in D.C. Official Code § 2-534(a)(3)(A)(i),⁵ an exemption to DC FOIA that requires the existence of an ongoing criminal investigation. There is no claim of an ongoing investigation here; therefore, there is no analogy to be drawn that would justify the wholesale withholding of the video at issue. Second, in Appeal 2015-12 it was presumed that the video footage depicted criminal activity. Indeed, as MPD asserts, a primary purpose of Exemption 2 is to prevent citizens from being associated unwarrantedly with alleged criminal activity. *Stern v. FBI*, 737 F.2d 84, 91 (D.C. Cir. 1984). Unlike the facts in Appeal 2015-12, however, there are no images on the withheld video of criminal activity or persons being arrested. The video was taken during the day, on a highly-trafficked street in downtown Washington. The beginning of the video captures pedestrians walking on the street. The video then shows the aftermath⁶ of the collision between the MPD vehicle and your client, in which your client is lying on the ground and being attended to while pedestrians continue to walk, observe, and in some cases, speak to MPD officers. There is no audio recording in any part of the video. Moreover, there are no images of anyone being associated with a crime or otherwise displaying objectionable behavior. If the video were disclosed, the only individual whose privacy would be invaded is your client, and he is the individual seeking the video from MPD. As a result, beyond the fact that it involves video recordings, Appeal 2015-12 is not analogous to this matter.

Second, MPD cites to FOIA Appeal 2015-15, which takes the position that an image that “capture[s] the license plates of motor vehicles” or “individuals who frequent the locations

⁵ *See* Appeal 2015-12 at p.1, fn.1.

⁶ The actual collision is not depicted on the video.

Ms. Megan Gibson
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shown” must be withheld under Exemption 2 because disclosure might lead to identification and unwanted contact. Both 2015-12 and 2015-15 rely on *dicta* found in *Judicial Watch, Inc. v. FBI*, 522 F.3d 364 (D.C. Cir. 2008) and conclude that because the appellants in *Judicial Watch* did not appeal the redaction of images of third parties from the background of a surveillance video, images of pedestrians on the street necessarily constitute personally identifiable information. We disagree with this conclusion. Under this reasoning, almost every photograph or video in the MPD’s possession would be exempt from disclosure under FOIA because a pedestrian or a license plate is visible. We do not believe that an individual recorded walking or standing on a public street has a presumptive privacy interest that would be breached if the recording were publicly disclosed. Because the individuals visible in the recording here do not have a cognizable privacy interest (other than your client), release of the recording to you does not constitute a clearly unwarranted invasion of their privacy.

Lastly, MPD cites *United States DOJ v. Reporters Comm. For Freedom of Press*, 489 U.S. 749, 762 (1989), wherein the Supreme Court held that “as a categorical matter . . . a **third party**’s request for law enforcement records or information about a private citizen can reasonably be expected to invade that citizen’s privacy.” (emphasis added). We find this citation to be inapplicable to the facts of this appeal. In *Reporters Comm.*, the Supreme Court held that citizens’ “rap sheets” are categorically exempt from disclosure by an agency to a third party under federal Exemption 7(C). Exemption 7(C) is the equivalent of DC FOIA Exemption 3, which involves an investigatory file. MPD has asserted Exemption 2 here, not Exemption 3. In addition, *Reporters Comm.* addresses a third party’s request for law enforcement records or information *about* private citizens. The request here was not initiated by a third party and is not seeking information “about” private citizens.

The second part of a privacy analysis examines whether the public interest in disclosure of a record outweighs an individual’s privacy interest in the record. The Supreme Court has stated that this analysis must be conducted with respect to the purpose of FOIA, which is “to open agency action to the light of public scrutiny.” *Department of Air Force v. Rose*, 425 U.S. 352, 372 (1976). Since we have found that there is no privacy interest in the recording beyond that of your client, we need not determine whether there is a public interest in the disclosure of the video.

Conclusion

Based on the foregoing, we affirm in part, and reverse in part the MPD’s decision. The MPD shall, within 5 business days of the date of this decision: (1) disclose to you the withheld video recording; and (2) complete production of the remaining records in its possession that are responsive to your request. MPD has properly withheld one photograph related to an alleged sexual assault and may continue to do so.

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

Sincerely,

Ms. Megan Gibson
Freedom of Information Act Appeal 2016-45
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/s Melissa C. Tucker

Melissa C. Tucker
Associate Director

cc: Ronald B. Harris, Deputy General Counsel, MPD (via email)

**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLICATION:
SOLICITATION FOR DEVELOPMENT
MLK/GATEWAY COMMUNITY**

The Government of the District of Columbia (the “District”), through the Office of the Deputy Mayor for Planning and Economic Development (“DMPED”), is seeking qualified real estate development teams (“Respondents”) to respond for the disposition and development of the following sites with the associated issuance dates:

MLK/Gateway Community

- ❖ **1909 Martin Luther King Jr Ave SE**, Square 5770 Lot 0829
- ❖ **1201 – 1215 Good Hope Road SE**, Square 5769 Lots 1017, 0847, 0867, 0866, and 0864
 - Request for Proposals (“RFP”)
 - Issuance Date: Tuesday, May 31, 2016

DMPED invites qualified development teams (“Developers”) to respond to this RFP for the redevelopment of the sites in Southeast Washington, DC. There will be Pre-Response Conference and Site Visit held which will be further described in the final RFP publications.

For more information and project updates, please visit www.dmped.dc.gov.

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 July 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 May 27, 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 Public**

Effective: July 1, 2016

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Aldas	Rosa Laura	Organization of American States 1889 F Street, NW	20006
Allen	Melinda M.	Department of Transportation/Maritime Administration 1200 New Jersey Avenue, SE	20590
Alvarado	Vivian	Skadden Arps, LLP 1440 New York Avenue, NW	20005
Anderson	Barbara E.	Flather & Perkins, Inc. 888 17th Street, NW, Suite 508	20006
Augello	Jeffrey B.	National Association of Home Builders 1201 15th Street, NW	20005
Barnes	Jacqueline Wallace	Barnes Notary Services 5543 Bass Place, SE	20019
Beety	Joshua Thomas	Self 1809 20th Street, NW, #153	20009
Benefield	Lizette R.	Self 3718 S Street, SE	20020
Bhatti	Mahereen	Self (Dual) 2320 Wisconsin Avenue, NW, #504	20007
Bishop	Angela	The World Bank Group 1818 H Street, NW	20433
Black	Cheryl D.	Rural Utilities Service 1400 Independence Avenue, SW	20250
Bobbie	Jesusa	Central Business Services 1634 Eye Street, NW, Suite 402	20006
Bouknight	Antoinette	Morgan Lewis 1111 Pennsylvania Avenue, NW	20004
Branch	Jakarya M.	Urban Strategies & Solutions, LLC 3215 Martin Luther King, Jr. Avenue, SE	20032

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Brooks	Carolyn A.	Skadden Arps Slate Meagher & Flom, LLP 1440 New York Avenue, NW 20005
Calhoun	Finis	Self 4619 Easy Place, SE 20019
Callahan	Patrick M.	Centurion Group DC, LLC 1220 L Street, NW, Suite 100-304 20005
Carter	Jenna	Ropes & Gray 2099 Pennsylvania Avenue, NW, 12th Floor 20006
Cherry	Juanita S.	Self 56 Seaton Place, NW 20001
Daniels	Rina T.	Self 4697 Benning Road, SE, Apartment A 20019
Davis	Barbara J.	U.S. Army Corps of Engineers, Office of the Chief Counsel 441 G Street, NW 20314
Davis-DeBose	Nathasa D.	DC Department of Behavioral Health 64 New York Avenue, NE, 3rd Floor 20002
Drew	Richard E.	Self 2500 Q Street, NW, #419 20007
Dyson	Eula M.	R. McGhee & Associates 2031 Florida Avenue, NW 20009
Edwards	Marlena	American Pharmacists Association 2215 Constitution Avenue, NW 20037
Farmer	Felicia	DC Government Office of the Chief Financial Officer/Office of Revenue Analysis 1101 4th Street, SW, Suite 770W 20024
Foil	Elvia E.	Wells Fargo Insurance Services USA, Inc. 1750 H Street, NW, Suite 200 20006
Foreman	Rhae A.	Reed Smith, LLP 1301 K Street, NW, Suite 1000 - East Tower 20005

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Francis	Fern Moore	Metropolitan Police Department 2000 14th Street, NW	20009
Gaskins	Rachel	Celestial Tax Services 1019 47th Street, NE	20019
Getahun	Meseret	TD Bank 2000 K Street, NW	20006
Goldring	Thelma B.	Department of Transportation/Maritime Administration 1200 New Jersey Avenue, SE	20590
Grajales Barrera	Diego W.	HS Solutions, LLC 4201 Connecticut Avenue, NW, Suite 650	20008
Gyurcsanszky	Linda	Vinson & Elkins, LLP 2200 Pennsylvania Avenue, NW, Suite 500 West	20037
Harrison	Monette	Bryan Cave, LLP 1155 F Street, NW	20004
Heaton	Kathryn	Menkiti Group 3401 8th Street, NE	20017
Hindin	Mary Ellen	Carr Properties 1776 Eye Street, NW, #500	20006
Hinton	Michael	Calvin Cafritz Enterprises 1828 L Street, NW, Suite 703	20036
Johnson	Bryant L.	National Gallery of Art Fourth Street and Constitution Avenue, NW	20565
Jones	Melody P.	Self (Dual) 622 14th Street, NE	20002
Joyner-Wiggins	Nikeisha	U.S. Department of Housing and Urban Development 451 7th Street, SW	20410

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Kauthen	Sherolyn H.	Sullivan & Cromwell, LLP 1700 New York Avenue, NW	20006
Kerr	Randolph N.	Floridian Condominium Home Owner's Association 919/929 Florida Avenue, NW	20001
Kim	Ji Suk	Charles Schwab 1110 H Street, NW, Suite 100	20005
King	Kelly L.	Hogan Lovells US LLP 555 13th Street, NW	20004
Kinsey III	Goldman	Self 67 Darrington Street, SW	20032
Kunkle	Deborah L.	Cooley, LLP 1299 Pennsylvania Avenue, NW, Suite 700	20004
Kurtz	Kelly M.	Baker Hostetler 1050 Connecticut Avenue, NW	20036
Lampich	Barbara E.	Sidley Austin, LLP 1501 K Street, NW	20005
Latimore	Cardelia S.	National Geographic Society 1145 17th Street, NW	20036
Lethbridge	Marion C.	Sibley Memorial Hospital 5255 Loughboro Road, NW	20016
Livery	Thierry J.	Chatel Real Estate, Inc. 3210 N Street, NW	20007
Mckinney	Jazmin	PNC Bank 1201 Wisconsin Avenue, NW	20007
Metcalf	Phillip	The Metcalf Law Firm, PLLC 1300 I Street, NW, Suite 400E	20005
Michaud	Lindsay B.	Capital One Bank 4860 Massachusetts Avenue, NW	20016

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Mills	Marcia	Self 555 Massachusetts Avenue, NW, #403	20001
Misaghi	Bayan	Invivtus Capital Partners 1155 F Street, NW, Suite 1075	20004
Motsuk	Salvadore Paul	Self 3420 16th Street, NW, #202	20010
Munoz	Walter A.	Wells Fargo 3700 Calvert Street, NW	20007
Naeem	Saba	Mowry & Grimson, PLLC 5335 Wisconsin Avenue, NW, Suite 810	20015
Neal	Kerry Kristoffer	Self 232 Rhode Island Avenue, NW	20001
Nelo	Dairy	Dainex & Associates, LLC 5335 Wisconsin Avenue, NW, Suite 440	20015
Newman	Toni	University of the Potomac 1401 H Street, NW, #100	20005
Noonan	Rachael	Bessemer Trust, NA 900 17th Street, NW, Suite 1000	20006
Osborne	Kimberly	White House Historical Association 1610 H Street, NW	20006
Otero	Francisca I.	Quinn, Racusin & Gazzola Chartered 910 17th Street, NW, Suite 200	20006
Peck	Alexandra	Cuneo Gilbert & LaDuca 507 C Street, NE	20002
Peelor	J. Blythe	Shipman & Goodwin, LLP 1875 K Street, NW	20006
Phelan	Brian P.	Conlon, Frantz & Phelan, LLP 1740 N Street, NW, Suite One	20036

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Pratt	Otis R.	US Securities and Exchange Commission 100 F Street, NE	20549
Proctor	Lisa M.	Society for Science & the Public 1719 N Street, NW	20036
Rahman	Shyrnayle E.	Slevin & Hart 1625 Massachusetts Avenue, NW, Suite 450	20036
Rodney	Casandra V.	The Menkiti Group 3401 8th Street, NE	20017
Rodriguez	Rosemary	Infirst Federal Credit Union 445 12th Street, SW, Portals LL, Rooms MA-B515	20554
Rosenberg	Courtney B.	The Carlyle Group 1001 Pennsylvania Avenue, NW, Suite 220S	20004
Sapperstein	Kristin H.	Liberty Engineering 1609 Connecticut Avenue, NW, Suite 200	20009
Severan Robertson	Stefanie Marie	Antonoplos & Associates, Attorney at Law 1725 Desales Street, NW, Suite 600	20036
Shanika	McBride	Wells Fargo Bank 3200 Pennsylvania Avenue, SE	20020
Small	Hillary Catherine	Hogan Lovells US LLP 555 13th Street, NW	20004
Smiley	Candi N.	Howard University 2400 6th Street, NW, Suite 306	20059
Smith	Kerry	Babst Calland 805 15th Street, NW, Suite 601	20005
Smuikys	Mindaugas	Travel Visa Pro 1802 Vernon Street, NW	20009

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Terlau-Benford	Regina D.	Animal Welfare Fund 900 Pennsylvania Avenue, SE	20003
Thomas, Sr.	Jeffrey	Self (Dual) 1345 South Capitol Street, SW, Apartment 708	20003
Tilghman	Deidra	Absolute Solutions and Associates, LLC 2636 12th Street, NE	20018
Tolbert	Amelia	Baker Hostetler,LLP 1050 Connecticut Avenue, NW	20036
Tremaine	Degas	Self 1014 East Capital Street-PH7	20003
Trent	Jeffrey Lee	McArthur Franklin, PLLC 1101 17th Street, NW, Suite 820	20036
Turner	Ramona	The United States Department of the Interior, Office of the Solicitor, Division of Parks and Wildlife 1849 C Street, NW, Mail Stop 5311	20240
Watson	Brian P.	Self 4915 Nannie Helen Burroughs Avenue, NE, #201	20019
Watson	Karen B.	Common Cause 805 15th Street, NW, Suite 800	20005
Whiteley	Malynda D.	Alderson Reporting Company 1155 Connecticut Avenue, NW, Suite 200	20036
Whittaker	Laura A.	United States Court of Appeals for the Federal Court 717 Madison Place, NW	20439
Williams Jr	Ronald E.	PNC Bank 1201 Wisconsin Avenue, NW	20007
Yarborough	Floretta	Sullivan & Cromwell, LLP 1700 New York Avenue, NW	20006

SHINING STARS MONTESSORI ACADEMY PUBLIC CHARTER SCHOOL**EXTENSION OF REQUEST FOR PROPOSALS**

Shining Stars Montessori Academy Public Charter School invites all interested and qualified vendors to submit proposals for the below services. Proposals are due no later than 5 PM, June 10, 2016. The RFP with bidding requirements and supporting documentation can be obtained by contacting staffops@shiningstarspcs.org.

- Architecture and Design Services
- Information Technology Equipment and Services
- Security System Services
- Security Guard Services

SHINING STARS MONTESSORI ACADEMY PUBLIC CHARTER SCHOOL**INVITATION FOR BID****Food Service Management Services**

Shining Stars Montessori Academy PCS is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2016-2017 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on Friday, May 27, 2016 from: Procurement Team at 202-723-1467 or staffops@shiningstarspcs.org

Proposals will be accepted at 6015 Chillum Place NE 20011 on June 28, 2016, not later than 3pm.

All bids not addressing all areas as outlined in the IFB will not be considered.

DISTRICT OF COLUMBIA TAXICAB COMMISSION
AMENDMENTS TO REQUEST FOR APPLICATIONS
GRANTS FOR ELECTRIC TAXICABS

The Government of the District of Columbia, Taxicab Commission (“DCTC” or “Commission”) hereby issues this notice of a second amendment to the Request for Applications (“RFA”) that was announced in the January 8, 2016, *DCTC Register*, 62 DCR 000503, and published to DCTC’s website. Revisions to the RFA for Electric Taxicabs (#ELECTAXI-2016-01-002) are as follows:

- The application deadline has been extended to September 30, 2016. Applications will be accepted until that date or until funds are exhausted, whichever comes first.
- Applicants may apply for funding even if they have already purchased a fully electric or hybrid electric vehicle; however, the vehicle must have been purchased sometime in calendar year 2016. Applicants who purchased a vehicle on or after the publication date of this notice (May 27, 2016), will be prioritized over applicants who purchased a vehicle prior to that date.
- Applicants may now apply for grants toward the purchase of hybrid electric vehicles, which shall be a minimum of \$5,000. Grants for fully electric vehicles shall remain a minimum of \$10,000.

All other provisions of the original RFA shall remain the same. The amended RFA will be available online at DCTC’s website and will also be available for pickup. A person may obtain a copy of the RFA by any of the following means:

Download by visiting the DCTC website, www.dctaxi.dc.gov.

Email a request to thedford.collins@dc.gov with “Request copy of RFA ELECTAXI-2016-01-002” in the subject line.

In person by making an appointment to pick up a copy from the DCTC office at 2235 Shannon Place, SE, Suite 2001, Washington, DC 20020 (call Thedford Collins at (202) 645-6018 and mention these RFAs by name); or

Write DC Taxicab Commission, Office of Taxicabs at 2235 Shannon Place, SE Washington, DC 20020, Attn: “Request copy of RFA # ELECTAXI-2016-01-002” on the outside of the letter.

For additional information regarding either of these RFAs, please contact Thedford Collins at thedford.collins@dc.gov or (202) 645-6018.

THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL**REQUEST FOR PROPOSALS****Mental Health Services**

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school—seeks a contractor to partner with the school to support expanded mental health services for all students. Goals of the services are to: reduce and prevent incidences of behavioral health challenges for students; increase time of academic engagement by improving social-emotional culture; increase staff knowledge, efficacy, and effectiveness in supporting mental wellness of students; and enhance collaboration between the school and community-based mental health providers. The school believes this will have an overall positive impact on student academic performance.

Prospective vendors should provide details, including itemized cost, for the following menu of services (details appear in the full RFP):

- Clinical Psychology (Direct Services).
- Clinical Psychology (Consultation and Support).
- Clinical Psychiatrist (Consultation).
- Clinical Counselling.

The **full RFP** is available on the **Employment Opportunities** page under the About tab of www.thurgoodmarshallacademy.org. Alternatively, e-mail a request for the full RFP to dschlossman@tmapchs.org no later than 5 pm on Thursday, June 2, 2016.

Amendments to or extension of the RFP, if any, will be posted exclusively on the web page described above.

Contact: For further information regarding the RFP contact **David Schlossman, 202-276-4722, dschlossman@tmapchs.org**. Further information about Thurgood Marshall Academy—including our nondiscrimination policy—may be found at www.thurgoodmarshallacademy.org.

Deadline & Submission: Submit bids responsive to the full RFP via **email to dschlossman@tmapchs.org** no later than **Friday, June 3, 2016**.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) will be holding a meeting on Thursday, June 2, 2016 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | |
|--|-----------------------|
| 1. Call to Order | Board Chairman |
| 2. Roll Call | Board Secretary |
| 3. Approval of May 5, 2016 Meeting Minutes | Board Chairman |
| 4. Committee Reports | Committee Chairperson |
| 5. General Manager's Report | General Manager |
| 6. Action Items
Joint-Use
Non Joint-Use | Board Chairman |
| 7. Other Business | Board Chairman |
| 8. Adjournment | Board Chairman |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19237 of Wacap, LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow the construction of a new four-story residential addition containing four units above an existing restaurant in the C-2-A District at premises 3700 14th Street N.W. (Square 2692, Lot 43).

HEARING DATES: April 5, 2016 and April 19, 2016¹
DECISION DATES: April 26, 2016 and May 10, 2016²

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 7.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 1A and 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 and borders on the boundary of ANC 1A; therefore, both ANCs are considered an "affected ANC." Both ANCs submitted a report. ANC 1A submitted a report in support of the application that indicated that at a regularly scheduled, properly noticed public meeting on March 9, 2016, at which a quorum was present, the ANC voted 9:0:1 to support the application. (Exhibit 25.) ANC 4C also filed a report in support of the application, with conditions, which indicated that at a duly noticed and regularly scheduled meeting on April 13, 2016, at which a quorum was present, ANC 4C voted 6:2:0 to approve the application with conditions. (Exhibit 30.) The Board in its deliberations noted that many of the conditions ANC 4C sought dealt with construction matters and are therefore beyond the Board's jurisdiction, but to which the Applicant has nonetheless agreed, as noted in the ANC report. The Board's Chair identified two conditions that would be within the Board's purview and these were made part of this order. A

¹ This case was postponed from April 5, 2016 and heard on April 19, 2016.

² The case was scheduled for decision on April 26, 2016, but that was postponed to provide the Applicant additional time to submit a supplemental filing requested by the Board to show the height of the mechanical penthouse and to confirm that it meets the regulations. The Board waived the time limit for the submissions, based on the Applicant's request in Exhibit 38. The Applicant's supplemental filings included revised plans and confirmation that the plans meet the penthouse requirements. (Exhibits 40-41.)

letter in opposition was submitted to the record by the ANC SMD 4C01. (Exhibit 31.) The Commissioner for ANC SMD 4C01 also testified in opposition, raising concerns about the large number of conversions and developments increasing density in the neighborhood. (Exhibit 36.) A letter in support, subject to the ANC's conditions, was submitted to the record by ANC SMD 4C04. (Exhibit 34.)

The Office of Planning ("OP") submitted a timely report and testified in support of the application. (Exhibit 27.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application.³ (Exhibit 28.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for an area variance from the off-street parking requirements under § 2101.1, to allow the construction of a new four-story residential addition containing four units above an existing restaurant in the C-2-A District. The only parties to the case were the two ANCs 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 a variance from 11 DCMR § 2101.1, 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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 41 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall use permeable pavers instead of concrete in the rear of the property; and
2. The Applicant shall create an inviting atmosphere by ensuring the front of the retail space facing 14th Street is a majority of transparent glass.

³ DDOT raised several public space issues with regard to the proposed sidewalk café and trash storage that the Applicant will be expected to resolve separately from the zoning relief process.

VOTE: **5-0-0** (Marnique Y. Heath, Frederick L. Hill, Anita Butani D'Souza, Jeffrey L. Hinkle, and Robert E. Miller to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: May 16, 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.

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,

BZA APPLICATION NO. 19237

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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. 19257 of D.C. Public Library, pursuant to 11 DCMR §§ 3104.1 and 2108.1, for a special exception from the off-street parking requirements under § 2101.1, to replace an existing library with a new, two-story library in the CP/C-2-A District at premises 3310 Connecticut Avenue, N.W. (Square 2082, Lot 868).

HEARING DATE: May 10, 2016

DECISION DATE: May 10, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified pursuant to 11 DCMR § 3113.2. (Exhibit 3.) In granting the certified relief, the Board of Zoning Adjustment ("Board") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed. (Exhibit 3.)

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") 3C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3C, which is automatically a party to this application. The ANC submitted a report, dated April 19, 2016, stating that at a publicly noticed monthly meeting on April 18, 2016, at which a quorum was in attendance, the ANC voted "No Objection via Voice Vote to the Consent Calendar." (Exhibit 23.)

The Single Member District Commissioner for ANC 3C-09 testified at the hearing that while the community would like to have parking at the site, parking has never been provided there. She testified that the ANC would like for the Applicant to at least provide some parking for the disabled, and allow use of the loading dock for residents who drop off large numbers of books.

In response to the ANC's concerns, the Applicant noted that it is working with the D.C. Department of Transportation ("DDOT") to identify and reserve spaces for disability parking. Also, the Applicant testified that there are currently four parking spaces there for staff, and that upon the elimination of those spaces, someone needing to come to the library for a brief period of, for instance, five to seven minutes, will be accommodated. The Applicant testified that it is also working with DDOT to identify additional parking for persons with disabilities.

The Office of Planning ("OP") submitted a timely report on May 3, 2016, recommending approval of the application. (Exhibit 25). OP also testified in support at the public hearing.

The Applicant filed in the record the Historic Preservation Review Board Staff Report and Recommendation regarding the proposed project. In the report, the Historic Preservation Office (“HPO”) recommended that the Board:

- Find the overall revised concept compatible with the Cleveland Park Historic District;
- Provide any recommendations for how the concept can be further refined to increase compatibility with the historic district and address unresolved design details; and
- Delegate the remaining design review to HPO.

(Exhibits 24C1 and 24C2.)

DDOT submitted a timely report indicating that it had no objection to the application, with one condition - that the Applicant install a minimum of four long-term bicycle parking spaces in a location that is secure and easily accessible to staff. (Exhibit 26.) The Applicant testified that it had agreed to provide the four bicycle spaces as well as a shower for the library staff.

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 and 2108.1, for special exception relief under § 2101.1 – the off-street parking requirements. The only parties to the application were the Applicant and the ANC which had no objection to the application. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse 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, 2108.1, and 2101.1, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. 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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 24B1 AND 24B2 (ARCHITECTURAL DRAWINGS), AS REVISED BY EXHIBIT 29 (REVISED SHEETS AS-100 AND AS-101), and the FOLLOWING CONDITIONS:**

1. The Applicant shall have flexibility to make modifications to the plans based on comments by the Commission of Fine Arts and the Historic Preservation Office.
2. The Applicant shall install a minimum of four long-term bicycle parking spaces in a location

that is secure and easily accessible to staff.¹

VOTE: 4-0-1 (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Robert E. Miller to Approve; Anita Butani D'Souza not participating, having recused herself).

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: May 13, 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 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

¹ The bicycle parking storage will be located in the cellar space, and while the cellar level plan was not presented to the Board, the Applicant agreed to provide the spaces as conditioned in this order.

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. 19267 of 1711 Rhode Island Owner LLC, as amended¹, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the off-street parking requirements under § 2101.1, the compact space percentage requirements under § 2115.2, the compact space grouping requirements under § 2115.4, and the minimum drive aisle width requirements under § 2117.5, and a special exception from the office use requirements under § 508.1, to renovate an existing building for use as offices in the DC/SP-1 District at premises 1711 Rhode Island Avenue N.W. (Square 159, Lot 87).

HEARING DATE: May 17, 2016

DECISION DATE: May 17, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 7 (original), 25 (first revised), and 32 (final revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 2B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a report in support of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 11, 2016, at which a quorum was present, the ANC voted 6:0:1 to support the application.² (Exhibit 41.)

¹ The Applicant amended the application twice from the original request for special exceptions from §§ 508.1 (for office use) and 2108.1 (from minimum parking requirements). (Exhibits 1 and 7.) The first revised application requested a variance from the drive aisle requirements under § 2117.5 and a special exception for office use under § 508 and for parking under § 2108. (Exhibits 24 and 25.) The Applicant submitted its final revised application on April 21, 2016, requesting variances from the off-street parking requirements under § 2101.1, the compact space percentage requirements under § 2115.2, the compact space grouping requirements under § 2115.4, and the minimum drive aisle width requirements under § 2117.5, and a special exception from the office use requirements under § 508.1, to renovate an existing building for use as offices in the DC/SP-1 District. (Exhibits 31 and 32.) The caption has been revised accordingly.

² The Board waived the time requirements and accepted the ANC's report into the record.

The Office of Planning (“OP”) submitted a timely report and testified in support of the application.³ (Exhibit 38.) The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application subject to four conditions. (Exhibit 39.) The Applicant testified that it accepted all of the conditions. (Exhibit 43.) The Board indicated that the conditions dealing with public space are outside of its purview, but that it would adopt the conditions dealing with the shower/changing facilities and the 40 long-term bicycle parking spaces. The Board also indicated that it would allow the Applicant some flexibility with regard to the placement of those 40 spaces.

At the public hearing there was testimony from Robert Rosenberg, whose law firm is across the alley from the subject property. Mr. Rosenberg testified that he was not opposed to the application but raised issues regarding how traffic will be accommodated in the shared alleyway, and noted for the record that the Applicant has been working to address those issues throughout the process.

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 off-street parking requirements under § 2101.1, the compact space percentage requirements under § 2115.2, the compact space grouping requirements under § 2115.4, and the minimum drive aisle width requirements under § 2117.5, to renovate an existing building for use as offices in the DC/SP-1 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 § 2101.1, 2115.2, 2115.4, and 2117.5, 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.

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 § 508.1, to renovate an existing building for use as offices in the DC/SP-1 District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

³ OP’s report notes that the Applicant’s design has received concept approval from the Historic Preservation Review Board.

Based upon the record before the Board, and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 508.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. 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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 37E1, 37E2, AND 43 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide access to all tenants, if multiple tenants, to the shower and changing facilities.
2. The Applicant shall provide a minimum of 40 long-term bicycle parking spaces in a secure and easily accessible location. The Applicant shall have flexibility as to where those bicycle parking spaces shall be located.

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; Anita Butani D'Souza, not participating or 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: May 18, 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.

BZA APPLICATION NO. 19267
PAGE NO. 3

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

BOARD OF ZONING ADJUSTMENT
NOTICE OF PROPOSED RULEMAKING

BZA Application No. 19301

The Board of Zoning Adjustment of the District of Columbia (BZA), pursuant to the authority set forth in Section 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 286, D.C. Official Code § 6-1306), and the Zoning Regulations of the District of Columbia (Regulations), hereby gives notice of its intention to not disapprove, or in the alternative, disapprove the following:

Application of the Republic of The Gambia, pursuant to 11 DCMR §§ 1002 and 206 of the Foreign Missions Act, to allow the location of a chancery in the SSH-1/R-1-B District at premises 5630 16th Street N.W. (Square 2721W, Lot 27).

A public hearing date has not yet been set for the case. Notice of the public hearing date will be mailed to property owners within 200 feet of the subject property and the affected **Advisory Neighborhood Commission (ANC) 4A**. Additionally, it will be published in the *DC Register*, the public hearing calendar of the Office of Zoning (OZ) website at <http://dcoz.dc.gov/bza/calendar.shtm>, and on public hearing notices available at the OZ office. A final determination on an application to locate, replace, or expand a chancery shall be made no later than six months after the date of the filing of the application.

HOW TO FAMILIARIZE YOURSELF WITH THE CASE

In order to review exhibits in the case, follow these steps:

- Visit the OZ website at www.dcoz.dc.gov
- Under “Featured Services”, click on “Case Records”.
- Enter the BZA application number indicated above and click “Go”.
- The search results should produce the case. Click “View Details”.
- On the right-hand side, click “View Full Log”.
- This list comprises the full record in the case. Simply click “View” on any document you wish to see, and it will open a PDF document in a separate window.

HOW TO PARTICIPATE IN THE CASE

Members of the public may participate in a case by submitting a letter in support or opposition into the record or participating as a witness. Visit the Interactive Zoning Information System (IZIS) on our website at <http://app.dcoz.dc.gov> and click on “Participating in an Existing (ZC or BZA) Case” for an explanation of these options. Please note that party status is not permitted in Foreign Missions cases.

If you have any questions or require any additional information, please call OZ at 202-727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 16-10

**(EAJ 400 Florida Avenue, LLC – Consolidated PUD & Related Map
Amendment @ Square 3588)**

May 12, 2016

THIS CASE IS OF INTEREST TO ANC 5D

On May 11, 2016, the Office of Zoning received an application EAJ 400 Florida Avenue, LLC (the “Applicant”) for approval of a consolidated planned unit development (“PUD”) and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Lots 4, 25, and 803 in Square 3588 in northeast Washington, D.C. (Ward 5), on property located at 400 Florida Avenue, N.E. The property is currently zoned C-M-1. The Applicant is proposing a PUD-related map amendment to rezone the property, for the purposes of this project, to the C-3-C Zone District.

The Applicant proposes to raze the existing buildings and construct a new mixed-use building composed of residential and hotel uses. The building will have a total of 98,836 square feet of gross floor area devoted to residential use (110 units, plus or minus 10%) and approximately 65,540 square feet of gross floor area devoted to hotel use (164 rooms, plus or minus 10%). The Applicant will devote 12% of the residential gross floor area (approximately 11,860 square feet) as Inclusionary Zoning units. The maximum height of the building will be 120 feet, not including the penthouses, with a maximum lot occupancy of 75%. The project will include three off-street loading facilities accessed from the public alley. The Applicant is providing three parking spaces and states that because of the project’s close proximity to the NoMa-Gallaudet Metrorail station and multiple Metrobus routes, it is requesting flexibility from the parking requirements.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 16-11

**(Park View Community Partners & District of Columbia – Consolidated PUD &
Related Map Amendment @ Square 2890, Part of Lot 849)**

May 18, 2016

THIS CASE IS OF INTEREST TO ANCs 1A and 1B

On May 13, 2016, the Office of Zoning received an application Park View Community Partners and the District of Columbia (the “Applicant”) for approval of a consolidated planned unit development (“PUD”) and related map amendment for the above-referenced property.

The property that is the subject of this application consists of part of Lot 849 in Square 2890 in northwest Washington, D.C. (Ward 1), on property bounded by Irving Street, N.W. to the north, Georgia Avenue, N.W. to the east, Columbia Road, N.W. to the south and private property to the west. The property is currently zoned R-4 and C-2-A. The Applicant is proposing a PUD-related map amendment to rezone the property, for the purposes of this project, to the R-5-B and C-2-B Zone Districts.

The subject property is currently improved with a temporary park and associated surface parking. The Applicant proposes to replace the existing facilities with an apartment house (189 units), a senior building (76 units), and eight townhome units. The majority of the units will be subsidized housing for low- or moderate income households. The maximum height of the apartment house will be 90 feet; the senior building will have a maximum height of 60 feet; and the townhomes will have a maximum height of 40 feet. A total of approximately 99 on-site parking spaces will be provided in a parking garage below the apartment house and senior building. Each townhome will have a designated on-site parking space, and eight additional on-street parking spaces will be provided on the subject property.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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