

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 21-515, District of Columbia Public Assistance Amendment Act of 2015
- Executive Office of the Mayor establishes the DCPS Rising Leadership Committee to discuss the selection factors for the Chancellor of the District of Columbia Public Schools (Mayor's Order 2016-120)
- Board of Elections certifies the short title and summary statement for the proposed Advisory Referendum B "Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016"
- Department of Energy and Environment solicits applications for the Clean Vessel Act grant program
- Board of Ethics and Government Accountability publishes Advisory Opinion 1009-013, Post-Employment Restrictions
- D.C. Housing Authority expands the availability of vouchers to applicants residing in units declared unfit for habitation

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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The deadline for filing documents for publication for District of Columbia Agencies, Boards, Commissions, and Public Charter schools is THURSDAY, NOON of the previous week before publication. The deadline for filing documents for publication for the Council of the District of Columbia is WEDNESDAY, NOON of the week of publication. If an official District of Columbia government holiday falls on Thursday, the deadline for filing documents is Wednesday. Email the Office of Documents and Administrative Issuances at dcdocuments@dc.gov to request the *District of Columbia Register* publication schedule.

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MURIEL E. BOWSER
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ENROLLED ORIGINAL

A RESOLUTION

21-593

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 20, 2016

To declare the existence of an emergency with respect to the need to order the closing of First Terrace, N.W., between L Street, N.W., and M Street, N.W.; 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, 248, 249, 250, 251, 895, 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; to designate the dedicated street as First Place, N.W., in Ward 6, and to authorize the disposition of District-owned real property in Square 620, Lots 894 and 895.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Omnibus Sursum Corda Development Emergency Declaration Resolution of 2016”.

Sec. 2. (a) There exists an immediate need to approve emergency legislation to close First Terrace, N.W., between L Street, N.W., and M Street, N.W.; 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 Lots 247, 248, 249, 250, 251, 895, and 896 in Square 620, 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, to designate the dedicated street as First Place, N.W., in Ward 6, and to authorize the disposition of District-owned real property in Square 620, Lots 894 and 895.

(b) The legislation will facilitate a mixed-use, mixed-income redevelopment of a 6.7-acre property that will include retail, a public park, and green space, as well as provide more than 1,100 residential units.

(c) The street closing would close or realign streets to provide more connectivity within the development, as well as the surrounding community.

ENROLLED ORIGINAL

(d) A permanent version of this legislation passed first reading unanimously on July 12, 2016 and will be considered by the Council on second reading on October 11, 2016. Given the decision to approve the closing of relevant portions of public streets and the dedication and designation of land for street purposes, there is no benefit to further delay. Making the legislation effective sooner will enable the development to move forward in a timely manner and without risk of delay.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Omnibus Sursum Corda Development Emergency Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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

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

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

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

B21-891 Mobile Medical or Educational Vehicle Excise Tax Exemption Amendment Act of 2016

Intro. 9-26-16 by Councilmember Allen and referred to the Committee on Transportation and the Environment with comments from the Committee on Finance and Revenue

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

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES ANNOUNCES A
PUBLIC HEARING**

TO DISCUSS

**BILL 21-515, THE “DISTRICT OF COLUMBIA PUBLIC ASSISTANCE AMENDMENT
ACT OF 2015”**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH AND HUMAN SERVICES ANNOUNCES A
PUBLIC OVERSIGHT ROUNDTABLE ON**

**THE REPORT: “RECOMMENDATIONS FOR DEVELOPMENT OF A TANF
HARDSHIP EXTENSION POLICY FOR WASHINGTON, D.C.”**

**THURSDAY, OCTOBER 27, 2016
11:00 A.M., ROOM 500, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public hearing to discuss Bill 21-151, the “District of Columbia Public Assistance Amendment Act of 2015” and a public oversight roundtable to discuss the report, “Recommendations for Development of a TANF Hardship Extension Policy for Washington, D.C.” The hearing will take place at 11:00 a.m., on Thursday, October 27, 2016 in Room 500 of the John A. Wilson Building. The oversight roundtable will immediately follow.

The purpose of Bill 21-515 is to expand the time individuals utilizing Temporary Assistance for Needy Families (TANF) may receive benefits. Circumstances include parents and caretakers who have received benefits for more than 60 months but qualify for hardship exemptions or extensions and children of those individuals, those caring for the physically or mentally incapacitated, those complying with their Individual Responsibility Plan, a lack of employment opportunities within the District, those affected by significant barriers to employment, individuals that are homeless or children currently in foster care, and pregnant or parenting teens. The bill also requires the Mayor to create rules to support its provisions, inform recipients of its provisions, and standardize processes by which to determine and re-determine eligibility of each TANF recipient.

The public oversight roundtable will give the Department of Human Services (DHS) the opportunity to present findings from the report, “Recommendations for Development of a TANF

Hardship Extension Policy for Washington, D.C.” DHS initiated a comprehensive process to consider options for a TANF hardship extension policy. In addition to hosting several listening sessions and community dialogues, DHS invited a number of key stakeholders to join a TANF Working Group that was facilitated by an outside consultant and comprised of TANF customers, advocates, services providers, lawmakers, and government administrators. The report documents the recommendations, deliberations, and stakeholders’ feedback for developing a TANF hardship extension policy and related improvements to the District of Columbia’s TANF Program.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, October 25, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the hearing or roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Thursday, November 10, 2016.

**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 21-380, Deferred Compensation Program Enrollment Amendment Act of 2015

&

Bill 21-645, Executive Service Pay Schedule Amendment Act of 2016

on

**Tuesday, October 25, 2016
11:30 a.m., Hearing 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 21-380, the “Deferred Compensation Program Enrollment Amendment Act of 2015,” and Bill 21-645, the “Executive Service Pay Schedule Amendment Act of 2016.” The hearing will be held at 11:30 a.m. on Tuesday, October 25, 2016 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of **Bill 21-380** is to establish automatic enrollment of eligible, new employees into the District government’s 457 plan (deferred compensation). Currently, enrollment in the 457 plan is done on an opt-in basis. This bill would require new District government employees to affirmatively opt-out if they do not want to participate in the program. The stated purpose of **Bill 21-645** is to expand the executive service public safety cluster pay schedule to certain subordinate agency heads of the health and education clusters. Under this bill, the executive service public safety pay schedule would now apply to the following agency directors: the Department of Behavioral Health, the Department of General Services, the Department of Health, and the District of Columbia Public Schools.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Christina Setlow, Deputy Committee Director at (202) 724-8196, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, October 21, 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 Friday, October 21, 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 Bills 21-380 and 21-645 can be obtained on <http://lims.dccouncil.us>, or through the Legislative Services Division (Room 10) of the Secretary of the Council’s office.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on November 8, 2016.

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

NOTICE OF PUBLIC HEARING ON

B21-580, the Pesticide Education and Control Amendment Act of 2016;
B21-833, the Nonwoven Disposable Products Act of 2016;
B21-882, the Green Yards Recognition Act of 2016;
and
PR21-782, the Sense of the Council Regrading Completion of the Lewis and Clark National Historic Trail Resolution of 2016

Monday, October 24, 2016
at 11:00 p.m.
in Room 412 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Monday, October 24, 2016, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B21-580, the Pesticide Education and Control Amendment Act of 2016; B21-833, the Nonwoven Disposable Products Act of 2016; B21-882, the Green Yards Recognition Act of 2016; and PR21-782, the Sense of the Council Regrading Completion of the Lewis and Clark National Historic Trail Resolution of 2016. The hearing will begin at 11:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B21-580, the Pesticide Education and Control Amendment Act of 2016, would amend the Pesticide Education and Control Amendment Act of 2012 to define the term "restricted use pesticides" to include materials listed by the U.S. Department of Health and Human Services or the U.S. Environmental Protection Agency as carcinogenic or likely to be carcinogenic. The bill would also permit the District Department of the Environment (DDOE) to classify materials based on the findings of state, national, or international government bodies, or non-governmental organizations. B21-833, the Nonwoven Disposable Products Act of 2016, would prohibit the sale of products labeled as flushable, sewer safe, or septic safe unless there is reliable scientific evidence to substantiate that claim. B21-882, the Green Yards Recognition Act, would require DOEE to publish an online list of practices that foster safe and sustainable grounds maintenance and to establish a program to encourage District property owners and lessees to maintain their grounds using sustainable practices. PR21-782, the Sense of the Council Regarding Completion of the Lewis and Clark National Historic Trail Resolution of 2016, would declare it the sense of the Council that the National Park Service should complete the Eastern Legacy Special Resource Study and recommend adding the Eastern Legacy sites, including the District, to the Lewis and Clark National Historic Trail.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 5 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on November 7, 2016.

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

NOTICE OF PUBLIC HEARING ON

**B21-779, the Quiet Green Zones Pilot Act of 2016
and
B21-881, the Healthy Public Buildings Assessment Act of 2016**

Thursday, November 3, 2016
at 11:00 p.m.
in Room 412 of the
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

On Thursday, November 3, 2016, Councilmember Mary M. Cheh, Chairperson of the Committee on Transportation and the Environment, will hold a public hearing on B21-779, the Quiet Green Zones Pilot Act of 2016, and B21-881, the Healthy Public Buildings Assessment Act of 2016. The hearing will begin at 11:00 p.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

B21-779, the Quiet Green Zones Pilot Act of 2016, would require the Department of Parks and Recreation and the Department of General Services to implement a pilot program to minimize audible sounds from the maintenance and lawn care of public land, and require DGS to purchase only electric or battery-powered landscape maintenance equipment beginning in FY 2022, as feasible. B21-881, the Healthy Public Buildings Assessment Act of 2016, would require DGS to regularly assess public buildings for listed indoor health hazards, to establish a protocol for the testing and remediation of each condition, and to publish an annual report card on its compliance with the protocols for each public building.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify should contact Ms. Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, at (202) 724-8062 or via e-mail at abenjamin@dccouncil.us. Persons representing organizations will have five minutes to present their testimony. Individuals will have three minutes to present their testimony. Witnesses should bring 5 copies of their written testimony and should submit a copy of their testimony electronically to abenjamin@dccouncil.us.

If you are unable to testify in person, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms.

Aukima Benjamin, staff assistant to the Committee on Transportation and the Environment, John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Suite 108, Washington, D.C. 20004. They may also be e-mailed to abenjamin@dccouncil.us or faxed to (202) 724-8118. The record will close at the end of the business day on November 10, 2016.

**Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Hearing**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCE A PUBLIC HEARING ON:

Bill 21-813, the “Comprehensive Inspector General Independence and Empowerment Amendment Act of 2016”

Bill 21-854, the “Skyland Town Center Amendment Act of 2016”

Tuesday, October 25, 2016

11:30 a.m.

Room 120 - John A. Wilson Building

1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue announces a public hearing to be held on Tuesday, October 25, 2016 at 11:30 a.m. in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 21-813, the “Comprehensive Inspector General Independence and Empowerment Amendment Act of 2016”, would reclassify the District of Columbia Office of the Inspector General as an independent agency with independent personnel, procurement and technology and telecommunications systems authority. This legislation would require District agencies to provide notice and coordinate with the Office of the Inspector General when conducting investigations of District government employees and contractors, would clarify the Inspector General’s authority to issue subpoenas in audits and inspections, clarify the Inspector General’s duty to report evidence of criminal violations to the U.S. Attorney General and would amend the DC Code to include Office of Inspector General criminal investigators within the definition of law enforcement officer.. This legislation would provide the Office of the Inspector General criminal investigators with authority to arrest without a warrant where a violation of a federal or District of Columbia statute is being committed in his or her presence or for any felony violation of a federal or District of Columbia statute if the employee has probable cause to believe that the person to be arrested has committed or is committing such felony, and with the ability to apply for an execute arrest warrants. This legislation would also eliminate the Inspector General’s annual audit of special education attorney certifications, and make other technical amendments.

Bill 21-854, the “Skyland Town Center Amendment Act of 2016” would amend the Skyland Town Center Omnibus Act of 2013 to change the base year for the determination of available sales tax revenues and available real property tax revenues to 2016.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Aide, Committee on Finance and Revenue, at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 11:30 a.m. on Monday, October 24, 2016. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

**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

PR 21-863, Interagency Council on Homelessness Robert Warren Confirmation Resolution of 2016

PR 21-864, Interagency Council on Homelessness Donald L. Brooks Confirmation Resolution of 2016

PR 21-865, Interagency Council on Homelessness Albert Townsend Confirmation Resolution of 2016

PR 21-866, Interagency Council on Homelessness Margaret A. HacsKaylo Confirmation Resolution of 2016

PR 21-867, Interagency Council on Homelessness Margaret Riden Confirmation Resolution of 2016

PR 21-868, Interagency Council on Homelessness Jill Carmichael Confirmation Resolution of 2016

PR21-912, Director to End Homelessness Kristy Greenwalt Confirmation Resolution of 2016

on

Tuesday, October 25, 2016

12:30 a.m., Hearing Room 412, John A. Wilson Building

1350 Pennsylvania Avenue, NW

Washington, DC 20004

Council Chairman Phil Mendelson announces a public roundtable of the Committee of the Whole on PR 21-963 through PR 21-868, confirmation resolutions for mayoral appointments to the Interagency Council on Homelessness (“ICH”) for: Robert Warren, Donald L. Brooks, Albert Townsend, Margaret A. HacsKaylo, Margaret Riden, and Jill Carmichael; and PR 21-912, Director to End Homelessness Kristy Greenwalt Confirmation Resolution of 2016 to appoint Kristy Greenwalt to be Director to End Homelessness. The hearing will be held at 12:30 a.m. on Tuesday, October 25, 2016 in Hearing Room 412 of the John A. Wilson Building.

The purpose of this roundtable is to provide the public an opportunity to comment on sex Mayoral nominees for appointment or reappointment to the ICH, and on the Director to End Homelessness who coordinates the activities of the ICH. The ICH facilitates interagency, cabinet-level leadership in planning, policymaking, program development, provider monitoring, and budgeting for what is known as the continuum of care of homeless services.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Sydney Hawthorne, Legislative Counsel, at (202) 724-8196, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, October 21, 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 October 21, 2016 the testimony will be distributed to Councilmembers before the roundtable. 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 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 5:00 p.m. on Tuesday, November 8, 2015.

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

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

ANNOUNCES A PUBLIC ROUNDTABLE ON

**PR 21-869, THE “DIRECTOR OF THE DEPARTMENT ON DISABILITY SERVICES
ANDREW REESE CONFIRMATION RESOLUTION OF 2016”**

**THURSDAY, OCTOBER 20, 2016
11:00 A.M., ROOM 123, JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health and Human Services, announces a public roundtable on PR 21-869, the “Director of the Department on Disability Services Andrew Reese Confirmation Resolution of 2016.” The roundtable will take place at 11:00 a.m. on Thursday, October 20, 2016, in Room 123 of the John A. Wilson Building.

The purpose of PR 21-869 is to confirm the Mayoral appointment of Mr. Andrew Reese as the Director of the Department on Disability Services.

Those who wish to testify should contact Malcolm Cameron, Legislative Analyst to the Committee on Health and Human Services, at 202-741-0909 or via e-mail at mcameron@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Tuesday, October 18, 2016. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

For those unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements can be emailed to mcameron@dccouncil.us or mailed to Malcolm Cameron at the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Room 115, Washington, D.C., 20004. The record will close at 5:00 p.m. on Thursday, November 3, 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 21-894, Collective Bargaining Agreement between the Federation of Administrative Law Judges – D.C. and the District of Columbia, and the Office of Administrative Hearings, the Government of the District of Columbia Emergency Approval Resolution of 2016

on

**Thursday, October 13, 2016
11:30 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 21-894, the “Collective Bargaining Agreement between the Federation of Administrative Law Judges – D.C. and the District of Columbia, and the Office of Administrative Hearings, the Government of the District of Columbia Emergency Approval Resolution of 2016.” The roundtable will be held at 11:30 a.m. on Thursday, October 13, 2016 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PR 21-894 is to approve the negotiated collective bargaining agreement (CBA) submitted by Mayor Bowser for administrative law judges, who are represented by the Federation of Administrative Law Judges – DC (FALJ-DC), employed by the District of Columbia Government Office of Administrative Hearings (OAH). This is the first negotiated agreement between OAH and FALJ-DC. The CBA is effective during Fiscal Years 2016 through 2019. The purpose of this roundtable is to receive testimony from public witnesses as to the approval of this collective bargaining agreement.

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 cw@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Monday, October 10, 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 October 10, 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 PR 21-894 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, October 17, 2016.

COUNCIL OF THE DISTRICT OF COLUMBIA EXCEPTED SERVICE APPOINTMENTS AS OF SEPTEMBER 30, 2016

NOTICE OF EXCEPTED SERVICE EMPLOYEES

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

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
Yoshino, Keiko	Legislative Director	6	Excepted Service - Reg Appt
Penso, Courtney	Administrative Assistant	3	Excepted Service - Reg Appt
Ngwenya, Mtokufa	Chief of Staff	8	Excepted Service - Reg Appt

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
1350 Pennsylvania Avenue, NW, Suite 410
Washington, DC 20004

ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR 21-913 the “Constitution and Boundaries for the State of New Columbia Approval Resolution of 2016,” to allow for the proposed resolution to be considered at the October 18, 2016 meeting of the Committee of the Whole and possible legislative meeting of the Council on the same day. The abbreviated notice is necessary to allow the Council to approve a proposed constitution for the State of New Columbia to give the public an opportunity to review the constitution before voting in an advisory referendum. A substantively identical version of the constitution was included as part of Bill 21-826 which was introduced on July 11, 2016. Notice of intent to act on Bill 21-826 was published in the *DC Register* on August 19, 2016 and two hearings were held on the measure on September 27, 2016 and October 6, 2016.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-024663

License Class/Type: C Tavern

Applicant: NHV Corporation

Trade Name: Haydee's Restaurant

ANC: 1D04

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

3102 MT PLEASANT ST NW, Washington, DC 20010

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	24hrs -	11:00 am - 2:00 am	6 pm - 2:00 am
Monday:	24hrs -	11:00 am - 2:00 am	6:00 pm - 2:00 am
Tuesday:	24hrs -	11:00 am - 2:00 am	6:00 pm - 2:00 am
Wednesday:	24hrs -	11:00 am - 2:00 am	6:00 pm - 2:00 am
Thursday:	24hrs -	11:00 am - 2:00 am	6:00 pm - 2:00 am
Friday:	24hrs -	11:00 am - 3:00 am	6:00 pm - 3:00 am
Saturday:	24hrs -	11:00 am - 3:00 am	6:00 pm - 3:00 am

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11:00 am - 2:00 am	11:00 am - 1:30 am
Monday:	11:00 am - 2:00 am	11:00 am - 1:30 am
Tuesday:	11:00 am - 2:00 am	11:00 am - 1:30 am
Wednesday:	11:00 am - 2:00 am	11:00 am - 1:30 am
Thursday:	11:00 am - 2:00 am	11:00 am - 1:30 am
Friday:	11:00 am - 3:00 am	11:00 am - 2:30 am
Saturday:	11:00 am - 3:00 am	11:00 am - 2:30 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-083930

License Class/Type: C Tavern

Applicant: Queen Vic, LLC

Trade Name: The Queen Vic

ANC: 6A01

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

1206 H ST NE, WASHINGTON, DC 20002

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 5 am	8 am - 2 am	-
Monday:	8 am - 5 am	8 am - 2 am	-
Tuesday:	8am - 5 am	8 am - 2 am	-
Wednesday:	8 am - 5 am	8 am - 2 am	-
Thursday:	8 am - 5 am	8 am - 2 am	-
Friday:	8 am - 5 am	8 am - 3 am	-
Saturday:	8 am - 5 am	8 am - 3 am	-

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	10 am - 3 am	10 am - 2 am
Monday:	10 am - 3 am	10 am - 2 am
Tuesday:	10 am - 3 am	10 am - 2 am
Wednesday:	10 am - 3 am	10 am - 2 am
Thursday:	10 am - 3 am	10 am - 2 am
Friday:	10 am - 4 am	10 am - 3 am
Saturday:	10 am - 4 am	10 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-093984

License Class/Type: C Tavern

Applicant: Eagle N Exile LLC

Trade Name: DC Eagle

ANC: 7F01

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

3701 Benning RD NE, #A, WASHINGTON, DC 20019

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	24 Hours -	11am - 2am	11am - 2am
Monday:	7am - 2am	11am - 2am	11am - 2am
Tuesday:	7am - 2am	11am - 2am	11am - 2am
Wednesday:	7am - 2am	11am - 2am	11am - 2am
Thursday:	7am - 2am	11am - 2am	11am - 2am
Friday:	7am - 3am	11am - 3am	11am - 3am
Saturday:	24 Hours -	11am - 3am	11am - 3am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-025546

License Class/Type: C Tavern

Applicant: JHM, LLC

Trade Name: Chads Friendship Heights

ANC: 3E04

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

5247 WISCONSIN AVE NW, #000C1, Washington, DC 20015

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	-
Monday:	11:30 am - 2 am	11:30 am - 2 am	-
Tuesday:	11:30 am - 2 am	11:30 am - 2 am	-
Wednesday:	11:30 am - 2 am	11:30 am - 2 am	-
Thursday:	11:30 am - 2 am	11:30 am - 2 am	-
Friday:	11:30 am - 3 am	11:30 am - 3 am	-
Saturday:	11:30 am - 3 am	11:30 am - 3 am	-

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11:30 am - 12 am	11:30 am - 12 am
Monday:	11:30 am - 12 am	11:30 am - 12 am
Tuesday:	11:30 am - 12 am	11:30 am - 12 am
Wednesday:	11:30 am - 12 am	11:30 am - 12 am
Thursday:	11:30 am - 12 am	11:30 am - 12 am
Friday:	11:30 am - 12 am	11:30 am - 12 am
Saturday:	11:30 am - 12 am	11:30 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-095047

License Class/Type: C Tavern

Applicant: Fair and Balanced, LLC

Trade Name: Evolve Vegan Restaurant

ANC: 4B01

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

341 Cedar ST NW, WASHINGTON, DC 20012

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 12 am	10 am - 12 am	6 pm - 11 pm
Monday:	10 am - 12 am	10 am - 12 am	6 pm - 11 pm
Tuesday:	10 am - 12 am	10 am - 12 am	6 pm - 11 pm
Wednesday:	10 am - 12 am	10 am - 12 am	6 pm - 11 pm
Thursday:	10 am - 12 am	10 am - 12 am	6 pm - 11 pm
Friday:	10 am - 12 am	10 am - 12 am	6 pm - 11 pm
Saturday:	10 am - 12 am	10 am - 12 am	6 pm - 11 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-078226

License Class/Type: C Tavern

Applicant: Soul Haven, LLC

Trade Name: The Gibson

ANC: 1B12

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

2009 14TH ST NW, WASHINGTON, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Summer Garden

Table with 4 columns: Days, Hours of Operation, Hours of Sales/Service, Hours of Entertainment. Rows for Sunday through Saturday.

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Table with 2 columns: Hours of Summer Garden Operation, Hours of Sales Summer Garden. Rows for Sunday through Saturday.

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-093303

License Class/Type: C Tavern

Applicant: Penthouse Navy Yard, LLC

Trade Name: Penthouse Pool and Lounge

ANC: 6D07

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

1212 4TH ST SE, WASHINGTON, DC

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8am - 2am	8am - 2am	6pm - 2am
Monday:	8am - 2am	8am - 2am	6pm - 2am
Tuesday:	8am - 2am	8am - 2am	6pm - 2am
Wednesday:	8am - 2am	8am - 2am	6pm - 2am
Thursday:	8am - 2am	8am - 2am	6pm - 2am
Friday:	8am - 3am	8am - 3am	6pm - 3am
Saturday:	8am - 3am	8am - 3am	6pm - 3am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	8am - 11pm/12am	8am - 11pm/12am
Monday:	8am - 11pm/12am	8am - 11p,/12am
Tuesday:	8am - 11pm/12am	8am - 11pm/12am
Wednesday:	8am - 11pm/12am	8am - 11pm/12am
Thursday:	8am - 11pm/12am	8am - 11pm/12am
Friday:	8am - 1am/1am	8am - 1am/1am
Saturday:	8am - 1am/1am	8am - 1am/1am

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016**

Notice is hereby given that:

License Number: ABRA-093572

License Class/Type: C Tavern

Applicant: Kat, LLC

Trade Name: Cloud Restaurant & Lounge

ANC: 1B02

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

1919 9TH ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 6 am	11 am - 2 am	6 pm - 2 am
Monday:	11 am - 6 am	11 am - 2 am	6 pm - 2 am
Tuesday:	11 am - 6 am	11 am - 2 am	6 pm - 2 am
Wednesday:	11 am - 6 am	11 am - 2 am	6 pm - 2 am
Thursday:	11 am - 6 am	11 am - 2 am	6 pm - 2 am
Friday:	11 am - 6 am	11 am - 3 am	6 pm - 3 am
Saturday:	11 am - 6 am	11 am - 3 am	6 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-085617

License Class/Type: C Tavern

Applicant: AED, LLC

Trade Name: Rustik Tavern

ANC: 5E07

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

84 T ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 1 am	10 am - 1 am	6 pm - 10 pm
Monday:	10 am - 1 am	10 am - 1 am	6 pm - 10 pm
Tuesday:	10 am - 1 am	10 am - 1 am	6 pm - 10 pm
Wednesday:	10 am - 1 am	10 am - 1 am	6 pm - 10 pm
Thursday:	10 am - 1 am	10 am - 1 am	6 pm - 10 pm
Friday:	10 am - 2 am	10 am - 2 am	6 pm - 10 pm
Saturday:	10 am - 2 am	10 am - 2 am	6 pm - 10 pm

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	10 am - 11 pm	10 am - 11 pm
Monday:	10 am - 11 pm	10 am - 11 pm
Tuesday:	10 am - 11 pm	10 am - 11 pm
Wednesday:	10 am - 11 pm	10 am - 11 pm
Thursday:	10 am - 11 pm	10 am - 11 pm
Friday:	10 am - 12 am	10 am - 12 am
Saturday:	10 am - 12 am	10 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-075642

License Class/Type: C Tavern

Applicant: Harriets, Llc

Trade Name: Harriets

ANC: 2C01

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

432 11TH ST NW, Washington, DC 20004

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	6 am - 1 am	10 am - 1 am	-
Monday:	6 am - 1 am	10 am - 1 am	-
Tuesday:	6 am - 1 am	10 am - 1 am	-
Wednesday:	6 am - 1 am	10 am - 1 am	-
Thursday:	6 am - 1 am	10 am - 1 am	-
Friday:	6 am - 2 am	10 am - 2 am	-
Saturday:	6 am - 2 am	10 am - 2 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-088787

License Class/Type: C Tavern

Applicant: Family, LLC

Trade Name: MK Lounge & Restaurant

ANC: 1B02

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

1930 9TH ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Tuesday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Wednesday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Thursday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Friday:	10 am - 3 am	10 am - 3 am	6 pm - 3 am
Saturday:	10 am - 3 am	10 am - 3 am	6 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-086789

License Class/Type: C Tavern

Applicant: Capitol City Brewing Company LLC

Trade Name: Penthouse Pool & Lounge

ANC: 2B08

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

1612 U ST NW, WASHINGTON, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 12 am	10 am - 12 am	6pm - 12am
Monday:	8 am - 12 am	8 am - 12 am	6 pm - 12 am
Tuesday:	8 am - 12 am	8 am - 12 am	6 pm - 12 am
Wednesday:	8 am - 12 am	8 am - 12 am	6 pm - 12 am
Thursday:	8 am - 12 am	8 am - 12 am	6 pm - 12 am
Friday:	8 am - 1 am	8 am - 1 am	6 pm - 1 am
Saturday:	8 am - 1 am	8 am - 1 am	6 pm - 1 am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	10 am - 12 am	10 am - 12 am
Monday:	8 am - 12 am	8 am - 12 am
Tuesday:	8 am - 12 am	8 am - 12 am
Wednesday:	8 am - 12 am	8 am - 12 am
Thursday:	8 am - 12 am	8 am - 12 am
Friday:	8 am - 1 am	8 am - 1 am
Saturday:	8 am - 1 am	8 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-060411

License Class/Type: C Nightclub

Applicant: Carriage House LLC

Trade Name: Green Lantern/Tool Shed

ANC: 2F05

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

1335 GREEN CT NW, Washington, DC 20005

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-000927

License Class/Type: C Tavern

Applicant: Chowder House Inc

Trade Name: Mr. Smith's of Georgetown

ANC: 2E05

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

3205 K ST NW, WASHINGTON, DC 20007

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	-
Monday:	11:30 am - 2 am	11:30 am - 2 am	9 pm - 1:30 am
Tuesday:	11:30 am - 2 am	11:30 am - 2 am	9 pm - 1:30 am
Wednesday:	11:30 am - 2 am	11:30 am - 2 am	9 pm - 1:30 am
Thursday:	11:30 am - 2 am	11:30 am - 2 am	9 pm - 1:30 am
Friday:	11:30 am - 3 am	11:30 am - 3 am	8 pm - 2:30 am
Saturday:	10 am - 3 am	10 am - 3 am	8 pm - 2:30 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-100018

License Class/Type: C Tavern

Applicant: Madras Bar LLC

Trade Name: The Airedale

ANC: 1A04

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

3605 14TH ST NW, WASHINGTON, DC 20010

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Sidewalk Cafe Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 12am	8 am - 12 am	6 pm - 12 am
Monday:	10 am - 2 am	12 pm - 2 am	6 pm - 1 am
Tuesday:	12 pm - 2 am	12 pm - 2 am	6 pm - 1 am
Wednesday:	12 pm - 2 am	12 pm - 2 am	6 pm - 1 am
Thursday:	12 pm - 2 am	12 pm - 2 am	6 pm - 1 am
Friday:	12 pm - 2am	12 pm - 2am	6 pm - 1 am
Saturday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am

Hours of Sidewalk Cafe Operation

Hours of Summer Garden Operation

Sunday:	7 am - 12 am	7 am - 2 am
Monday:	10 am - 1 am	12 pm - 1 am
Tuesday:	2 pm - 1 am	12 pm - 1 am
Wednesday:	2 pm - 1 am	12 pm - 1 am
Thursday:	2 pm - 1am	12 pm - 1 am
Friday:	2 pm - 1 am	12 pm - 2 am
Saturday:	7 am - 1 am	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-079449

License Class/Type: C Tavern

Applicant: Gevani, Inc.

Trade Name: Zeba Bar & Grill

ANC: 1A02

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

3423 14TH ST NW, Washington, DC 20010

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Monday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Tuesday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Wednesday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Thursday:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
Friday:	9 am - 3 am	9 am - 3 am	6 pm - 3 am
Saturday:	9 am - 3 am	9 am - 3 am	6 pm - 3 am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	9 am - 2 am	10 am - 2 am
Monday:	9 am - 2 am	9 am - 2 am
Tuesday:	9 am - 2 am	9 am - 2 am
Wednesday:	9 am - 2 am	9 am - 2 am
Thursday:	9 am - 2 am	9 am - 2 am
Friday:	9 am - 3 am	9 am - 3 am
Saturday:	9 am - 3 am	9 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-081924

License Class/Type: C Tavern

Applicant: Fairgrounds, LLC

Trade Name: The Bullpen

ANC: 6D02

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

26 N ST SE, WASHINGTON, DC 20003

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 12:30 am	11 am - 12 am	11 am - 12:30 am
Monday:	8 am - 12:30 am	11 am - 12 am	11 am - 12:30 am
Tuesday:	8 am - 12:30 am	11 am - 12 am	11 am - 12:30 am
Wednesday:	8 am - 12:30 am	11 am - 12 am	11 am - 12:30 am
Thursday:	8 am - 12:30 am	11 am - 12 am	11 am - 12:30 am
Friday:	8 am - 12:30 am	11 am - 12 am	11 am - 12:30 am
Saturday:	8 am - 12:30 am	11 am - 12 am	11 am - 12:30 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-086233

License Class/Type: C Tavern

Applicant: SBI LLC

Trade Name: Touchdown

ANC: 1B12

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

1334 U ST NW, #B, WASHINGTON, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	6am - 2am	10am - 2am	6pm - 2am
Monday:	6am - 2am	8am - 2am	6pm - 2am
Tuesday:	6am - 2am	8am - 2am	6pm - 2am
Wednesday:	6am - 2am	8am - 2am	6pm - 2am
Thursday:	6am - 2am	8am - 2am	6pm - 2am
Friday:	6am - 3am	8am - 3am	6pm - 3am
Saturday:	6am - 3am	8am - 3am	6pm - 3am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-009870

License Class/Type: C Tavern

Applicant: Pershing Associates A DC Limited Partnership

Trade Name: The Occidental

ANC: 2C01

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

1475 PENNSYLVANIA AVE NW, Washington, DC 20005

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	11 am - 3 pm
Monday:	11 am - 2 am	11 am - 2 am	5:30 pm - 9:30 pm
Tuesday:	11 am - 2 am	11 am - 2 am	5:30 pm - 9:30 pm
Wednesday:	11 am - 2 am	11 am - 2 am	5:30 pm - 9:30 pm
Thursday:	11 am - 2 am	11 am - 2 am	5:30 pm - 9:30 pm
Friday:	11 am - 2 am	11 am - 2 am	5:30 pm - 9:30 pm
Saturday:	11 am - 2 am	11 am - 2 am	5:30 pm - 9:30 pm

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11 am - 2 am	11 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 2 am	11 am - 2 am
Saturday:	11 am - 2 am	11 am - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016**

Notice is hereby given that:

License Number: ABRA-082451

License Class/Type: C Tavern

Applicant: ESL Development LLC

Trade Name: The BBQ Joint

ANC: 1B12

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

2005 14TH ST NW, Washington, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Wednesday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Thursday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Friday:	7 am - 3 am	8 am - 3 am	6 pm - 3 am
Saturday:	7 am - 3 am	8 am - 3 am	6 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-083981

License Class/Type: C Tavern

Applicant: Chinatown Coffee Company LLC

Trade Name: Chinatown Coffee Company

ANC: 2C02

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

475 H ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Wednesday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Thursday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Friday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Saturday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-087296

License Class/Type: C Tavern

Applicant: H2, LLC

Trade Name: Satellite Room

ANC: 1B11

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

2047 9TH ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Dancing Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Monday:	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
Tuesday:	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
Wednesday:	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
Thursday:	5 pm - 2 am	5 pm - 2 am	6 pm - 2 am
Friday:	5 pm - 3 am	5 pm - 3 am	6 pm - 3 am
Saturday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	11 am - 2 am	11 am - 2 am
Monday:	5 pm - 2 am	5 pm - 2 am
Tuesday:	5 pm - 2 am	5 pm - 2 am
Wednesday:	5 pm - 2 am	5 pm - 2 am
Thursday:	5 pm - 2 am	5 pm - 2 am
Friday:	5 pm - 3 am	5 pm - 3 am
Saturday:	11 am - 3 am	11 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-093244

License Class/Type: C Tavern

Applicant: Glass House Coffee, LLC

Trade Name: Slipstream

ANC: 2F03

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

1333 14TH ST NW, WASHINGTON, DC 20005

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Sidewalk Cafe Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 1 am	8 am - 1 am	-
Monday:	7 am - 1 am	8 am - 1 am	-
Tuesday:	7 am - 1 am	8 am - 1 am	-
Wednesday:	7 am - 1 am	8 am - 1 am	-
Thursday:	7 am - 2 am	8 am - 2 am	-
Friday:	7 am - 2 am	8 am - 2 am	-
Saturday:	7 am - 2 am	8 am - 2 am	-

	Hours of Sidewalk Cafe Operation	Hours of Summer Garden Operation
Sunday:	7 am - 12 am	7 am - 11 pm
Monday:	7 am - 12 am	7 am - 11 pm
Tuesday:	7 am - 12 am	7 am - 11 pm
Wednesday:	7 am - 12 am	7 am - 11 pm
Thursday:	7 am - 1 am	7 am - 12 am
Friday:	7 am - 1 am	7 am - 12 am
Saturday:	7 am - 1 am	7 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-071156

License Class/Type: C Nightclub

Applicant: Bar 9, LLC

Trade Name: DC 9

ANC: 1B02

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

1940 9TH ST NW, Washington, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Summer Garden

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

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	11 am - 2 am	11 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 3 am	11 am - 3 am
Saturday:	11 am - 3 am	11 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-060298

License Class/Type: C Tavern

Applicant: Irish Channel, LLC

Trade Name: Irish Channel Restaurant

ANC: 2C03

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

500 H ST NW, #A, Washington, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	6 am - 2 am	8am - 2 am	6pm - 1:30am
Monday:	6 am - 2 am	8 am - 2 am	6pm - 1:30am
Tuesday:	6 am - 2 am	8am - 2 am	6pm - 1:30am
Wednesday:	6 am - 2 am	8am - 2 am	6pm - 1:30am
Thursday:	6 am - 2 am	8am - 2 am	6pm - 1:30am
Friday:	6 am - 3 am	8am - 3 am	6pm - 2:30am
Saturday:	6 am - 3 am	8am - 3 am	6pm - 2:30am

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	6 am - 1:30 am	8am - 1:30 am
Monday:	6 am - 1:30 am	6 am - 1:30 am
Tuesday:	6 am - 1:30 am	6 am - 1:30 am
Wednesday:	6 am - 1:30 am	6 am - 1:30 am
Thursday:	6 am - 1:30 am	6 am - 1:30 am
Friday:	6 am - 2:30 am.	6 am - 2:30 am.
Saturday:	6 am - 2:30 am.	6 pm - 2:30 am.

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-086037

License Class/Type: C Tavern

Applicant: Mimi & D, LLC

Trade Name: Vita Restaurant and Lounge/Penthouse Nine

ANC: 2F06

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

1318 9TH ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
Monday:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
Tuesday:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
Wednesday:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
Thursday:	5 pm - 2 am	5 pm - 2 am	5 pm - 2 am
Friday:	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am
Saturday:	5 pm - 3 am	5 pm - 3 am	5 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-013377

License Class/Type: C Tavern

Applicant: Pizzeria Uno of Union Station, Inc.

Trade Name: Uno Chicago Grill

ANC: 6C04

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

50 MASSACHUSETTS AVE NE, #F, Washington, DC 20002

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 1 am	11 am - 1 am	-
Monday:	11 am - 1 am	11 am - 1 am	-
Tuesday:	11 am - 1 am	11 am - 1 am	-
Wednesday:	11 am - 1 am	11 am - 1 am	-
Thursday:	11 am - 1 am	11 am - 1 am	-
Friday:	11 am - 2 am	11 am - 2 am	-
Saturday:	11 am - 2 am	11 am - 2 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-090397

License Class/Type: C Tavern

Applicant: Buffalo & Bergen LLC

Trade Name: Buffalo & Bergen

ANC: 5D01

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

1309 5TH ST NE, WASHINGTON, DC 20002

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	8am - 2 am	-
Monday:	7 am - 2 am	8 am - 2 am	-
Tuesday:	7 am - 2 am	8 am - 2 am	-
Wednesday:	7 am - 2 am	8 am - 2 am	-
Thursday:	7 am - 2 am	8 am - 2 am	-
Friday:	7 am - 3 am	8 am - 3 am	-
Saturday:	7 am - 3 am	8 am - 3 am	-

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	7 am - 2 am	8am - 2 am
Monday:	7 am - 2 am	8 am - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am
Wednesday:	7 am - 2 am	8 am - 2 am
Thursday:	7 am - 2 am	8 am - 2 am
Friday:	7 am - 3 am	8 am - 3 am
Saturday:	7 am - 3 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-099738

License Class/Type: C Tavern

Applicant: La Jambe, LLC

Trade Name: La Jambe

ANC: 6E01

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

1550 7TH ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	8 am - 2 am	-
Monday:	7 am - 2 am	8 am - 2 am	-
Tuesday:	7 am - 2 am	8 am - 2 am	-
Wednesday:	7 am - 2 am	8 am - 2 am	-
Thursday:	7 am - 2 am	8 am - 2 am	-
Friday:	7 am - 3 am	8 am - 3 am	-
Saturday:	7 am - 3 am	8 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-102918

License Class/Type: C Tavern

Applicant: Baby B & B, LLC

Trade Name: Neal Place Tap & Garden

ANC: 5D01

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

1300 4 ST NE, WASHINGTON, DC

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Summer Garden

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

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	8 am - 2 am	8 am - 2 am
Monday:	10 am - 2 am	10 am - 2 am
Tuesday:	10 am - 2 am	10 am - 2 am
Wednesday:	10 am - 2 am	10 am - 2 am
Thursday:	10 am - 2 am	10 am - 2 am
Friday:	10 am - 2 am	10 am - 2 am
Saturday:	8 am - 2 am	8 am - 2 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-001449

License Class/Type: C Nightclub

Applicant: RAH of Washington, D.C

Trade Name: Camelot

ANC: 2B06

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

1823 M ST NW, WASHINGTON, DC 20036

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	1 pm - 4 am	1 pm - 2:00 am	-
Monday:	11:30 am - 4 am	11:30 am - 2:00 am	-
Tuesday:	11:30 am - 4 am	11:30 am - 2:00 am	-
Wednesday:	11:30 am - 4 am	11:30 am - 2:00 am	-
Thursday:	11:30 am - 4 am	11:30 am - 2:00 am	-
Friday:	11:30 am - 4 am	11:30 am - 3:00am	-
Saturday:	11:30 am - 4 am	11:30 am - 3:00 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-000939

License Class/Type: C Tavern

Applicant: Jim Dolan's, Inc.

Trade Name: Kellys Irish Times

ANC: 6C02

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

14 F ST NW, Washington, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Thursday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Friday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am
Saturday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11 am - 2 am	11 am - 2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am
Saturday:	8 am - 3 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-103120

License Class/Type: C Tavern

Applicant: 801 Restaurant LLC

Trade Name: 801 Restaurant & Bar

ANC: 1B02

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

801 FLORIDA AVE NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Monday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Thursday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Friday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am
Saturday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	8 am - 2 am	8 am - 2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am
Saturday:	8 am - 3 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-060187

License Class/Type: C Nightclub

Applicant: Haydee Corporation

Trade Name: Haydee's 2000

ANC: 4B03

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

6303 GEORGIA AVE NW, Washington, DC 20011

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-084711

License Class/Type: C Nightclub

Applicant: Jam Ventures, LLC

Trade Name: Opera Ultra Lounge

ANC: 2C01

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

1400 I ST NW, WASHINGTON, DC 20005

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	12 pm - 3 am	12 pm - 2 am	-
Monday:	12 pm - 3 am	12 pm - 2 am	-
Tuesday:	12 pm - 3 am	12 pm - 2 am	-
Wednesday:	12 pm - 3 am	12 pm - 2 am	-
Thursday:	12 pm - 3 am	12 pm - 2 am	-
Friday:	12 pm - 4 am	12 pm - 3 am	-
Saturday:	12 pm - 4 am	12 pm - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-094011

License Class/Type: C Tavern

Applicant: Lepri, LLC

Trade Name: Steel Plate

ANC: 5B02

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

3523 12TH ST NE, WASHINGTON, DC 20017

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	8 am - 2 am	11 am - 2 am
Monday:	8 am - 2 am	8 am - 2 am	11 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am	11 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am	11 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am	11 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am	11 am - 2 am
Saturday:	8 am - 3 am	8 am - 3 am	11 am - 2 am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	8 am - 2 am	8 am - 2 am
Monday:	8 am - 2 am	8 am - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am
Thursday:	8 am - 2 am	8 am - 2 am
Friday:	8 am - 3 am	8 am - 3 am
Saturday:	8 am - 3 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016**

Notice is hereby given that:

License Number: ABRA-086735

License Class/Type: C Tavern

Applicant: Fairgrounds, LLC

Trade Name: The Bullpen

ANC: 6D02

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

25 M ST SE, WASHINGTON, DC 20003

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 12:30 am	11 am - 12 am	11 am - 12 am
Monday:	8 am - 12:30 am	11 am - 12 am	11 am - 12 am
Tuesday:	8 am - 12:30 am	11 am - 12 am	11 am - 12 am
Wednesday:	8 am - 12:30 am	11 am - 12 am	11 am - 12 am
Thursday:	8 am - 12:30 am	11 am - 12 am	11 am - 12 am
Friday:	8 am - 12:30 am	11 am - 12 am	11 am - 12 am
Saturday:	8 am - 12:30 am	11 am - 12 am	11 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-021211

License Class/Type: C Tavern

Applicant: Yfe Inc.

Trade Name: 18th Street Lounge

ANC: 2B06

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

1212 18TH ST NW, Washington, DC 20036

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	6 pm - 1:45 am
Monday:	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
Tuesday:	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
Wednesday:	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
Thursday:	5 pm - 2 am	5 pm - 2 am	6 pm - 1:45 am
Friday:	5 pm - 3 am	5 pm - 3 am	6 pm - 2:45 am
Saturday:	11 am - 3 am	11 am - 3 am	6 pm - 2:45 am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	5 pm - 2 am	5 pm - 2 am
Monday:	5 pm - 2 am	5 pm - 2 am
Tuesday:	5 pm - 2 am	5 pm - 2 am
Wednesday:	5 pm - 2 am	5 pm - 2 am
Thursday:	5 pm - 2 am	5 pm - 2 am
Friday:	5 pm - 3 am	5 pm - 3 am
Saturday:	5 pm - 3 am	5 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-089982

License Class/Type: C Tavern

Applicant: Rappahannock Oyster Bar, LLC

Trade Name: Rappahannock Oyster Bar

ANC: 5D01

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

1309 5TH ST NE, WASHINGTON, DC 20002

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	8 am - 2 am	-
Monday:	7 am - 2 am	8 am - 2 am	-
Tuesday:	7 am - 2 am	8 am - 2 am	-
Wednesday:	7 am - 2 am	8 am - 2 am	-
Thursday:	7 am - 2 am	8 am - 2 am	-
Friday:	7 am - 3 am	8 am - 3 am	-
Saturday:	7 am - 3 am	8 am - 3 am	-

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	7 am - 2 am	8 am - 2 am
Monday:	7 am - 2 am	8 am - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am
Wednesday:	7 am - 2 am	8 am - 2 am
Thursday:	7 am - 2 am	8 am - 2 am
Friday:	7 am - 3 am	8 am - 3 am
Saturday:	7 am - 3 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-020234

License Class/Type: C Tavern

Applicant: Planet F, Inc.

Trade Name: Lucky Bar

ANC: 2B05

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

1221 CONNECTICUT AVE NW, Washington, DC 20036

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	8 am - 2 am	9 pm - 2 am
Monday:	7 am - 2 am	8 am - 2 am	9 pm - 2 am
Tuesday:	7 am - 2 am	8 am - 2 am	n/a -
Wednesday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Thursday:	7 am - 2 am	8 am - 2 am	6 pm - 2 am
Friday:	7 am - 3 am	8 am - 3 am	6 pm - 3 am
Saturday:	7 am - 3 am	8 am - 3 am	9 pm - 3 am

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11 am - 2 am	11 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 3 am	11 am - 3 am
Saturday:	10 am - 3 am	10 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-093203

License Class/Type: D Tavern

Applicant: The District Fishwife

Trade Name: The District Fishwife

ANC: 5D01

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

1309 5TH ST NE, WASHINGTON, DC 20002

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Summer Garden

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

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	8 am - 12 am	8 am - 12 am
Monday:	8 am - 12 am	8 am - 12 am
Tuesday:	8 am - 12 am	8 am - 12 am
Wednesday:	8 am - 12 am	8 am - 12 am
Thursday:	8 am - 12 am	8 am - 12 am
Friday:	8 am - 12 am	8 am - 12 am
Saturday:	8 am - 12 am	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-090196

License Class/Type: C Tavern

Applicant: Civil Lounge, LLC

Trade Name: Civil

ANC: 3E04

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

5335 WISCONSIN AVE NW, WASHINGTON, DC 20015

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10:30 am - 2 am	10:30 am - 2 am	-
Monday:	10:30 am - 2 am	10:30 am - 2 am	-
Tuesday:	10:30 am - 2 am	10:30 am - 2 am	-
Wednesday:	10:30 am - 2 am	10:30 am - 2 am	-
Thursday:	10:30 am - 2 am	10:30 am - 2 am	-
Friday:	10:30 am - 3 am	10:30 am - 3 am	-
Saturday:	10:30 am - 3 am	10:30 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-021562

License Class/Type: C Tavern

Applicant: J.W.B. Inc

Trade Name: Harry's

ANC: 2C01

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

436 11TH ST NW, Washington, DC 20004

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Sidewalk Cafe

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

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11 am - 2 am	11 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 2 am	11 am - 2 am
Saturday:	11 am - 3 am	11 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-097501

License Class/Type: C Tavern

Applicant: Small Fry, Inc.

Trade Name: Union Drinkery

ANC: 1A09

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

3216 GEORGIA AVE NW, WASHINGTON, DC 20010

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	-
Monday:	9 am - 2 am	9 am - 2 am	-
Tuesday:	9 am - 2 am	9 am - 2 am	-
Wednesday:	9 am - 2 am	9 am - 2 am	-
Thursday:	9 am - 2 am	9 am - 2 am	-
Friday:	9 am - 3 am	9 am - 3 am	-
Saturday:	9 am - 3 am	9 am - 3 am	-

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	10 am - 2 am	10 am - 2 am
Monday:	9 am - 2 am	10 am - 2 am
Tuesday:	9 am - 2 am	10 am - 2 am
Wednesday:	9 am - 2 am	10 am - 2 am
Thursday:	9 am - 2 am	10 am - 2 am
Friday:	9 am - 3 am	10 am - 3 am
Saturday:	9 am - 3 am	10 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-014759

License Class/Type: C Tavern

Applicant: 2718 Corporation

Trade Name: Chuck & Bill Bison Lounge

ANC: 1B09

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

2718 GEORGIA AVE NW, Washington, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	12 pm - 2 am	12 pm - 2 am	8 pm - 2 am
Monday:	12 pm - 2 am	12 pm - 2 am	8 pm - 2 am
Tuesday:	12 pm - 2 am	12 pm - 2 am	8 pm - 2 am
Wednesday:	12 pm - 2 am	12 pm - 2 am	8 pm - 2 am
Thursday:	12 pm - 2 am	12 pm - 2 am	8 pm - 2 am
Friday:	12 pm - 3 am	12 pm - 3 am	8 pm - 3 am
Saturday:	12 pm - 3 am	12 pm - 3 am	8 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-090214

License Class/Type: C Tavern

Applicant: HHLP DC Convention Center

Trade Name: Hampton Inn - DC Convention Center

ANC: 6E05

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

901 6th ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	6 am - 2 am	8 am - 2 am	-
Monday:	6 am - 2 am	8 am - 2 am	-
Tuesday:	6 am - 2 am	8 am - 2 am	-
Wednesday:	6 am - 2 am	8 am - 2 am	-
Thursday:	6 am - 2 am	8 am - 2 am	-
Friday:	6 am - 3 am	8 am - 3 am	-
Saturday:	6 am - 3 am	8 am - 3 am	-

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	7 am - 12 am	8 am - 12 am
Monday:	7 am - 12 am	8 am - 12 am
Tuesday:	7 am - 12 am	8 am - 12 am
Wednesday:	7 am - 12 am	8 am - 12 am
Thursday:	7 am - 12 am	8 am - 12 am
Friday:	7 am - 12 am	8 am - 12 am
Saturday:	7 am - 12 am	8 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-092663

License Class/Type: C Tavern

Applicant: Bacio, LLC

Trade Name: Bacio Pizzeria

ANC: 5E07

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

81 SEATON PL NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7 am - 2 am	8 am - 2 am	-
Monday:	7 am - 2 am	8 am - 2 am	-
Tuesday:	7 am - 2 am	8 am - 2 am	-
Wednesday:	7 am - 2 am	8 am - 2 am	-
Thursday:	7 am - 2 am	8 am - 2 am	-
Friday:	7 am - 3 am	8 am - 3 am	-
Saturday:	7 am - 3 am	8 am - 3 am	-

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11 am - 12 am	11 am - 12 am
Monday:	11 am - 12 am	11 am - 12 am
Tuesday:	11 am - 12 am	11 am - 12 am
Wednesday:	11 am - 12 am	11 am - 12 am
Thursday:	11 am - 12 am	11 am - 12 am
Friday:	11 am - 12 am	11 am - 12 am
Saturday:	11 am - 12 am	11 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-092990

License Class/Type: C Tavern

Applicant: Darien DC LLC

Trade Name: Bidwell (Portable Bar)

ANC: 5D01

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

1309 5TH ST NE, WASHINGTON, DC 2002

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	7am - 2am	8am - 2am	8am - 2am
Monday:	7am - 2am	8am - 2am	8am - 2am
Tuesday:	7am - 2am	8am - 2am	8am - 2am
Wednesday:	7am - 2am	8am - 2am	8am - 2am
Thursday:	7am - 2am	8am - 2am	8am - 2am
Friday:	7am - 3am	8am - 3am	8am - 3am
Saturday:	7am - 3am	8am - 3am	8am - 3am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	7am - 2am	8am - 2am
Monday:	7am - 2am	8am - 2am
Tuesday:	7am - 2am	8am - 2am
Wednesday:	7am - 2am	8am - 2am
Thursday:	7am - 2am	8am - 2am
Friday:	7am - 3am	8am - 3am
Saturday:	7am - 3am	8am - 3am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-024057

License Class/Type: C Tavern

Applicant: Walnut Brewery, Inc.

Trade Name: District Chophouse & Brewery

ANC: 2C01

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

509 7TH ST NW, Washington, DC 20004

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Brewpub Sidewalk Cafe

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

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11 am - 1 am	11 am - 1 am
Monday:	11 am - 1 am	11 am - 1 am
Tuesday:	11 am - 1 am	11 am - 1 am
Wednesday:	11 am - 1 am	11 am - 1 am
Thursday:	11 am - 1 am	11 am - 1 am
Friday:	11 am - 1 am	11 am - 1 am
Saturday:	11 am - 1 am	11 am - 1 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-098174

License Class/Type: C Tavern

Applicant: PHCDC1, LLC

Trade Name: Quarter & Glory

ANC: 1B12

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

2017 14TH ST NW, Washington, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Monday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Thursday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Friday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am
Saturday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-090823

License Class/Type: C Tavern

Applicant: Brilliant LLC

Trade Name: Flash

ANC: 1B01

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

645 FLORIDA AVE NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Sidewalk Cafe Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	24HOURS - 24HOURS	10 am - 2 am	24HOURS - 24HOURS
Monday:	24HOURS - 2HOURS	8 am - 2 am	24HOURS - 24HOURS
Tuesday:	24HOURS - 24HOURS	8 am - 2 am	24HOURS - 24HOURS
Wednesday:	24HOURS - 24HOURS	8 am - 2 am	24HOURS - 24HOURS
Thursday:	24HOURS - 24HOURS	8 am - 2 am	24HOURS - 24HOURS
Friday:	24HOURS - 24HOURS	8 am - 3 am	24HOURS - 24HOURS
Saturday:	24HOURS - 24HOURS	8 am - 3 am	24HOURS - 24HOURS

	Hours of Sidewalk Cafe Operation	Hours of Summer Garden Operation
Sunday:	12pm - 2 am	8 am - 2 am
Monday:	12 pm - 2 am	8 am - 2 am
Tuesday:	12 pm - 2 am	8 am - 2 am
Wednesday:	12 pm - 2 am	8 am - 2 am
Thursday:	12 pm - 2 am	8 am - 2 am
Friday:	12 pm - 3 am	8 am - 3 am
Saturday:	12 pm - 3 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-091682

License Class/Type: C Tavern

Applicant: SST Management LLC

Trade Name: BIN-1301

ANC: 1B12

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

1301 U ST NW, WASHINGTON, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 AM - 2 AM	10 AM - 2 AM	6 PM - 11PM
Monday:	10 AM - 2 AM	10 AM - 2 AM	6 PM - 11 PM
Tuesday:	10 AM - 2 AM	10 AM - 2 AM	6 PM - 11 PM
Wednesday:	10 AM - 2 AM	10 AM - 2 AM	6 PM - 11PM
Thursday:	10 AM - 2 AM	10 AM - 2 AM	6 PM - 11 PM
Friday:	10 AM - 3 AM	10 AM - 3 AM	6 PM - 11 PM
Saturday:	10 AM - 3 AM	10 AM - 3 AM	6 PM - 11 PM

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	10 AM - 11pm	10 AM - 11pm
Monday:	10 AM - 11pm	10 AM - 11pm
Tuesday:	10 AM - 11pm	10 AM - 11pm
Wednesday:	10 AM - 11 PM	10 AM - 11 PM
Thursday:	10 AM - 11pm	10 AM - 11pm
Friday:	10 AM - 12 AM	10 AM - 12 AM
Saturday:	10 AM - 12 AM	10 AM - 12 AM

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-091244

License Class/Type: C Tavern

Applicant: District Pub Group L.L.L.

Trade Name: Fainting Goat

ANC: 1B12

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

1330 U ST NW, WASHINGTON, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Monday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Tuesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Wednesday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Thursday:	8 am - 2 am	8 am - 2 am	6 pm - 2 am
Friday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am
Saturday:	8 am - 3 am	8 am - 3 am	6 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-016838

License Class/Type: C Tavern

Applicant: Capitol City Brewing Company, LLC

Trade Name: Capital City Brewing Company

ANC: 2C01

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

1100 NEW YORK AVE NW, #A, Washington, DC 20005

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-014419

License Class/Type: C Tavern

Applicant: The Fireplace Restaurant, Inc.

Trade Name: The Fireplace

ANC: 2B02

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

2161 P ST NW, Washington, DC 20008

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
Monday:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
Tuesday:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
Wednesday:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
Thursday:	1 pm - 2 am	1 pm - 2 am	6 pm - 2 am
Friday:	1 pm - 3 am	1 pm - 3 am	6 pm - 3 am
Saturday:	1 pm - 3 am	1 pm - 3 am	6 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-076039

License Class/Type: C Tavern

Applicant: Top Shelf, LLC

Trade Name: Penn Quarter Sports Tavern

ANC: 2C03

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

639 INDIANA AVE NW, Washington, DC 20004

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Entertainment Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	6:30 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
Monday:	6:30 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
Tuesday:	6:30 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
Wednesday:	6:30 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
Thursday:	6:30 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
Friday:	6:30 am - 3 am	11 am - 2:30 am	6 pm - 2 am
Saturday:	6:30 am - 3 am	11 am - 2:30 am	6 pm - 2 am

Hours of Sidewalk Cafe Operation

Hours of Sales Sidewalk Cafe

Sunday:	11 am - 11 pm	11 am - 11 pm
Monday:	11 am - 11 pm	11 am - 11 pm
Tuesday:	11 am - 11 pm	11 am - 11 pm
Wednesday:	11 am - 11 pm	11 am - 11 pm
Thursday:	11 am - 11 pm	11 am - 11 pm
Friday:	11 am - 12 am	11 am - 12 am
Saturday:	11 am - 12 am	11 am - 12 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-088106

License Class/Type: C Tavern

Applicant: The Board Room DC, LLC

Trade Name: Board Room

ANC: 2B01

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

1737 CONNECTICUT AVE NW, WASHINGTON, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-086035

License Class/Type: C Nightclub

Applicant: 1720 I LLC

Trade Name: Asia DC

ANC: 2B06

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

1720 I ST NW, WASHINGTON, DC 20006

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
Monday:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 3:30 am	11 am - 2 am	11 am - 2 am
Friday:	11 am - 4:30 am	11 am - 3 am	11 am - 3 am
Saturday:	11 am - 4:30 am	11 am - 3 am	11 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-087398

License Class/Type: C Tavern

Applicant: Drane Flannery Restaurant, LLC

Trade Name: The Big Board

ANC: 6C04

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

421 H ST NE, WASHINGTON, DC 20002

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	10 am - 2 am
Monday:	10 am - 2 am	10 am - 2 am	5 pm - 2 am
Tuesday:	10 am - 2 am	10 am - 2 am	5 pm - 2 am
Wednesday:	10 am - 2 am	10 am - 2 am	5 pm - 2 am
Thursday:	10 am - 2 am	10 am - 2 am	5 pm - 2 am
Friday:	10 am - 3 am	10 am - 3 am	5 pm - 2 am
Saturday:	10 am - 3 am	10 am - 3 am	5 pm - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-076166

License Class/Type: C Tavern

Applicant: 2007 14th Street Productions, LLC

Trade Name: Marvin

ANC: 1B12

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

2007 14TH ST NW, Washington, DC 20009

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
Monday:	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
Tuesday:	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
Wednesday:	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
Thursday:	11:30 am - 2 am	11:30 am - 2 am	6 pm - 2 am
Friday:	11:30 am - 3 am	11:30 am - 3 am	6 pm - 3 am
Saturday:	11:30 am - 3 am	11:30 am - 3 am	6 pm - 3 am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	11:30 am - 2 am	11:30 am - 2 am
Monday:	11:30 am - 2 am	11:30 am - 2 am
Tuesday:	11:30 am - 2 am	11:30 am - 2 am
Wednesday:	11:30 am - 2 am	11:30 am - 2 am
Thursday:	11:30 am - 2 am	11:30 am - 2 am
Friday:	11:30 am - 3 am	11:30 am - 3 am
Saturday:	11:30 am - 3 am	11:30 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
10/7/2016

Notice is hereby given that:

License Number: ABRA-082871

License Class/Type: C Tavern

Applicant: Brixton Pub LLC

Trade Name: The Brixton

ANC: 1B02

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

901 U ST NW, WASHINGTON, DC 20001

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

11/21/2016

A HEARING WILL BE HELD ON:

12/5/2016

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
Monday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
Thursday:	11 am - 2am	11 am - 2 am	6 pm - 2 am
Friday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am
Saturday:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

Hours of Summer Garden Operation

Hours of Sales Summer Garden

Sunday:	10 am - 2 am	10 am - 2 am
Monday:	11 am - 2 am	11 am - 2 am
Tuesday:	11 am - 2 am	11 am - 2 am
Wednesday:	11 am - 2 am	11 am - 2 am
Thursday:	11 am - 2 am	11 am - 2 am
Friday:	11 am - 3 am	11 am - 3 am
Saturday:	11 am - 3 am	11 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 7, 2016
 Petition Date: November 21, 2016
 Hearing Date: December 5, 2016
 Protest Hearing Date: February 1, 2017

License No.: ABRA-104030
 Licensee: ERLDC, LLC
 Trade Name: Escape Room Live
 License Class: Retailer’s Class “D” Multipurpose
 Address: 3345 M Street, N.W.
 Contact: Stephen O’Brien: (202) 625-7700

WARD 2

ANC 2E

SMD 2E05

Notice is hereby given that this applicant has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for February 1, 2017 at 1:30 pm.

NATURE OF OPERATION

Escape Room Live offers a real-life puzzle game experience in which players are placed in one of several themed rooms and have to use elements of the room to solve a series of puzzles and escape within the time limit. Reservations in advance are required to participate. Escape Room Live will serve beer and wine to patrons before and after their game; however, the bar area is open only to patrons with reservations and not the general public. Total Occupancy Load: 150. Total Number of Seats: 50.

HOURS OF OPERATION/ ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Saturday 8 am – 1 am

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

****CORRECTION**

Posting Date: September 30, 2016

Petition Date: November 14, 2016

Hearing Date: November 28, 2016

License No. ABRA-074712

Licensee: Dalunas, LLC

Trade Name: Marx Café American Bar

License Class: Retailer's Class "C" Tavern

Address: 3203 Mt Pleasant St. NW

WARD: 1

ANC: 1D

SMD: 1D04

The Alcoholic Beverage Regulation Administration (ABRA) provides notice that the Licensee has filed a Petition to Amend or Terminate the ****three existing settlement agreements currently attached to its license.**

****The current parties to the three settlement agreements sought to be amended or terminated by the licensee are:**

- (1) Bianca, Inc. t/a Marx Café (Applicant) and Advisory Neighborhood Commission 1E (Protestant), dated December 6, 1999;
- (2) Bianca, Inc. t/a Marx Café (Applicant) and Mount Pleasant Neighborhood Alliance (Protestant), dated January 5, 2000; and
- (3) Dalunas, LLC t/a Marx Café American Bar (Applicant) and Mount Pleasant Neighborhood Alliance (Protestant), dated August 13, 2008.

A copy of the Petition to Amend or Terminate may be obtained by contacting ABRA's Public Information Officer at 202-442-4423.

Objectors are entitled to be heard before the granting of such a request on the Hearing Date, at 2000 14th Street, N.W., 400 South, Washington, D.C., 20002.

Petitions or requests to appear before the Board must be filed on or before the Petition Date.

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

****RESCIND**

Posting Date: September 30, 2016
Petition Date: November 14, 2016
Hearing Date: November 28, 2016

License No. ABRA-074712
Licensee: Dalunas, LLC
Trade Name: Marx Café American Bar
License Class: Retailer's Class "C" Tavern
Address: 3203 Mt Pleasant St. NW

WARD: 1

ANC: 1D

SMD: 1D04

The Alcoholic Beverage Regulation Administration (ABRA) provides notice that the Licensee has filed a Petition to Amend or Terminate the Settlement Agreement(s) attached to its license.

The current parties to the agreement(s) are: Bianca, Inc. t/a Marx Café (Applicant) and Advisory Neighborhood Commission 1E (Protestant), dated, December 6, 1999 and Bianca, Inc. t/a Marx Café (Applicant) and Mount Pleasant Neighborhood Alliance (Protestant), dated, January 5, 2000 and Dalunas, LLC t/a Marx Café American Bar (Applicant) and Mount Pleasant Neighborhood Alliance (Protestant), dated, August 13, 2008.

A copy of the Petition may be obtained by contacting ABRA's Public Information Office at 202-442-4423.

Objectors are entitled to be heard before the granting of such a request on the Hearing Date, at 2000 14th Street, N.W., 400 South, Washington, D.C., 20002.

Petitions or requests to appear before the Board must be filed on or before the Petition Date.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: October 7, 2016
Petition Date: November 21, 2016
Hearing Date: December 5, 2016

License No.: ABRA-092012
Licensee: Ching, LLC
Trade Name: Uproar DC
License Class: Retailer's Class "C" Tavern
Address: 639 Florida Avenue, N.W.
Contact: Amy Veloz: (202) 686-7600

WARD 1

ANC 1B

SMD 1B01

Notice is hereby given that this applicant 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. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests an expansion of the Summer Garden area from 34 seats to include a total of 99 seats.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION ON PREMISE AND IN SUMMER GARDEN

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

CURRENT HOURS OF LIVE ENTERTAINMENT

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

DISTRICT OF COLUMBIA HOUSING AUTHORITY**NOTICE OF FINAL RULEMAKING**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), hereby gives notice of the adoption of the following amendment to Chapter 61 (Public Housing: Admission and Recertification) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendment is to expand the availability of vouchers to applicants residing in units declared unfit for habitation.

The emergency and proposed rulemaking was published in the *District of Columbia Register* on July 22, 2016, at 63 DCR 9717. This rulemaking was adopted as final at the Board of Commissioners regular meeting on September 14, 2016. The final rules will become effective upon publication of this notice in the *District of Columbia Register*.

Chapter 61, PUBLIC HOUSING: ADMISSION AND RECERTIFICATION, of Title 14 DCMR, HOUSING, is amended as follows:

Section 6125, PREFERENCES FOR PLACEMENT ELIGIBILITY HOUSING CHOICE VOUCHER APPLICANTS, Subsection 6125.4, is amended to read as follows:

6125.4 DCHA shall give placement priority to referrals to DCHA from the Executive Office of the Mayor or designated District of Columbia agency of households who currently reside in substandard housing and units declared unfit for habitation. The aggregate number of outstanding vouchers authorized for use is set by the Board of Commissioners from time to time.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING**AND****Z.C. ORDER NO. 16-08****Z.C. Case No. 16-08****Office of Planning - Text Amendment - 11 DCMR**

(Continuation of Conforming Status of Certain Multiple Dwellings in Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, and 2589)

September 12, 2016

The Zoning Commission for the District of Columbia, (Commission) pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 as amended, (52 Stat. 797; D.C. Official Code § 6-641.01 (2012 Rep1.)), hereby gives notice of the adoption of an amendment to Chapter 3 (Use Permissions Residential Flats (RF) Zones) of Title 11 (Zoning Regulations of 2016), Subtitle U (Use Permissions) of the District of Columbia Municipal Regulations (DCMR).

The amendment identifies the circumstances that a multiple dwelling in Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, or 2589 is deemed a matter-of-right use in the RF zone and the circumstances under which the building may be expanded.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on July 29, 2016, at 63 DCR 10052 for a thirty (30) day comment period. No comments were received in response to the notice. Referral was made to the National Capital Planning Commission (NCPC) on July 19, 2016. No NCPC Report was received.

The Commission took final action to adopt the amendments at a public meeting on September 12, 2016, making no changes to the proposed text. The amendment shall become effective upon the publication of this notice in the *D.C. Register*.

Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, of 11-U DCMR, USE PERMISSIONS, is amended as follows:

Section 301, MATTER-OF-RIGHT USES (RF), § 301.1, is amended to read as follows:

301.1 The following uses shall be permitted as a matter of right in an RF zone subject to any applicable conditions:

...

(j) Any uses permitted within a District of Columbia former public school building subject to the matter-of-right conditions of Subtitle U § 252;

(k) Medical care uses; and

¹ The use of this ellipsis indicates that other provisions exist in this subsection and that the omission of the provisions does not signify an intent to repeal.

- (1) A multiple dwelling in Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, or 2589, in existence as of December 14, 2015 with a valid certificate of occupancy, or a building permit application for a multiple dwelling that was officially accepted by DCRA as being complete prior to December 14, 2015, provided that the multiple dwelling shall not be expanded in gross floor area, lot occupancy, number of stories, building height, penthouse height, or number of units. Said multiple dwelling, however, may be repaired, renovated, remodeled, or structurally altered.

On July 18, 2016, upon the motion of Commissioner Miller as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the petition at its public hearing by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Michael G. Turnbull to approve; Peter G. May not present, not voting).

On September 12, 2016, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt; 3rd Mayoral Appointee position vacant, not voting).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become effective upon publication in the *D.C. Register*; that is on October 7, 2016.

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING**Triennial Recertification**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), of its intent to adopt the following proposed amendments to Chapters 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), 54 (Verification Procedures), 55 (Portability), 58 (Owner Eviction Guidelines and Grounds for Termination from the Housing Choice Voucher Program), 61 (Public Housing: Admission and Recertification), 62 (Rent Calculations), 98 (Public Housing: Achieving Your Best Life Rewards Property Program) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed amendments is to allow elderly and disabled families living on a fixed income to recertify every three years, rather than every two, and to standardize the terminology used to refer to these recertifications.

Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, of Title 14 DCMR, HOUSING, is amended as follows:**5300 INCOME CONSIDERATIONS AND DETERMINATION OF TOTAL TENANT PAYMENT**

5300.1 Once a participant is receiving assistance, the following regularly scheduled events shall occur:

- (a) Periodic recertification, in which income is calculated and total tenant payment is determined;
- (b) Interim recertification when necessary; and
- (c) Housing Quality Standard inspections.

5311 APPLYING UTILITY ALLOWANCES**5311.1 PROGRAM DESCRIPTION**

The purpose of the simplified calculation of utility allowances for Housing Choice Voucher participants is to enable program participants, landlords, and PHA to be able to easily calculate a participant utility allowance utilizing one utility schedule. The new utility allowance is based on the lower of the bedroom size or voucher size, source of heating, electricity, and whether the participant is responsible for paying water and sewer usage. The utility consumption rates for the District of Columbia shall be reviewed annually and if there is a change of ten

percent (10%) or more the simplified utility allowance schedule shall be adjusted accordingly.

5311.2 The utility allowance is calculated for each Family based upon DCHA's utility allowance schedule. The schedule is based on the average utility costs in the District of Columbia. The utility allowance schedule set by DCHA applies to all assisted program types.

5311.3 A DCHA established utility allowance schedule is used in determining Family Share and HAP. DCHA shall use the appropriate utility allowance as calculated by Section 5332.

5311.4 DCHA, under its MTW Authority, established its "Simplified Utility Allowance Schedule". The following provisions shall apply to calculating utility allowances:

- (a) DCHA shall use a simplified schedule to calculate utility allowances at the time of a Family's initial lease-up, periodic recertification, interim recertification, or when a family transfers to another unit pursuant to § 5333 -- Family Moves;
- (b) The utility allowance calculation for all participants shall be determined using one structure type selected by DCHA annually;
- (c) Generally, DCHA shall determine the structure type to by using the most commonly rented structure type based on the previous fiscal year;
- (d) At its discretion, DCHA may select a structure type larger or smaller than the most commonly rented structure type if it determines that selecting the most common structure type may cause a disproportionate number of hardships or disproportionate number of excessive allowances to Families;
- (e) Based on the structure type chosen, DCHA shall provide to all Families a flat allowance for tenant-paid gas and electric, an additional flat allowance if the unit is all electric, and an additional flat allowance if the participant is also responsible for water and sewer.

5311.5 DCHA shall approve a utility allowance amount higher than shown on DCHA's schedule if a higher allowance is needed as a reasonable accommodation for a Family member with a disability, in accordance with DCHA's procedures regarding reasonable accommodation.

5311.6 In the event of an interim recertification, DCHA shall use the utility allowance schedule in effect at the time of the family's last periodic recertification. Revised utility allowances shall be applied to a Family's rent and subsidy calculations at the first periodic recertification that is effective after the allowance is adopted.

5312 PERIODIC RECERTIFICATION OF INCOME

5312.1 Families shall be requested to submit a recertification packet which includes some

of the following information on income, assets, allowances and deductions, and Family composition at least biennially, unless they qualify for triennial periodic recertification as described in § 5312.4.

5312.2 When families move to another dwelling unit, the Family may be required to complete an interim recertification.

5312.3 If the Family reports a change which results in an increase or decrease in the TTP, other than in response to a periodic recertification, it shall be considered an interim adjustment.

5312.4 A family may be permitted to recertify triennially, rather than biennially, if all members of the household are

- (a) Elderly and/or disabled; and
- (b) Earning fixed income only. Fixed income shall be defined as non-wage income of a fixed monthly or yearly amount.

5313 RECERTIFICATION NOTICE TO THE FAMILY

5313.1 In accordance with § 8410.1, DCHA shall maintain a recertification tracking system that shall ensure that at least one hundred fifty (150) days in advance of the scheduled periodic recertification effective date, the Head of Household shall be notified by mail that she or he is required to complete a recertification packet by a specified date. The notice shall tell the participant which documents to submit.

5313.2 The Head of Household may be required to physically come into DCHA's office on the date and time requested in order to complete the recertification process.

5313.3 DCHA may permit mail-in recertification or in-home recertification as a reasonable accommodation to persons unable to come into DCHA's office.

5314 DCHA INITIATED INTERIM RECERTIFICATIONS

5314.1 DCHA may require families who report zero income to complete a zero (0) income interview and certification not more frequently than every one hundred twenty (120) days.

5314.2 Families may be required to complete an interim recertification of income at the time of a move from one assisted unit to another at any time other than the periodic recertification date.

5314.3 DCHA may conduct an interim recertification at any time in order to correct an error in a previous recertification or to investigate possible participant fraud.

5315 CHANGES IN INCOME

5315.1 Families shall not be required to report any increase in household income between

periodic or interim recertifications. Any increase in income shall only be included in the determination of annual household income at the next periodic recertification.

5315.2 If the Family has household income and adds an adult Family member with a source of income, DCHA shall only include the new adult member income, as applicable, in the determination of annual household income at the next periodic recertification.

5315.3 If a zero income family adds an adult member with a source of income, DCHA shall the new income in the determination of annual household income effective the first of the month following the DCHA approval of the new adult member.

5315.4 Any decreases in income shall be processed in accordance with § 5310.

5315.5 Pursuant to 24 C.F.R. § 5.615, if a Family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, that decrease in income shall not cause a change in the Family's share of the rent.

5321 HOUSING QUALITY STANDARDS AND INSPECTIONS

5321.1 DCHA is required to inspect each unit receiving assistance under the Housing Choice Voucher Program (HCVP) to ensure that it is “decent, safe, and sanitary” according to Housing Quality Standards.

5321.2 DCHA may adopted additional local requirements of acceptability, defined in § 5324 and the local District of Columbia Housing Code.

5321.3 A unit must meet Housing Quality Standards to be eligible for a Housing Assistance Payment, both at initial lease-up and so long as the participant Family resides in the unit.

5321.4 DCHA shall perform four types of inspections:

- (a) Initial;
- (b) Annual;
- (c) Complaint; and
- (d) Quality Assurance.

5333 FAMILY MOVES

5333.1 Except as noted in this subsection, families may move in accordance with Chapter 85 (Housing Choice Voucher Program: Participant Moves) of this title of the DCMR.

5333.2 Each Family shall give notice to move in accordance with Chapter 85 of this title

of the DCMR.

5333.3 DCHA shall not approve requests to move a Family more than once in a twelve (12) month period unless one of the exceptions apply:

- (a) A victim or Family seeks to move under the protections enumerated in the VAWA;
- (b) DCHA terminates the HAP contract with the owner; or
- (c) The move is necessary to grant a request for a reasonable accommodation.

5333.4 Families may only request a Voucher transfer briefing if the Family:

- (a) Has not been terminated or is not currently being recommended for termination;
- (b) Is in good standing with the lease in the current unit (no outstanding rent or tenant-responsible utility bills); and
- (c) Does not have any current tenant-caused HQS violations in their existing unit.

5333.5 Notwithstanding § 5334.4, Families who qualify for emergency transfer vouchers shall be issued a transfer voucher if one (1) or more of the following conditions apply:

- (a) The family has demonstrated a need based on the protections for victims of intrafamily violence as explained in § 4907;
- (b) DCHA has terminated the HAP contract with the Family's landlord;
- (c) The Owner has initiated eviction proceedings against the Family;
- (d) DCHA may grant an emergency transfer upon request from the OAG, DOJ, or USAO as a matter of safety; or for witness protection if the family is within the first year of their lease. Where feasible, DCHA shall seek the written authorization of the Landlord to release the family prior to making any decision about allowing the family to move to another unit, if the family is in the first year of their lease; or
- (e) If DCHA determines that the family voucher size is too large, and the family is not within the first year of tenancy.

5333.6 Families may choose to request only one (1) transfer voucher annually, no earlier than thirty (30) days before the month they last entered into a lease and no later than thirty (30) days after they last entered into a lease unless the Family qualifies for one (1) of the emergency conditions as stated in § 5333.6.

Chapter 54, VERIFICATION PROCEDURES, is amended as follows:

5402 METHODS OF VERIFICATION

- 5402.1 In order of priority, the forms of verification that DCHA shall use are:
- (a) Up-front Income Verification (UIV) whenever available;
 - (b) Third-party Written Verification;
 - (c) Third-party Written Verification Forms;
 - (d) Third Party Oral Verification; and
 - (e) Self-Certification.
- 5402.2 UIV shall be used to the extent that these systems are available to DCHA. UIV is an automatic form of third-party verification.
- 5402.3 Current UIV Resources at DCHA are:
- (a) HUD's Enterprise Income Verification (EIV) system;
 - (b) The Work Number;
 - (c) Department of Human Services;
 - (d) Department of Employment Services; and
 - (e) Child Support Enforcement.
- 5402.4 DCHA shall use HUD's EIV system as a third-party source to verify Family member employment and income information during periodic and interim recertification of Family composition and income, and shall not require the Family to provide information already available through the EIV system. The reports shall be retained in the participant file with the appropriate transaction.
- 5402.5 EIV reports shall constitute third party verification when the Family does not dispute the income sources and it is supplemented with participant provided documents. EIV may not be used to calculate anticipated wage income; it shall only be used as a verification of the employment income source.
- 5402.6 If the Family does not dispute the income source, DCHA shall use participant provided documents to anticipate annual income.
- 5402.7 DCHA shall attempt another form of third party verification in the following circumstances:
- (a) The Family disputes income source in EIV;
 - (b) Additional information is required as determined by DCHA; and
 - (c) In cases of absent Family members and approved requests for reasonable accommodations.

- 5402.8 When DCHA is unable to obtain verification through a UIV source, DCHA shall make at least two (2) attempts to obtain third-party verification before using another form of verification.
- 5402.9 DCHA shall seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.
- 5402.10 DCHA shall consider documentation provided by the Family to be written third party verification if the documentation is:
- (a) Original documentation generated by a third party source;
 - (b) Dated within sixty (60) days preceding the date of the periodic recertification or interim adjustment; and
 - (c) If pay stubs, they are consecutive and dated within thirty (30) days of submission.
- 5402.11 DCHA may mail, fax, e-mail, or hand deliver third-party written verification requests and shall accept third-party responses using any of these methods:
- (a) DCHA shall send a written request for verification to each required source and give the source ten (10) business days to respond in writing;
 - (b) If a response has not been received by the eleventh business day, DCHA may request third-party oral verification;
 - (c) A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source shall be documented in the file. When DCHA uses oral third party verification a "Document Viewed or Person Contacted" form shall be filled out by the staff person;
 - (d) When any source responds orally to the initial written request for verification DCHA shall accept the oral response but shall also request that the source complete and return any verification forms that were provided;
 - (e) If a third party agrees to confirm in writing the information provided orally, DCHA shall wait no more than five (5) business days for the information to be provided. If the information is not provided by the sixth business day, DCHA shall use any information provided orally in combination with the information provided by the Family; or
 - (f) DCHA shall determine that third-party verification is not available when there is a service charge for verifying an asset or expense and the Family has original documents that provide the necessary information. DCHA shall document in the Family file the reason that the third-party

verification was not available and shall place a photocopy of the original document(s) in the Family file.

- 5402.12 If DCHA determines that third-party verification is not available or not required, DCHA shall use information provided by the Family as verification.
- 5402.13 DCHA may also review documents when necessary to help clarify information provided by third parties. In such cases DCHA shall document in the file how DCHA arrived at a final conclusion about the income or expense to include in its calculations.
- 5402.14 DCHA shall accept a self-certification from a Family as verification of assets disposed of for less than fair market value.
- 5402.15 DCHA shall only review documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than ten thousand dollars (\$10,000) annually and the Family has original documents that support the declared amount.
- 5402.16 Any documents used for verification shall be the original (not photocopies), if available, and shall be dated within one hundred eighty (180) days of the interview date, except tax returns which can be dated within three hundred sixty five (365) days of the interview and may not be original.
- 5402.17 The documents shall not be damaged, altered or in any way illegible. Print-outs from web pages are considered original documents. A DCHA staff member who views the original document shall make a photocopy.
- 5402.18 DCHA may reject any income documentation for reasons allowed by the administrative plan or HUD.
- 5402.19 When information cannot be verified by a third party or by review of documents, Family members shall be required to submit self-certifications attesting to the accuracy of the information they have provided to DCHA.
- 5402.20 DCHA may require a Family to certify through a sworn statement that a Family member does not receive a particular type of income or benefit.
- 5402.21 The self-certification shall be made in a format acceptable to DCHA and shall be signed by the Family member whose information or status is being verified. All self-certifications shall be signed in the presence of a DCHA representative or shall be notarized.

5403 FAMILIES WHO REPORT NO INCOME

- 5403.1 During any periodic or interim recertification where a Family reports they earn no income, a worksheet shall be utilized to determine potential undisclosed sources of income. Families with no income shall be subject to periodic interim recertification as further explained in § 5604.

5407 ASSETS

- 5407.1 DCHA, under its MTW authority, established Initiative 3.7.08 entitled “Rent Simplification and Collection”, which simplified calculation of assets for purposes of determining income. The following provision shall apply to calculating assets as imputed income:
- (a) DCHA shall not require documentation of assets during the periodic recertification process; and
 - (b) DCHA shall not consider imputed income from assets in the calculation of total annual income.

Chapter 55, PORTABILITY, is amended as follows:**5504 BILLING**

- 5504.1 The Receiving PHA shall provide initial billing to DCHA:
- (a) No later than ten (10) business days following the date of execution of the HAP contract; and
 - (b) To receive the billing no later than sixty (60) days following the expiration date of the Family's voucher issued by the Initial PHA.
- 5504.2 DCHA shall accept billing by mail, fax, or email. If billing notice is not received by the deadline DCHA shall contact the Receiving PHA by mail, email, or fax to determine the status of the Family.
- 5504.3 If the Receiving PHA reports that the Family is not yet under HAP contract, DCHA shall inform the Receiving PHA in writing that they shall not accept any subsequent billing on behalf of the Family and shall not honor any subsequent billing, and the Receiving PHA shall be required to absorb the voucher.
- 5504.4 If the Receiving PHA reports that the Family is under HAP contract and it cannot absorb the Family DCHA shall accept the subsequent late billing.
- 5504.5 The Receiving PHA shall send a copy of the updated HUD Form-50058 at each periodic recertification for the duration of time the Receiving PHA is billing DCHA on behalf of the Family, regardless of whether there is a change in the billing amount.
- 5504.6 Should DCHA fail to receive an updated HUD Form-50058 by the periodic recertification date, it shall contact the Receiving PHA to verify the status of the Family. DCHA may not withhold payment solely because the Receiving PHA did not submit the updated HUD Form-50058 by the periodic recertification date.
- 5504.7 DCHA shall also receive a new HUD Form-52665 along with the HUD Form-50058 when the Initial PHA reports any changes in the billing amount, if applicable. The notice shall be received by DCHA no later than ten (10) working

days following the effective date of the change.

5504.8 If the Receiving PHA fails to send the HUD Form-52665 within ten (10) working days following the effective date of the change in the billing amount, DCHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification.

5504.9 Should there be a decrease in the monthly billing amount DCHA shall notify the Receiving PHA in writing of the overpayment and DCHA shall recover overpayment in the following month's payment. If DCHA is unable to recover payments in the following month, DCHA shall demand that the Receiving PHA reimburse within thirty (30) days of notification.

5510 BILLING DEADLINES AND ONGOING RESPONSIBILITIES

5510.1 DCHA shall submit initial billing notice as follows:

- (a) No later than ten (10) working days following the date the HAP contract was executed; and
- (b) In time that it shall be received no later than sixty (60) days following the expiration date of the Family's voucher issued by the Initial PHA.

5510.2 When billing, DCHA shall:

- (a) Send HUD Form-52665 and HUD Form-50058 via fax, mail or email, as acceptable by the initial PHA;
- (b) DCHA shall inform the Initial PHA of its MTW status and its periodic Recertification initiatives;
- (c) Send the Initial PHA a copy of the updated HUD Form-50058 at each periodic recertification for the duration of time DCHA is billing the Initial PHA on behalf of the Family, regardless of whether there is a change in the billing amount; and
- (d) Send a new HUD Form-52665 along with the HUD Form-50058 to report any changes in the billing amount, if applicable. The notice shall be sent to the Initial PHA no later than ten (10) working days following the effective date of the change.

5510.3 Should the periodic recertification be late and DCHA fail to submit the billing within ten (10) days of the effective date the initial PHA may not withhold payment solely because DCHA did not submit the updated from HUD Form-50058 by the periodic recertification date.

5510.4 If DCHA causes the delay, the Initial PHA is not required to pay any increase in payment after the billing deadline, and may begin paying the increased amount the following month.

- 5510.5 Should DCHA fail to properly notify the Initial PHA and the Initial PHA refuses to pay the increased cost, DCHA shall be required to absorb the increased cost for the period in which the billing was late.
- 5510.6 When a current Family in good standing requests to port outside of DCHA jurisdiction, DCHA shall:
- (a) Not issue a voucher to the Family; and
 - (b) Notify the Initial PHA of the Family's desire to port to another jurisdiction.
- 5510.7 The Initial PHA shall be responsible for issuing a voucher and sending the portability paperwork to the PHA where the Family wishes to port. DCHA shall assist the Initial PHA by providing them the most current HUD Form-50058 and supporting documentation.
- 5510.8 Billing arrangements shall be terminated once the HAP payments for the landlord terminate. DCHA shall notify the Initial PHA in advance of the effective date of the termination of billing.

Chapter 58, OWNER EVICTION GUIDELINES AND GROUNDS FOR TERMINATION FROM THE HOUSING CHOICE VOUCHER PROGRAM, is amended as follows:

5808 FAMILY OBLIGATIONS TO AVOID TERMINATION

- 5808.1 The Family shall:
- (a) Supply such certification, release, information or documentation as DCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible alien status, and submissions required for a periodic or interim recertification of Family income and composition;
 - (b) Allow DCHA to inspect the dwelling unit at reasonable times and after reasonable notice;
 - (c) Notify DCHA before vacating the dwelling unit;
 - (d) Use the dwelling unit solely for residence by the Family, and as the Family's principal place of residence; and
 - (e) Promptly give DCHA a copy of a Writ of Restitution received when an Owner seeks to remove the family from the unit within ten (10) days of the date of the notice.
- 5808.2 The Family shall not:
- (a) Own or have any interest in the unit except for participants in the Home Ownership Assistance Program (HOAP) as further explained in Chapter 92 of this title of the DCMR, other than in a cooperative;

- (b) Commit any fraud in connection with the HCVP;
- (c) Receive duplicative housing assistance under the HCVP while occupying, or receiving housing assistance for occupancy of, any other unit assisted under any Federal housing assistance program (including any Section 8 program); or
- (d) Sublease or assign the lease or transfer the unit.

5808.3 DCHA shall terminate assistance if:

- (a) A Family fails to submit required documentation within the required timeframe concerning any Family member's citizenship or immigration status as enumerated in Chapter 54 (Verification Procedures) of this title of the DCMR;
- (b) A Family submits evidence of citizenship and eligible immigration status in a timely manner, but USCIS primary and secondary verification does not verify eligible immigration status of the Family;
- (c) A Family member, as determined by DCHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit;
- (d) A Family is not receiving HAP assistance for more than twelve (12) months due to an increase in income; or

5808.5 For § 5908.4(c), such termination shall be for a period of at least twenty-four (24) months. This does not apply to ineligible noncitizens already in the household where the Family's assistance has been prorated.

5808.6 A Family shall not receive HCVP assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the Family, except as a reasonable accommodation that DCHA approves.

5808.7 DCHA shall determine if a Family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or a writ of possession. Such violations may include, but are not limited to:

- (a) Nonpayment of rent;
- (b) Disturbance of neighbors;
- (c) Destruction of property;
- (d) Living or housekeeping habits that cause damage to the unit or premises; and
- (e) Criminal activity.

5811 PARTICIPANTS RECEIVING NO HOUSING ASSISTANCE PAYMENT ASSISTANCE

- 5811.1 Participants receiving no HAP assistance because their rental share equals the full rent may remain on the Program for twelve (12) months from the effective date they no longer receive assistance.
- 5811.2 When the twelve (12) months has been reached, the Owner shall be notified of the termination of the HAP Contract, in accordance with the HAP Contract.
- 5811.3 However, if the Owner is granted a rent increase during this period and the rent increase would cause DCHA to resume HAP payments, or if at periodic or interim recertification the participant has properly reported loss of income resulting in a HAP payment, the payments shall resume.
- 5811.4 During the twelve (12) month period that a Family may remain in the Program unassisted, DCHA shall perform all of the duties and responsibilities normally required in the Program, including recertifications and inspections of the unit. If the Family remains unassisted for twelve (12) months, without reporting a change that would trigger an increase in the HAP, the HAP contract shall terminate after twelve (12) months.
- 5811.5 Upon reducing a Family's HAP to zero (0), DCHA shall give the Family a written notice containing the following information:
- (a) As a result of its income and Family composition, the Family is responsible for the full contract rent;
 - (b) The Family may remain in the program for twelve (12) months paying the full contract rent;
 - (c) If the Family's income or Family composition changes, the Family should report that information to DCHA;
 - (d) If the Family remains at zero (0) assistance for twelve (12) months without reporting a change in income or Family composition, the Family will be terminated from the HCVP;
 - (e) The Family may move to another unit during the twelve (12) month period and if the Family would be entitled to assistance at the new unit (because of a higher rent, for example), DCHA will pay assistance at the new unit; and
 - (f) The Family's right to challenge the determination in accordance with Chapter 89 (Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Program) of this title of the DCMR.
- 5811.6 If the tenant wants to move to another unit during this period whose rent is not greater, DCHA may execute a new HAP Contract for the new unit at zero dollars

(\$0) assistance.

Chapter 61, PUBLIC HOUSING: ADMISSION AND RECERTIFICATION, is amended as follows:

6118 RECERTIFICATION

6118.1 Lessee shall recertify, periodically as determined by § 6118.2, and shall be responsible for providing to DCHA a completed application for continued occupancy, including the appropriate verification forms. The forms are those provided by or otherwise authorized by DCHA. The Lessee's responsibility to provide a completed application for continued occupancy, including the appropriate verification forms shall include but is not limited to the following:

- (a) Lessees shall be required to return the recertification package including any required substantiating documentation or verification forms to DCHA within thirty (30) days of receipt of the recertification package;
- (b) Lessee shall obtain from other household members any information, documentation and signatures, as DCHA may require, when submitting a completed application for continued occupancy, including the appropriate verification forms as DCHA may require;
- (c) The Lessee shall provide DCHA, for each household member, to DCHA a listing of the exact amount of income or benefits, from whatever source and the exact source of the income or benefit;
- (d) The Lessee shall provide certification from all adult household members that their income has been accurately reported;
- (e) Lessee shall provide the full name, gender, Social Security Number and date of birth for each household member;
- (f) Lessee shall provide to DCHA proof of the Lessee's and/or any household member's enrollment in an educational facility and shall provide this information for any household member that Lessee is seeking to add;
- (g) Lessee's who wish to remove a household member from the household shall have the burden of proof that such person has permanently vacated the Leased Premises and must submit documents satisfactory to DCHA, in accordance with Subsection 6119.1, that the household member is residing elsewhere; and
- (h) If the Lessee has misrepresented or failed to submit timely to DCHA any facts used in the determination of rent, whether intentionally or by mistake, DCHA may charge and collect as rent the difference between the rent actually paid and the rent which would have been due had the proper information been submitted timely by the Lessee. This amount, the basis for the charge, and notice of the Lessee's grievance rights will be made

available to lessee in writing by DCHA. This amount shall be posted to the Lessee's account and rent statement. Lessee shall receive written notice of the new amount which shall be due as stated in the notice, but not less than thirty (30) days from the date of the notice. A failure to accurately report income, deductions, family composition, or any other information may result in legal action being taken by DCHA or law enforcement agencies.

6118.2 Lessee shall recertify biennially unless they qualify for triennial recertification, as described in § 6118.3.

6118.3 To qualify for triennial recertification, all members of the household must be:

- (a) Elderly and/or disabled; and
- (b) Earning fixed income only. Fixed income shall be defined as non-wage income of a fixed monthly or yearly amount.

Chapter 62, RENT CALCULATIONS, is amended as follows:

6200 RENT CALCULATIONS

6200.1 Notwithstanding provisions which may appear elsewhere in this subtitle, each tenant shall pay, as tenant rent, one of the following:

- (a) Income-based rent as the greater of one twelfth (1/12) of thirty percent (30%) of adjusted income or one twelfth (1/12) of ten percent (10%) of the annual income. The value of any assets or imputed income from assets shall not be used in the calculation of income based rent. Actual net income from assets greater than the threshold described above shall be included in the determination of adjusted income;
- (b) Market-based rent which shall not be lower than eighty percent (80%) of the applicable United States Department of Housing and Urban Development (HUD) Fair Market Rent (FMR) for applicable Metropolitan Statistical Area. If the Market-based rent is less than income-based rent, as determined by DCHA, the family shall pay the lower;
 - (1) Pursuant to HUDs PIH Notice 2014-12 implementing Sections 210 and 243 of Title II of Pub.L. 113-76, the Consolidation Appropriations Act of 2014, if the application of the flat rent rule increases a family's existing rent by more than 35%, then the market-based rent amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35% biennially.
- (c) If the family is determined by DCHA to have no adjusted income, the family shall pay minimum rent as provided in § 6210.

6200.2 Any changes in tenant rent shall be stated in a special supplement to the lease,

which shall, upon issuance, become a part of the dwelling lease. The special supplement to the lease shall constitute the tenants thirty (30) day written notice of an increase in tenant rent. The family shall be provided a copy of the special supplement to the lease.

- 6200.3 A copy of the market-based rent schedule for a property shall be available at each property management office, on the DCHA web site, or can be requested from the DCHA.
- 6200.4 At initial lease-up and with each periodic recertification or interim recertification, DCHA shall calculate the family's income-based rent. If the market-based rent, as listed in the current market-based rent schedule for the property, is less than the family's income-based rent, the family shall pay the lower amount.
- 6200.5 If a tenant is paying a market-based rent, the tenant shall:
- (a) Submit an interim recertification in accordance with § 6117 for any change in family circumstances. Change in family circumstances may include, but shall not be limited to, reductions in income, employment, or other assistance; or increases in expenses for medical costs, child care, transportation, or education pursuant to § 6119; and
 - (b) Provide DCHA with a completed application for continued occupancy, in accordance with § 6118.
- 6200.6 All changes in tenant rent, both income-based and market-based and whether after an interim or periodic recertification, shall be implemented in accordance with §§ 6118, 6119, and this chapter.
- 6200.7 In properties where utilities and other essential services are supplied to the tenant by DCHA, tenant rent payable to DCHA under the dwelling lease shall be the same as total tenant payment.
- 6200.8 Tenant rent shall be computed after both annual income and adjusted income have been verified.
- 6200.9 The tenant shall receive retroactive credit to credit an administrative error.
- 6200.10 Tenants occupying property for a portion of a month at the time of move-in shall be charged a pro-rata share of the full monthly rate determined by DCHA.
- 6200.11 Allowances and special deductions:
- (a) In properties where tenants are responsible for paying for their own utility bills, the utility allowance shall be subtracted from the total tenant payment to determine the tenant rent payable to DCHA. If the tenant rent resulting from the subtraction of the utility allowance from the total payment is negative, DCHA shall send a monthly check in the amount of the difference to the tenant;

- (b) At Redeveloped Properties or Service Rich Properties, as defined in 14 DCMR Section 6113, which an Association Fee is assessed, residents at such properties may be required to pay an amount calculated to equal the Association Fee attributable to the unit and shall be granted an allowance reflecting the Association Fee payment. The allowance shall be subtracted from the tenant rent to determine the tenant payment as follows:
- (1) Any utility allowance shall be deducted from the tenant rent first. The allowance for the Association Fee shall be deducted from any remaining positive amount. If the deduction of the utility allowance results in a negative rent there shall be no charge for an Association Fee and no deduction for the Association Fee allowance. If the deduction of the Association Fee allowance results in a negative amount, the required Association Fee payment from the tenant and its associated allowance shall be reduced so that the tenant rent is zero.
 - (2) If the tenant fails to pay the Association Fee on time, the fee shall be converted to rent, not to exceed 30% of adjusted income, when added to the monthly rent, for the month in which the fee was paid.
 - (3) If the Association Fee is paid after entry of judgment as part of the payment required to avoid eviction, the fee shall be recorded as the Association Fee, and the ledger shall be updated to reflect the tenant's payments.

6214 NEIGHBOR TO NEIGHBOR CARE PROGRAM

6214.1 Purpose of the Program. The District of Columbia Housing Authority (“DCHA”) Neighbor to Neighbor Care Program is a program designed to assist public housing residents participate in activities that are a benefit to themselves and the community. The Neighbor to Neighbor Care Program is designed to give families a greater ownership in their communities and to facilitate upward mobility. Participation for certain residents is required by HUD, participation for others is voluntary. The objective, whether participation is voluntary or required, is to facilitate residents achieving economic self-sufficiency and contributing to their neighbors and community.

6214.2 Voluntary or Required Participation

- (a) All adult members of a household leasing a rental unit in a public housing development exempt or non-exempt under § 6214.3, may participate in any Approved Service Program as identified in § 6214.4.
- (b) Each adult member of a household leasing a rental unit in a public housing development, unless exempt under Subsection 6214.5, shall, as a condition of their continued occupancy, contribute the equivalent of eight (8) hours per month, for a total of at least ninety-six (96) hours in any given year, in

an approved voluntary community service activity as specified in § 6214.4.

- (c) Political activities, including campaigning, voter registration, voting or getting out the vote, do not qualify for meeting the Participation Requirement specified in § 6214.2(2) above. Work that is compensated as employment does not qualify to meet the Participation Requirement.

6214.3 Exemptions

- (a) Certain adult household members are exempt from required participation in the Neighbor to Neighbor Care Program if they can document that they are:
 - (1) Sixty-two (62) years old or older;
 - (2) Blind or disabled as determined in accordance with Federal regulations implementing the Social Security Act;
 - (3) The primary caretaker of an individual identified in (b) above;
 - (4) Engaged in one, or a combination of, the work activities identified below for at least the same number of hours per week (or total over the course of a year) as specified in § 6214.2(2) above:
 - (A) Employment;
 - (B) On-the-job training;
 - (C) Job search and job readiness programs, including, but not limited to, registration with the Department of Employment Services and the DCHA Section 3 program;
 - (D) Job skills training directly related to employment;
 - (E) Vocational educational training;
 - (F) Education directly related to employment, for individuals who have received a high school diploma or a certificate of general equivalence;
 - (G) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence;
 - (H) Provision of child care services to an individual who is participating in a Neighbor-to-Neighbor activity or an activity that exempts an individual from required Neighbor-to-Neighbor activities;
 - (5) Exempt from having to engage in a work activity under a Qualified Assistance Program;

(6) A member of a family receiving assistance, under a Qualified Assistance Program, provided that the family has not been found by the administering agency to be in noncompliance with such program;

(b) DCHA shall review the exempt status of each adult family member as part of the recertification process.

6214.4 Approved Service Programs

(a) The Office of Resident Services shall maintain a list of approved Neighbor to Neighbor sponsors and activities which offer opportunities for service and economic and educational advancement for residents. The list shall be available to the DCHA City Wide Advisory Board and all DCHA Resident Councils as well as from each Property Manager.

(b) Additional programs and activities may be approved and added to the list from time to time, as follows:

(1) A resident may request the addition of a Service Program to the list by submitting documentation from the sponsor of the Program as to the Program's activities and an authorized representation that it does not engage in political activities and that the resident will not be employed by the Program.

(2) Any Resident Council or the City Wide Advisory Board may request the addition of a Program by submitting documentation about the Program as to the scope of its activities and that the Program is not engaged in political activities.

(c) Approved Service Programs may include programs and activities such as those listed below.

(1) Voluntary Community Service Activities, such as: Serving in leadership positions in the Resident Council, District of Columbia City-Wide Advisory Board, the DHCA Board of Commissioners or the Resident Advisory Committee, but no political activities or voter registration activities;

(2) Resident Council or City-Wide Advisory Board sponsored Service Programs;

(3) Participating in DCHA sponsored community service programs, including but not limited to Orange Hat patrols, building playgrounds and landscaping events;

(4) Tutoring or other support program at a local public or private school in the resident's community;

(5) Participation in church sponsored programs that support the

community and individuals in the community;

- (6) Civic and public interest organizations, such as the Boys and Girls Clubs of Greater Washington, United Way, AmeriCorps and Vista;
- (7) Volunteer and support programs at a local public or non-profit institution, such as the public, charter or private school, Head Start, before or after school programs, childcare center, hospital, clinic, hospice, nursing home, recreation center or senior center;
- (8) Educational Advancement Programs, such as:
 - (A) English proficiency or literacy classes;
 - (B) English as a second language classes;
 - (C) Financial Management;
 - (D) Credit Counseling;
 - (E) Household Management; or
 - (F) Others as approved by DCHA.

6214.5 Reporting

- (a) All adult family members required to participate in the Neighbor-to-Neighbor program shall provide to DCHA as part of the family's recertification package, a signed statement by each such adult describing the Neighbor-to-Neighbor activities pursued since the household's last recertification-and certifying the hours of service provided.
- (b) Each adult family member claiming exemption from required Neighbor-to-Neighbor program participation according to the provisions of § 6214.3, above shall provide to DCHA as part of the family's recertification package:
 - (1) A signed statement by each adult claiming an exemption certifying either:
 - (A) A statement of the basis of the exemption under §§ 6214.3(a) - (c), (e), or (f) hereinabove, or
 - (B) A description of the work activities pursued by each exempt adult member under § 6214.3(d) hereinabove.
- (c) DCHA may require a release from the family member authorizing DCHA to obtain verification of any or all information provided in the household's annual report of Neighbor-to-Neighbor activities and DCHA may, subsequent to submission, seek third party verification of any or all information supporting an exemption.

- (d) The provision of false certifications or information that cannot be verified by a third party shall be cause for a determination of non-compliance in accordance with § 6214.6 below.

6214.6

Compliance and noncompliance.

- (a) At least thirty (30) days prior to the household's periodic recertification date, DCHA shall determine that the head of household and all adult family members that are not otherwise exempt hereunder have met the Participation Requirement through taking part in one or more Approved Service Programs.
- (b) If DCHA determines that a family member who is required to fulfill the Participation Requirement failed to meet the requirement, DCHA shall provide written notice to the family member of DCHA's determination which shall describe such noncompliance.
- (c) DCHA shall provide an opportunity for the head of household and noncompliant family members to cure the non-compliance by:
 - (1) Entering into a written agreement whereby the head of household and/or noncompliant family member agree to a Personal Service Plan that provides for the hours required under § 6214.4(2) or § 6214.5(d) above, as well as the hours that were not provided in the preceding year, over the next twelve (12) month period;
 - (2) Agreeing to a date certain to vacate the leased premises.
- (d) If at the next recertification, any adult family member is still not in compliance, DCHA may serve a notice to quit or cure and, unless the head of household provides third party documentation in form satisfactory to DCHA that the noncompliant family member no longer resides with the family in the unit, then DCHA will seek judicial termination of the household's lease.
- (e) A head of household may request a grievance hearing on DCHA's determination of noncompliance in accordance with the provisions of Chapter 63 of this title.

6214.7

Definitions.

- (a) "Adult" means any individual eighteen (18) years of age or older residing in a unit owned by DCHA.
- (b) "Approved" means any approval' provided by DCHA to the head of household and/or a family member in writing.
- (c) "Approved Service Program" is a program approved by DCHA in accordance with § 6214.4 hereof.

- (d) “Exempt” means an individual for whom participation is not required but only voluntary as a result of one or more of the conditions described in § 6214.3.
- (e) “Family Member” means all authorized occupants under the lease agreement with DCHA, excluding Live-in-Aides.
- (f) “Head of Household” means the individual(s) who signed the lease agreement with DCHA.
- (g) “Participation Requirement” is the service requirement specified in Subsection 6214.2(2) and met through participation in an Approved Service Program.
- (h) “Qualified Assistance Program” is a District of Columbia program funded under Part A of Title IV of the Social Security Act, 42 U.S.C. §§ 601 *et seq.* or under any other District of Columbia welfare program, including a welfare to work program.

Chapter 98, PUBLIC HOUSING: ACHIEVING YOUR BEST LIFE REWARDS PROPERTY PROGRAM, is amended as follows:

9806 AYBL PROGRAM ELIGIBILITY DETERMINATION

- 9806.1 Only AYBL Applicant families who are determined eligible and successful in being selected in the appropriate lottery will be placed on an AYBL Site-based Transfer Waiting List(s) for which the family has chosen to be listed.
- 9806.2 AYBL Family will be selected without regard to race, color, religion, sex, handicap, familial status, or national origin.
- 9806.3 The DCHA shall consider an AYBL Applicant Family eligible for participation in the AYBL program if the AYBL Applicant Family meets the following criteria:
 - (a) Is a current resident in a DCHA subsidized conventional public housing unit, in a mixed finance unit subsidized by an Annual Contributions Contract, or is currently in the selection pool;
 - (b) Can demonstrate at least one (1) year of timely rental payment history with DCHA or in the private market;
 - (c) Bedroom size requirement meets the unit composition of the Reward Property and established DCHA Occupancy Standards of this chapter;
 - (d) Income eligible: minimum earned income of the potential borrower/co-borrower or renter of no less than thirty-two thousand dollars (\$32,000) from employment or in the case where the potential borrower/co-borrower or renter is elderly and/or disabled certain unearned income (for example, SSI, SSDI, pension payments, etc.) may be counted toward the thirty-two

thousand dollars (\$32,000) minimum. DCHA may from time to time change the minimum income eligibility requirement.

- (e) The family may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement in AYBL, except as follows:
 - (1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option;
 - (2) An individual who is now single, but had previously owned a home with his or her former spouse even within the three (3) year period;
 - (3) A household in which a family member is a person with a disability, if homeownership assistance is needed as a reasonable accommodation; and
 - (4) A family that owns or is acquiring shares in a cooperative.
- (f) Be a DCHA resident in Good Standing:
 - (1) Timely completion of periodic and interim recertifications;
 - (2) No instances of unreported income;
 - (3) No current debt owed (*i.e.*, rent, excess utility charges, maintenance charges, etc.) to DCHA, federally funded housing program, and any court or in-house repayment agreements must be paid off prior to application to the AYBL program;
 - (4) No more than four (4) late rental payments, in either public housing or the private market, within the twelve (12) months prior to approval of an AYBL application provided that the payment is received within the month that the rent is charged. For other charges (*i.e.*, excess utility charges, maintenance charges, etc.) payment must have been made within thirty (30) days of the date of the charge;
 - (5) Passed scheduled DCHA inspections that were conducted in the unit within the past twelve (12) months from the date of AYBL application submission;
 - (6) No legal actions for non-curable violations of the lease within the last five (5) years at the time of AYBL application submission;
 - (7) No repeated breaches of other terms of the Lease by the Lessee(s) or any household member identified in the Public Housing dwelling lease;

- (8) Pass a separate DCHA AYBL Home Visit inspection;
- (9) Pass a criminal background check that will be conducted on all household members who are eighteen (18) years of age or older pursuant to 14 DCMR § 6109.

9806.4 At the time a unit offer is made, the family must continue to be in compliance with the eligibility requirements of the program and the qualifying bedroom size based on their current family composition. If the family is determined not to require the bedroom size for which they were initially placed on the waiting list, the family will be placed at the bottom of the waiting list for the appropriate bedroom size if such a bedroom size exists at the property. If the family is determined to be ineligible, they will be removed from the waiting list.

- (a) While on an AYBL Site-based Transfer Waiting List, applicants will be responsible for reporting any changes to income and household composition to DCHA;
- (b) When an AYBL Family has been on an AYBL Site-based Transfer Waiting List for more than one (1) year prior to a unit coming available at a Rewards Property, DCHA will update the screening information to determine if the family is still eligible before assigning the family an available unit;
- (c) If the family is determined to be no longer eligible for the AYBL program, DCHA will notify the family in writing. The notification will include the reason for the ineligibility determination.

9806.5 The AYBL Family will be required to execute a Contract of Participation and the ITSP form within fourteen (14) calendar days of notification of availability of a Rewards Property unit.

9806.6 Once the Contract of Participation has been executed, the AYBL Family must execute the Dwelling Lease and move into the Rewards Property unit, within ten (10) calendar days of a Rewards Property unit becoming available. The AYBL Family is responsible for relocation costs.

9821 DEFAULT

9821.1 If an AYBL Family defaults under any of the terms of the Contract of Participation, the tenancy shall automatically convert to a conventional public housing tenancy. All sums due pursuant to the Contract of Participation shall be deemed rent and are payable to DCHA. The AYBL Family shall transfer to a conventional public housing unit pursuant this chapter. DCHA shall be entitled to initiate legal action in any appropriate forum for possession and/or rent.

9821.2 The rent will be re-calculated in accordance with the standards set forth in 14 DCMR Chapter 62. DCHA will initiate an interim recertification to determine the new rent amount based on the information currently available in DCHA records.

- 9821.3 Events of default include but are not limited to:
- (a) Any breach of the Contract of Participation or of the AYBL Lease Addendum;
 - (b) Failure to make any required payment under the AYBL Lease Addendum;
 - (c) Failure to maintain the balance in their maintenance escrow account due to tenant caused damages;
 - (d) Failure to timely pay escrow and/or rent;
 - (e) Failure to attend required training sessions or meetings;
 - (f) Failure to submit interim or periodic recertification;
 - (g) Failure to report increases in income in accordance with recertification regulations; and
 - (h) Failure to report changes in family composition.
- 9821.4 Upon default or voluntary termination of the Contract of Participation or non-payment of escrow accounts, all escrow accounts are deemed rent and subject to the jurisdiction of the D.C. Superior Court Landlord Tenant Branch.
- 9821.5 In the event the family is in default of their Contract of Participation, DCHA shall provide a written Notice of Non-Compliance. The AYBL family will have an opportunity to meet with DCHA staff, examine any documents, records and/or regulations that are the basis of the default and have the opportunity to cure or correct the default. The family must cure the default within six (6) months from the date of the Non-Compliance or by the end of the term of their Contract of Participation, whichever is shorter. The notice shall be mailed or hand delivered to the family at their unit in the AYBL Rewards Property.
- 9821.6 In the event the family is in default of their Contract of Participation, DCHA shall provide written notice of the default, an opportunity to meet with DCHA staff, and the opportunity to cure or correct the default. The family must cure the default within six (6) months from the date of the notice or by the end of the term of their Contract of Participation, whichever is shorter. The notice shall be mailed or hand delivered to the family at their unit in the AYBL Rewards Property.

Interested persons are encouraged to submit comments regarding this Proposed Rulemaking to DCHA's Office of General Counsel. Copies of this Proposed Rulemaking can be obtained at www.dcregs.gov, or by contacting Chelsea Johnson at the Office of the General Counsel, 1133 North Capitol Street, N.E., Suite 210, Washington, D.C. 20002-7599 or via telephone at (202) 535-2835. All communications on this subject matter must refer to the above referenced title and must include the phrase "Comment to Proposed Rulemaking" in the subject line. There are two methods of submitting Public Comments:

1. Submission of comments by mail: Comments may be submitted by mail to the Office of the General Counsel, Attn: Chelsea Johnson, 1133 North Capitol Street, N.E., Suite 210, Washington, D.C. 20002-7599.
2. Electronic Submission of comments: Comments may be submitted electronically by submitting comments to Chelsea Johnson at: PublicationComments@dchousing.org.
3. No facsimile will be accepted.

Comments Due Date: November 7, 2016

**DEPARTMENT OF HUMAN SERVICES
ECONOMIC SECURITY ADMINISTRATION**

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Human Services (DHS), pursuant to the authority set forth in Section 552 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.52 (2012 Repl. & 2016 Supp.)), Mayor's Reorganization Plan No. 3 of 1986, and the authority set forth in Mayor's Order 2006-50, dated April 13, 2006, hereby gives notice of its intent to amend Chapter 72 (Standards of Assistance and Payment Levels) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The proposed rules will establish new payment levels for recipients of the following benefits: Temporary Assistance for Needy Families (TANF) (D.C. Official Code § 4-205.52); General Assistance for Children (D.C. Official Code § 4-205.05a (2012 Repl.)); Interim Disability Assistance (IDA) (D.C. Official Code § 4-204.07 (2012 Repl. & 2016 Supp.)); and Program on Work, Employment and Responsibility (POWER) (D.C. Official Code § 4-205.78 (2012 Repl.)). The proposed rules will also amend 29 DCMR § 5814.5 to refer to the new payment levels enumerated in Chapter 72.

The purpose of the proposed rule is to modify the District of Columbia's (District) public assistance payment levels for District of Columbia residents who have been participating in the TANF program for sixty (60) or fewer months, General Assistance for Children, IDA, and POWER public benefit programs. The rules increase payment levels by fifteen point three percent (15.3%) in accordance with D.C. Official Code § 4-205.52(d-1)(1)(A) (2016 Supp.). In addition, the rules modify specific sections of 29 DCMR § 5814.5 to direct the application of the modified payment levels for public benefits, pursuant to Chapter 72.

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

Chapter 72, STANDARDS OF ASSISTANCE AND PAYMENT LEVELS, of Title 29 DCMR, PUBLIC WELFARE, is amended to read as follows:

7200 STANDARDS OF ASSISTANCE AND PAYMENT LEVELS

7200.1 For the purposes of payments under TANF (D.C. Official Code § 205.52), POWER (D.C. Official Code § 4-205.78), General Assistance for Children (D.C. Official Code § 4-205.05a) and Interim Disability Assistance (D.C. Official Code § 4-204.07), effective October 1, 2007, the District of Columbia's payments levels are adjusted as set forth in § 7200.2.

7200.2 Pursuant to D.C. Official Code § 4-205.52(d), the payment levels set forth in this subsection shall apply to public assistance payments made after October 1,

2016.

Family Size	Standards of Assistance	Payment Level
1	\$ 450	\$320
2	560	\$398
3	712	\$508
4	870	\$621
5	1,002	\$716
6	1,178	\$842
7	1,352	\$965
8	1,494	\$1,066
9	1,642	\$1,173
10	1,786	\$1,274
11	1,884	\$1,344
12	2,024	\$1,445
13	2,116	\$1,511
14	2,232	\$1,593
15	2,316	\$1,654
16	2,432	\$1,737
17	2,668	\$1,904
18	2,730	\$1,949
19	2,786	\$1,988

7200.3 Pursuant to Section 552 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.52), a TANF recipient who has received TANF benefits for more than sixty (60) months, whether or not consecutive months, shall be eligible to receive no more than the payment levels set forth in § 7200.4.

7200.4 Effective October 1, 2015, the payment levels set forth in this subsection shall apply to recipients who have received TANF benefits for more than sixty (60) months:

Family Size	Standards of Assistance	Payment Level
1	\$ 450	\$97
2	560	\$122
3	712	\$154
4	870	\$189
5	1,002	\$217
6	1,178	\$256
7	1,352	\$294
8	1,494	\$324
9	1,642	\$357
10	1,786	\$387
11	1,884	\$408

12	2,024	\$439
13	2,116	\$459
14	2,232	\$484
15	2,316	\$502
16	2,432	\$527
17	2,668	\$578
18	2,730	\$591
19	2,786	\$604

Section 5814, INCOME DISREGARDS, of Chapter 58, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES, is amended as follows:

Subsection 5814.5 is amended to read as follows:

5814.5 After application of these disregards in § 5814.4, the remaining income shall be compared to the Standard of Assistance for the applicable family unit size as specified in the District of Columbia Public Assistance Act of 1982, as amended. If the remaining income is less than the Standard of Assistance, the income shall be compared to the payment standard for the applicable family unit size as specified in the District of Columbia Public Assistance Act of 1982, as amended. The payment levels set forth in Chapter 72 of Title 29 DCMR shall apply to payments made as of October 1, 2016.

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

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF EMERGENCY RULEMAKING****Z.C. Case No. 04-33H****(Text Amendment - 11 DCMR)****(Addition of Affordable Housing Required by District Law to Exemptions from
Inclusionary Zoning)**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938, as amended (52 Stat. 797; D.C. Official Code § 6-641.01 (2012 Repl.)) and the authority set forth in § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2012 Repl.)), hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 10 (Inclusionary Zoning), Subtitle C (General Rules) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR). Subtitle C is among the Title 11 Subtitles that constitute the Zoning Regulations for the District of Columbia. *See* 11-A DCMR § 200.2.

The Inclusionary Zoning (IZ) Regulations are set forth in Chapter 10 of Subtitle C. Section 1001.6(a) exempts from the IZ Regulations any developments financed, subsidized, or funded in whole or in part by the federal or District Government and administered by the Department of Housing and Community Development, the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority and that meet the requirements set forth in 11-C DCMR § 1001.6(a)(1)-(2). The amendments add to that exemption developments that are subject to a mandatory affordable housing requirement that exceeds the requirements of 11-C DCMR Chapter 10 as a result of District law. The amendments also add language to encompass projects that are monitored, but not administered by the above-referenced District agencies. These same amendments appeared in a notice of proposed rulemaking published in the *D.C. Register* on July 8, 2016 at 63 DCR 9410, for which the comment period has ended. The Zoning Commission will hold a hearing on these amendments on October 6th.

This is not the first time the Commission has taken emergency action to adopt amendments exempting affordable housing required by District law from the IZ requirements. The Commission adopted an emergency amendment having the same effect on June 13, 2016. Those amendments would have ordinarily remained in place until October 11, 2016. However, on September 6, 2016, all the provisions of Title 11 DCMR, including the emergency amendments, were repealed and replaced with the current Title 11 text, which, as noted, did not include the expanded IZ exemption. Because the prior emergency amendments were repealed, and the justification for taking the initial emergency action continued to exist, the Commission took emergency action to adopt these amendments in order to continue the expanded exemption in place.

Emergency rulemaking action continues to be required because an ever-growing number of developments are, or will be, subject to the affordable housing requirement of the National Capital Revitalization Corps and Anacostia Water Corporation Reorganization Act of 2008 and the Disposition of District Land for Affordable Housing Amendment Act of 2014. Although such

requirements arise from the disposition of District owned land, none will be considered subsidized and therefore all will have to meet the requirements of both the applicable statute and IZ.

As demonstrated by two recent cases before the Commission, the absence of an exemption will require developers to seek zoning relief; a process that can be time consuming and expensive. Without the immediate adoption of these amendments, projects with significant affordable housing components will be imperiled or unreasonably delayed. The immediate adoption of these amendments is therefore necessary for the “immediate preservation of public ... welfare.” D.C. Official Code § 2-505(c).

In a separate proceeding, Z.C. Case No. 04-33G, the Commission, after holding a public hearing authorized the publication of a notice of proposed rulemaking that included an amendment to Subtitle C § 1001.6(a) to specify a minimum level of income affordability that exempted projects must provide (the “income amendment”). At present, that level is whatever is established by the federal or District funding source. Z.C. Case No. 04-33G also proposed several other amendments to the IZ Regulations. Because of the nature of some of the amendments proposed, the Commission’s notice of proposed rulemaking, published on September 9, 2016, noted the Commission’s preliminary determination that all of the amendments should take effect six (6) months after the publication of a notice of final rulemaking.

At its public meeting held September 12, 2016, the Commission took the emergency action described above for Z.C. Case 04-33H. At the same time, the Commission also voted to add the Z.C. Case No. 04-33G income amendment to this case, finding that there was no reason to delay the implementation of the mandated minimum levels of affordability for exempted projects. Because the income amendment was intrinsically related to basis for the exemption, the amendment also was included in the emergency action taken.

This emergency rule was adopted on September 12, 2016, and became effective on that date.

The emergency rule will expire on January 10, 2017, which is the one hundred twentieth (120th) day after the adoption of the rule, or upon the publication of a Notice of Final Rulemaking for Z.C. Case No. 04-33H in the *D.C. Register*, whichever occurs first.

Title 11 of the District of Columbia Municipal Regulations, ZONING REGULATIONS OF 2016, was amended on an emergency basis as follows (new language is shown in **bold** and underlined text; deleted language is shown in ~~strikethrough~~ text):

Chapter 10, INCLUSIONARY ZONING, of 11-C DCMR, GENERAL RULES, is amended as follows:

§ 1001, APPLICABILITY, § 1001.6, is amended to read as follows:

1001.6 IZ requirements of this chapter shall not apply to:

- (a) Any development **subject to a mandatory affordable housing requirement that exceeds the requirements of this chapter as a result of District law or financial** ~~financed, **subsidies** subsidized, or funded in whole or in part by the Federal or District Government and administered **and/or monitored** by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA); provided:~~
- (1) The development shall set aside, **for so long as the project exists,** ~~for low or moderate income households,~~ affordable dwelling units (“Exempt Affordable Units”) **in accordance with the minimum income standards of Subtitle C § 1001.6(a)(2) and** equal to at least the gross square footage that would have been otherwise required pursuant to the set-aside requirements in Subtitle C § 1003 for the zone in which the development is located; ~~The terms “low income household” and “moderate income household” shall have the same meaning as given them by the federal or District funding source, or financing or subsidizing entity, and shall hereinafter be referred to collectively as “Targeted Households”;~~
 - (2) The Exempt Affordable Units shall be reserved as follows:
 - (i) **The square footage set aside for rental units shall be at or below sixty percent (60%) MFI; and**
 - (ii) **The square footage set aside for or ownership units shall be at or below eighty percent (80%) MFI;** ~~and sold or rented in accordance with the pricing structure established by the federal or District funding source, or financing or subsidizing entity, for so long as the project exists;~~
 - (3) The requirements set forth in subparagraphs (1) and (2), of this paragraph, shall be stated as declarations within a covenant approved by the District **of Columbia**; and
 - (4) The approved covenant shall be recorded in the land records of the District of Columbia prior to the date that the first application for a certificate of occupancy is filed for the project; except that for developments that include buildings with only one (1) dwelling unit, the covenant shall be recorded before the first purchase agreement or lease is executed; and

- (b) Boarding houses, community based institutional facilities; or single room occupancy projects within a single building.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2014 Repl. & 2016 Supp.)) and 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 Chapter 41 of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled “Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities.”

These rules update the reimbursement methodology for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) to reflect the elimination of the annual inflation adjustment currently used as a component of the methodology for certain cost centers for Fiscal Year 2017 and all years thereafter. This change in reimbursement methodology is being made in order to conform to the DHCF approved budget for upcoming fiscal years. Because the DHCF budget is included in the District’s overall budget, emergency action is necessary in order to preserve the District’s ability to provide uninterrupted services to the public consistent with the District’s approved budget. The aggregate impact of eliminating the inflation adjustment is a reduction of approximately \$1,700,000 in FY17 and FY18.

The corresponding State Plan Amendment (SPA) to the District of Columbia State Plan for Medical Assistance (State Plan) must be approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) and the Council of the District of Columbia (Council). The Council approved the corresponding SPA through the Fiscal Year 2017 Budget Support Emergency Act of 2016, effective July 20, 2016 (D.C. Act 21-463; 63 DCR 009843 (July 29, 2016)). Implementation of these proposed rules is contingent upon approval of the corresponding SPA by CMS, with an effective date of October 1, 2016 or the effective date established by CMS in its approval of the corresponding SPA whichever is later. If the corresponding SPA is approved, DHCF will publish a notice setting forth the effective date.

These emergency rules were adopted on September 26, 2016 and shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until January 24, 2017, 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 rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 41, MEDICAID REIMBURSEMENT FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, of Title 29 DCMR, PUBLIC WELFARE, is amended to read as follows:

Section 4102, REIMBURSEMENT METHODOLOGY, is amended as follows:

4102 REIMBURSEMENT METHODOLOGY

- 4102.1 The rates for ICF/IID services were developed based on Fiscal Year (FY) 2010 cost data reported by providers of different sizes serving individuals at varying acuity levels. The rates shall vary based on staffing ratios, facility size, and beneficiary acuity level.
- 4102.2 For the purposes of rate-setting, and independent of the classification used by the Department of Health for licensing, DHCF shall classify ICFs/IID as follows:
- (a) Class I - A facility with five (5) or fewer licensed beds; and
 - (b) Class II - A facility with six (6) or more licensed beds.
- 4102.3 The residential component of the rate, as described in § 4100.5(a), shall be based on a model that includes the following seven (7) cost centers:
- (a) The “Direct Service” cost center, which shall include expenditures as follows:
 - (1) Nurses, including registered nurses (RNs), licensed practical nurses (LPNs), and certified nursing assistants (CNAs);
 - (2) Qualified Intellectual Disabilities Professionals (QIDPs);
 - (3) House managers;
 - (4) Direct Support Personnel;
 - (5) Allocated time of staff with administrative duties and who are also utilized in direct service support, subject to the results of a time study or time sheet process that has been approved by DHCF; and
 - (6) Fringe benefits, including but not limited to required taxes, health insurance, retirement benefits, vacation days, paid holidays, and sick leave.
 - (b) The “All Other Health Care and Program Related” cost center, which shall include expenditures for:
 - (1) Pharmacy co-pays and over-the-counter medications;
 - (2) Medical supplies;

- (3) Therapy costs, including physical therapy, occupational therapy, and speech therapy;
 - (4) Behavioral health services provided by psychologists or psychiatrists;
 - (5) Nutrition and food;
 - (6) Medical record maintenance and review;
 - (7) Insurance for non-direct care health staff;
 - (8) Quality Assurance;
 - (9) Training for direct care staff;
 - (10) Program development and management, including recreation;
 - (11) Incident management; and
 - (12) Clothing for beneficiaries.
- (c) The “Non-Personnel Operations” cost center, which shall include expenditures for:
- (1) Food service and supplies related to food service;
 - (2) Laundry;
 - (3) Housekeeping and linen; and
 - (4) Non-capital repair and maintenance.
- (d) The “Administration” cost center which shall include expenditures for:
- (1) Payroll taxes;
 - (2) Salaries and consulting fees to non-direct care staff;
 - (3) Insurance for administrators and executives;
 - (4) Travel and entertainment;
 - (5) Training costs;
 - (6) Office expenses;

- (7) Licenses;
 - (8) Office space rent or depreciation;
 - (9) Clerical staff;
 - (10) Interest on working capital; and
 - (11) Staff transportation.
- (e) The “Non-Emergency Transportation” cost center, which shall include expenditures for:
- (1) Vehicle license, lease, and fees;
 - (2) Vehicle maintenance;
 - (3) Depreciation of vehicle;
 - (4) Staffing costs for drivers and aides not otherwise covered by, or in excess of costs for, direct support personnel;
 - (5) Fuel; and
 - (6) Vehicle insurance.
- (f) The “Capital” cost center, which shall include expenditures for leased, owned, or fully depreciated properties, less all amounts received for days reimbursed pursuant to the “Policy on Reserved Beds,” as set forth on page 2 of Attachment 4.19C of the State Plan for Medical Assistance, for the following:
- (1) Depreciation and amortization;
 - (2) Interest on capital debt;
 - (3) Rent;
 - (4) Minor equipment;
 - (5) Real estate taxes;
 - (6) Property insurance;
 - (7) Other capital; and

(8) Utilities, including electricity, gas, telephone, cable, and water.

(g) The “Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment” cost center shall include only the allowable share of the Assessment expenditure consistent with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70 and 433.72.

4102.4 Fiscal Year (FY) 2013 rates shall be based on FY 2010 cost data reported by providers, legal requirements, and industry standards, and shall be paid for services delivered beginning on October 1, 2012 through September 30, 2013. FY 2013 rates, and all rates thereafter, shall be set forth in this Chapter. FY 2013 rates were developed based upon the following assumptions:

- (a) FY 2013 Non-Personnel Operations per diem rates shall be based on FY 2010 costs, inflated twelve percent (12%);
- (b) FY 2013 Capital per diem rates shall be based on FY 2010 costs, inflated fifteen percent (15%);
- (c) FY 2013 rates for the cost centers described in §§ 4102.4(a) and (b) shall be calculated as the quotient of total industry expenditures divided by the total number of industry licensed bed days as reported for FY 2010;
- (d) The FY 2013 rate for Non-Emergency Transportation shall be eighteen dollars (\$18) per person, per day; and
- (e) Capital expenditures for Class I and Class II facilities shall be calculated separately.

4102.5 FY 2014 rates shall be based on the reported FY 2013 cost reports, adjusted for inflation, in accordance with the index described in § 4102.13. In establishing the rates for FY 2014, DHCF shall use FY 2013 rates as a baseline to compare to the FY 2013 cost reports. After inflationary adjustments, DHCF may make operational adjustments as described in this section to each cost center based on the provider’s actual reported costs. These adjustments may increase or decrease the per diem rates for each cost center. For services rendered on or after January 1, 2014, DHCF shall also incorporate the following rate setting principles:

- (a) Effective January 1, 2014, and on October 1, annually thereafter, DHCF may make appropriate outlier adjustments when the entire ICF/IID provider community experiences uncharacteristically low or high costs (*e.g.*, wage increases) experienced by the entire ICF/IID provider community and supported by legislative or other unanticipated changes. With respect to the Capital cost center, market induced fluctuations in the

cost of items comprising that rate (*e.g.*, property appreciation/depreciation, significant increase in the cost of utilities, etc.) shall be documented and confirmed using information from the Bureau of Labor Statistics, the Consumer Price Index, the District of Columbia Office of Tax and Revenue, and other relevant indices or reports;

- (1) All adjustments shall be limited to one (1) time in any given fiscal year.
- (2) Except for the Capital cost center, operational adjustments shall be subject to a five percent (5%) maximum. Operational adjustments to the Capital cost center shall be subject to a maximum of ten percent (10%);
- (3) An outlier adjustment shall not exceed the amount of the rebased cost center, subject to the upper payment limit;
- (4) Except for inflationary adjustments, all other adjustments under this section shall be supported through provider documentation and data reflecting the economic landscape of the Washington, D.C. Metropolitan area;
- (5) All adjustments described in § 4102.5 shall be limited to fiscal years when rebasing does not occur;
- (6) “Operational Adjustment” shall refer to an adjustment made to any cost center based on information reflected in an ICF/IID’s cost report (*i.e.*, actual reported costs). These reported costs will be compared to the actual reported aggregate costs for all ICF/IIDs. An operational adjustment provides a mechanism for DHCF to address under- or over-payments that are identified after comparing the projections used to determine the rate with the provider’s actual costs; and
- (7) “Outlier Adjustment” shall refer to an adjustment made after the ICF/IID submits a cost report and the actual reported costs reflect uncharacteristically low or high costs. In order to qualify for an outlier adjustment, the unexpected expense must impact all of the District’s ICF/IIDs.

- (b) Effective January 1, 2014, the rate for Non-Emergency Transportation shall be twelve dollars and sixteen cents (\$12.16).

4102.6

For dates of service on or after October 1, 2016, final reimbursement rates for the residential component will be based on providers’ FY 2014 cost reports subject to audit and adjustment by DHCF.

4102.7 Direct Service cost center reimbursement rates shall be calculated based on staffing ratios, facility size, and individuals' acuity levels. All rates shall accommodate the following staffing patterns:

- (a) Two (2) Direct Support Personnel (DSP) at three (3) shifts per day for three hundred sixty-five (365) days per year, at the following staffing ratios:
 - (1) Class I Facilities: One (1) DSP to every two (2) individuals (1:2); and
 - (2) Class II Facilities: One (1) DSP to every three (3) individuals (1:3).
- (b) One (1) LPN for each facility at one (1) shift per day for three hundred sixty-five (365) days per year, for all ICFs/IID;
- (c) One (1) additional LPN for each ICF/IID at one (1) shift per weekend day (Saturday and Sunday) for fifty-two (52) weeks per year. This staffing pattern shall apply only to Class II facilities;
- (d) One (1) RN, one (1) QIDP, and one (1) house manager, each at one (1) shift per day for two hundred sixty (260) days per year, at a ratio of one (1) staff person to every twelve (12) individuals (1:12) for all ICFs/IID;
- (e) For services provided to individuals assigned to acuity levels higher than Acuity Level I, an ICF/IID shall be paid rates that can accommodate additional staffing needs as follows:
 - (1) Acuity Level 2 (Moderate) rates shall also include one (1) additional DSP at three (3) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP for every two (2) individuals (1:2) for all ICFs/IID;
 - (2) Acuity Level 3 (Extensive – Behavioral) rates shall also include costs associated with two (2) additional DSPs. The rates for Acuity Level 3 shall include one (1) DSP at three (3) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP staff member for every two (2) individuals for all ICFs/IID. The rate shall also include one (1) DSP at two (2) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP staff member for every two (2) individuals for all ICFs/IID;
 - (3) Acuity Level 4 (Extensive – Medical) rates shall also include costs associated with one (1) additional LPN at two (2) shifts per day for

three hundred sixty-five (365) days per year, for all ICFs/IID. Class II facilities shall also receive a rate that includes one (1) certified nurse aide (CNA) at two (2) shifts per day for three hundred sixty-five (365) days per year;

- (4) Acuity Level 5 (Pervasive) rates shall vary based on the number of one-to-one services prescribed for a beneficiary. Acuity Level 5 rates shall also include one (1) DSP at two (2) or three (3) shifts per day, for five (5) or seven (7) days per week for fifty-two (52) weeks per year, at a staffing ratio of one (1) DSP to one (1) beneficiary (1:1); and
 - (5) Acuity Level 6 (Pervasive Plus Skilled Nursing) rates shall vary based on the number of one-to-one services prescribed for a beneficiary. Acuity Level 6 rates shall also include one (1) LPN at one (1), two (2), or three (3) shifts per day for seven (7) days per week for fifty-two (52) weeks per year, at a staffing ratio of one (1) LPN to one (1) beneficiary (1:1).
- (f) The base salaries used in the development of FY 2013 rates for direct care staff wages and salaries, subject to adjustment for inflation using the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility Market Basket Index, shall be as follows:
- (1) DSP: Twelve dollars and fifty cents (\$12.50) per hour;
 - (2) LPN: Twenty one dollars (\$21.00) per hour;
 - (3) CNA: Sixteen dollars and eighty-three cents (\$16.83) per hour;
 - (4) House Manager: Forty-five thousand dollars (\$45,000) per year;
 - (5) RN: Seventy thousand dollars (\$70,000) per year; and
 - (6) QIDP: Sixty thousand dollars (\$60,000) per year.
- (g) Salaries set forth in Section 4102.7(f) shall be treated as follows:
- (1) "Paid time off" shall include the addition of eighty (80) hours of paid leave. Holiday pay shall include the addition of forty-four (44) hours to ensure that the rate includes the rate of pay plus one-half (1/2) the rate of pay (time and one-half) for holidays worked;
 - (2) Salaries shall be inflated by twenty percent (20%) and paid leave and holiday pay shall be inflated by twelve percent (12%), to accommodate fringe benefits; and

- (3) All rates shall include paid time off and holiday pay for all hourly full-time equivalents (FTEs).
- (h) Effective October 1, 2013 through September 30, 2016, Direct Care Staff Compensation shall be inflated by the greater of any adjustment to the living wage or the associated costs of benefits and inflation based on the CMS Skilled Nursing Facility Market Basket Index or other appropriate index if the CMS Skilled Nursing Facility Market Basket Index is discontinued.
- (i) Effective October 1, 2016, Direct Care Staff Compensation shall be inflated only by any adjustment to the living wage.
- 4102.8 The “All Other Health Care and Program Related Expenses” cost center reimbursement rates shall be calculated based on the facility size and the direct care cost center rate, which varies by staffing ratios and individuals’ acuity levels. The rate for this cost center shall be calculated as a fixed percentage of the rate for direct services, at twelve percent (12%) for Class I facilities and at seventeen percent (17%) for Class II facilities.
- 4102.9 The “Non-Personnel Operations” cost center reimbursement rates shall be calculated based on industry average reported costs. The Non-Personnel Operations reimbursement rate shall be equal to the industry average reported expenses per licensed bed day for the line items included in the cost center, and shall be uniformly set for all providers.
- 4102.10 During FY 2013, the “Administration” cost center reimbursement rates shall be calculated based on the staffing ratios, facility size, and individuals’ acuity levels. The Administration reimbursement rate shall vary based on the nature of ownership of the physical premises where the ICF/IID is housed. The Administration rate shall be a uniform percentage of the sum of the rates for all other cost centers and acuity levels. Beginning January 1, 2014, and on October 1, 2014 and annually thereafter, reimbursement rates for the Administration cost center shall be uniform for Class I and Class II facilities. The Administration rate shall be a uniform percentage of the sum of the Acuity Level I (Base) rates comprising the Residential cost center for leased, Class I facilities, as set forth in this Chapter.
- 4102.11 The “Non-Emergency Transportation” cost center reimbursement rates shall be based on the industry average expenses divided by the total number of licensed bed days. Beginning January 1, 2014, and on October 1, 2014 and annually thereafter, Non-Emergency Transportation cost center reimbursement rates shall be based on actual, reported costs.
- 4102.12 The “Capital” cost center reimbursement rates shall be determined in accordance with 42 C.F.R. § 413.130 and based on the industry average reported expenses per

licensed bed day for the line items included in this cost center as described in § 4102.3. The rate shall vary based on the nature of ownership of the physical premises where the ICF/IID is housed. The Capital rate for leased premises shall be equal to the industry average reported expenses per licensed bed day for the line items included. The Capital rate for provider-owned premises shall be equal to fifty percent (50%) of the rate for leased premises. The Capital rate for fully depreciated premises shall be equal to fifty percent (50%) of the rate for provider owned premises. The Capital rate shall also be subject to the following principles:

- (a) When a sale/leaseback of an existing ICF/IID facility occurs, the ICF/IID's allowable capital related cost may not exceed the amount that the seller/lessor would have recorded had the seller/lessor retained legal title;
- (b) Depreciation shall incorporate the following principles:
 - (1) When depreciated buildings and building improvements are acquired, the cost basis of the depreciable asset shall be the lesser of the cost or acquisition value of the previous owner(s) less all reimbursement attributable to the asset as determined by DHCF or the fair market value of the asset at time of acquisition. Notwithstanding, if the seller makes the full payback in accordance with § 4102.12(b)(6), the cost basis to the new owner shall be the lesser of the fair market value or the purchase price;
 - (2) Facilities shall employ the straight-line method for calculating depreciation subject to the limits set forth in §§ 4102.12(b)(3)-(6) below. Accelerated methods for calculating depreciation shall not be allowed. Subject to the limits set forth in §§ 4102.12(b)(3)-(6), the annual depreciation expense of an asset shall be determined by dividing the basis of the asset reduced by any estimated salvage or resale value by the estimated years of useful life of the asset at the time it is placed in service;
 - (3) Depreciation expense of buildings and building improvements shall be limited to the basis of each asset and shall not exceed the basis of such assets less the aggregate amount received in reimbursement for such assets in the current and prior years;
 - (4) Fully depreciated buildings and building improvements subsequently sold or disposed of shall be subject to payback by the owner to the program of all depreciation expense paid to the owner and all previous owners when such assets are no longer used to provide ICF/IID services or have been transferred to new owners in an arm's length transaction, provided that such payback shall be

reduced by all amounts previously paid back, if any, by prior owners;

- (5) ICFs/IID shall estimate assets' years of useful life in accordance with the most recent edition of "Estimated Useful Lives of Depreciable Hospital Assets" published by the American Hospital Association, or if not applicable, relevant guidance issued by the U.S. Internal Revenue Service. Subject to the limits set forth in paragraphs (d) and (e), depreciation expense for the year of disposal can be computed by using either the half-year method or the actual time method;
 - (6) Assets shall be recorded using historical cost, except for donated assets which shall be recorded at fair market value at the time received and based on the lesser of at least two (2) bona fide appraisals. Costs during the construction of an asset, consulting and legal fees, interest, and fund raising, should be capitalized as a part of the cost of the asset;
 - (7) When an asset is acquired by a trade-in, the cost of the new asset shall be the sum of the book value of the old asset and any cash or issuance of debt as consideration paid;
 - (8) Facilities that previously did not maintain fixed asset records and did not record depreciation in prior years shall be entitled to any straight-line depreciation of the remaining useful life of the asset. The depreciation shall be based on the cost of the asset or fair market value of a donated asset at the time of purchase, construction or donation over its normal useful life. Fully depreciated assets shall not be included in the Capital cost center, except for the costs associated with utilities and relevant leasehold improvements. No depreciation may be taken on an asset that would have been fully depreciated if it had been properly recorded at the time of acquisition;
 - (9) Leasehold improvements made to rental property by the lessor shall be depreciated over the lesser of the asset's useful life or the remaining life of the lease;
- (c) On a case by case basis, DHCF may reimburse an ICF/IID by providing an offset to capital costs that shall be equal to the daily amount computed under this subsection in situations when DDS has not filled vacant bed space(s). The ICF/IID shall receive the product of the capital cost multiplied by the administrative rate anytime this payment is made;

- (d) The daily cost described in § 4102.12(c) shall be computed as the capital component of the daily per-diem rate, multiplied by the number of vacant bed space(s); and
- (e) ICFs/IID shall incur costs and provide DHCF with proof of the vacant bed space in order to be eligible.

4102.13 Effective October 1, 2013 through September 30, 2016, the per diem rates for “Non-Personnel Operations,” “Non-Emergency Transportation,” “Capital,” and “Active Treatment” cost centers shall be adjusted for inflation on an annual basis in accordance with the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility Market Basket Index or other appropriate index if the CMS Skilled Nursing Facility Market Basket Index is discontinued.

4102.14 Effective October 1, 2016, the annual inflation adjustment in the per diem rates for “Non-Personnel Operations,” “Non-Emergency Transportation,” “Capital,” and “Active Treatment” cost centers shall be eliminated.

4102.15 The Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment shall be a broad based assessment on all ICF/IID providers in the District of Columbia at a uniform rate of five and one-half percent (5.5%) of each ICF/IID’s gross revenue. The allowable cost of the Assessment shall be calculated consistently with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70, and 433.72.

4102.16 Beginning October 1, 2016, ICF/IID reimbursement rates, shall be as follows:

	Beds	Facility	Direct care staffing FY 17	Other health care & program FY 17	Non-Pers Oper FY 17	Transp. FY 17	Capital FY 17	Admin FY 17	Active Tx FY 17	Tax FY 17	Total Rate FY 17
Base	4 - 5	Leased	\$320.02	\$41.60	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$33.25	\$637.85
		Owned	\$320.02	\$41.60	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$31.57	\$605.51
		Depreciated	\$320.02	\$41.60	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$27.47	\$589.34
	6	Leased	\$240.73	\$43.33	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$28.69	\$550.41
		Owned	\$240.73	\$43.33	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$27.15	\$520.88
		Depreciated	\$240.73	\$43.33	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$26.38	\$506.11
Moderate	4 - 5	Leased	\$320.02	\$41.60	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$33.25	\$637.85
		Owned	\$320.02	\$41.60	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$31.57	\$605.51
		Depreciated	\$320.02	\$41.60	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$30.72	\$589.34
	6	Leased	\$312.05	\$56.17	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$33.32	\$639.20
		Owned	\$312.05	\$56.17	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$31.78	\$609.67
		Depreciated	\$312.05	\$56.17	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$31.01	\$594.90
Extensive behavioral	4 - 5	Leased	\$391.35	\$50.87	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$37.69	\$722.87
		Owned	\$391.35	\$50.87	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$36.00	\$690.54
		Depreciated	\$391.35	\$50.87	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$35.16	\$674.37
	6	Leased	\$359.60	\$64.73	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$36.41	\$698.40
		Owned	\$359.60	\$64.73	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$34.87	\$668.86
		Depreciated	\$359.60	\$64.73	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$34.10	\$654.09
Extensive medical	4 - 5	Leased	\$431.59	\$56.11	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$40.19	\$770.85
		Owned	\$431.59	\$56.11	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$38.50	\$738.51
		Depreciated	\$431.59	\$56.11	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$37.66	\$722.34
	6	Leased	\$374.71	\$67.45	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$37.39	\$717.21
		Owned	\$374.71	\$67.45	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$35.85	\$687.67
		Depreciated	\$374.71	\$67.45	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$35.08	\$672.90

Pervasive 8 h / 7 d	4 - 5	Leased	\$462.67	\$60.15	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$42.12	\$807.90
		Owned	\$462.67	\$60.15	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$40.43	\$775.56
		Depreciated	\$462.67	\$60.15	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$39.59	\$759.40
	6	Leased	\$383.38	\$69.01	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$37.95	\$727.99
		Owned	\$383.38	\$69.01	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$36.41	\$698.46
		Depreciated	\$383.38	\$69.01	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$35.64	\$683.69
Pervasive 8 h / 5 d	4 - 5	Leased	\$417.33	\$54.25	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$39.30	\$753.86
		Owned	\$417.33	\$54.25	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$37.61	\$721.52
		Depreciated	\$417.33	\$54.25	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$36.77	\$705.35
	6	Leased	\$338.04	\$60.85	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$35.01	\$671.56
		Owned	\$338.04	\$60.85	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$33.47	\$642.02
		Depreciated	\$338.04	\$60.85	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$32.70	\$627.25
Pervasive 16 h	4 - 5	Leased	\$605.32	\$78.69	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$50.98	\$977.96
		Owned	\$605.32	\$78.69	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$49.30	\$945.62
		Depreciated	\$605.32	\$78.69	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$48.45	\$929.45
	6	Leased	\$526.02	\$94.68	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$47.21	\$905.58
		Owned	\$526.02	\$94.68	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$45.67	\$876.04
		Depreciated	\$526.02	\$94.68	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$44.90	\$861.27
Pervasive 24 h	4 - 5	Leased	\$747.96	\$97.24	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$59.85	\$1,148.02
		Owned	\$747.96	\$97.24	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$58.16	\$1,115.68
		Depreciated	\$747.96	\$97.24	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$57.32	\$1,099.51
	6	Leased	\$668.67	\$120.36	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$56.47	\$1,083.16
		Owned	\$668.67	\$120.36	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$54.93	\$1,053.62
		Depreciated	\$668.67	\$120.36	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$54.16	\$1,038.85
Nursing 1:1 8 h / 7 d	4 - 5	Leased	\$543.15	\$70.61	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$47.12	\$903.85
		Owned	\$543.15	\$70.61	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$45.43	\$871.51
		Depreciated	\$543.15	\$70.61	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$44.59	\$855.34
	6	Leased	\$463.86	\$83.49	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$43.18	\$828.18
		Owned	\$463.86	\$83.49	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$41.64	\$798.65
		Depreciated	\$463.86	\$83.49	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$40.87	\$783.88

Nursing 1:1 8 h / 5 d	4 - 5	Leased	\$472.24	\$61.39	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$42.71	\$819.31
		Owned	\$472.24	\$61.39	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$41.03	\$786.97
		Depreciated	\$472.24	\$61.39	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$40.18	\$770.80
	6	Leased	\$392.94	\$70.73	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$38.57	\$739.91
		Owned	\$392.94	\$70.73	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$37.03	\$710.37
		Depreciated	\$392.94	\$70.73	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$36.26	\$695.60
Nursing 1:1 16 hours	4 - 5	Leased	\$766.28	\$99.62	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$60.99	\$1,169.85
		Owned	\$766.28	\$99.62	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$59.30	\$1,137.51
		Depreciated	\$766.28	\$99.62	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$58.46	\$1,121.34
	6	Leased	\$686.98	\$123.66	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$57.66	\$1,105.96
		Owned	\$686.98	\$123.66	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$56.12	\$1,076.42
		Depreciated	\$686.98	\$123.66	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$55.35	\$1,061.65
Nursing 1:1 24 hours	4 - 5	Leased	\$989.41	\$128.62	\$19.77	\$12.57	\$61.30	\$59.19	\$90.14	\$74.85	\$1,435.85
		Owned	\$989.41	\$128.62	\$19.77	\$12.57	\$30.65	\$59.19	\$90.14	\$73.17	\$1,403.51
		Depreciated	\$989.41	\$128.62	\$19.77	\$12.57	\$15.33	\$59.19	\$90.14	\$72.33	\$1,387.34
	6	Leased	\$910.11	\$163.82	\$19.77	\$12.57	\$55.99	\$59.19	\$90.14	\$72.14	\$1,383.73
		Owned	\$910.11	\$163.82	\$19.77	\$12.57	\$28.00	\$59.19	\$90.14	\$70.60	\$1,354.19
		Depreciated	\$910.11	\$163.82	\$19.77	\$12.57	\$14.00	\$59.19	\$90.14	\$69.83	\$1,339.42

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, J.D. Senior Deputy/Medicaid Director, Department of Health Care Finance, 441 4th Street, N.W., Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via 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 the proposed rule may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2016-119
September 15, 2016

SUBJECT: Establishment — DCPS Rising Leadership Committee

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198; D.C. Official Code § 1-204.22(11) (2014 Repl.), it is hereby **ORDERED** that:

I. ESTABLISHMENT

There is established the DCPS Rising Leadership Committee (“**Committee**”).

II. PURPOSE AND FUNCTIONS

- A. The Committee shall provide feedback and input, and discuss the selection factors and priorities for the Chancellor of District of Columbia Public Schools.
- B. The Committee will gather community feedback and input at community meetings throughout the District of Columbia.
- C. The Committee will summarize recommendations in their last meeting.

III. MEMBERSHIP

- A. The Mayor shall appoint members with diverse backgrounds and experiences who are strongly invested in the success of the District of Columbia Public School System.
 1. The Committee shall consist of:
 - a. Parent(s) of students who attend DCPS;
 - b. Student(s) of DCPS;
 - c. Administrator(s) and faculty of DCPS;

- d. A member of the Washington Teachers Union;
- e. Member(s) of the community with a strong interest in DCPS;
and
- f. The Committee may include other members selected by the Mayor.

2. The Chairperson(s) shall be appointed by the Mayor.

B. All members of the Committee shall serve until the date of sunset.

IV. COMMITTEE MEETINGS

A. The Committee shall meet at least three (3) times to gather community input and develop a final report.

V. ADMINISTRATION

The Deputy Mayor's Office of Education shall support in the facilitation of the meetings and provide technical and administrative support to the Committee.

VI. SUNSET


The Committee shall sunset after the final report is submitted.

VII. EFFECTIVE DATE

This Order shall become effective immediately.



 MURIEL BOWSER
 MAYOR

ATTEST: 

 LAUREN C. VAUGHAN
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2016-120
September 15, 2016

SUBJECT: Appointments — DCPS Rising Leadership Committee

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and pursuant to Mayor's Order 2016-119, dated September, 15, 2016, it is hereby **ORDERED** that:

1. The following persons are appointed as members of the DCPS Rising Leadership Committee, ("**Committee**"), and shall serve until the date of sunset:
 - a. **GINA ADAMS** as a community member with a strong interest in DCPS.
 - b. **TARA BROWN** as a parent of a student who attends DCPS.
 - c. **ROSA CARILLO** as a parent of a student who attends DCPS.
 - d. **LIZ DAVIS** as a member of the Washington Teacher's Union.
 - e. **KEVIN DILLARD** as a DCPS student.
 - f. **MICHELA ENGLISH** as a community member with a strong interest in DCPS.
 - g. **ED FISHER** as a parent of a student who attends DCPS.
 - h. **DENISE FORTE** as a parent of a student who attends DCPS.
 - i. **NICKY GOREN** as a parent of a student who attends DCPS.
 - j. **HOPE HARROD** as an administrator or faculty member of DCPS.
 - k. **MAURICE KIE** as a community member with a strong interest in DCPS.
 - l. **JONTE LEE** as an administrator or faculty member of DCPS.

- m. **PATRICIA MCGUIRE** as a community member with a strong interest in DCPS.
 - n. **THOMAS PENNY** as a community member with a strong interest in DCPS.
 - o. **VICTOR REINOSO** as a parent of a student who attends DCPS.
 - p. **MARIA TUKEVA** as an administrator or faculty member of DCPS.
 - q. **WAYAN VOTA** as a parent of a student of DCPS.
2. The following persons are appointed by the Mayor as Co-Chair, and shall serve in that capacity at the pleasure of the Mayor:
- a. **PATRCIA MCGUIRE**
 - b. **GINA ADAMS**
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-121
September 15, 2016

SUBJECT: Appointments — State Advisory Panel on Special Education for the
District of Columbia

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with Mayor's Order 2012-48, dated April 5, 2012, it is hereby **ORDERED** that:

1. **COURTNEY HALL** is appointed as a member of the State Advisory Panel on Special Education (hereinafter referred to as "**Panel**") representing the state child welfare agency responsible for foster care, and shall serve in that capacity at the pleasure of the Mayor.
2. **JAMES BROOKS** is appointed as a member of the Panel representing the state juvenile and adult corrections agency, and shall serve in that capacity at the pleasure of the Mayor.
3. **AMY WILLIAMSON** is appointed as a member of the Panel representing institutions of higher education that prepare special education and related services personnel, and shall serve in that capacity at the pleasure of the Mayor.
4. **LUIS MORALES** is appointed as a member of the Panel representing the Department of Behavioral Health, and shall serve in that capacity at the pleasure of the Mayor.
5. **CLIFFORD WADDY** is appointed as a public member of the Panel, and shall serve for a term to end September 17, 2018.

6. EFFECTIVE DATE: This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-122
September 15, 2016

SUBJECT: Appointments — Working Group on Jobs, Wages, and Benefits


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and in accordance with Mayor's Order 2016-083, dated May 26, 2016, it is hereby **ORDERED** that:

1. The following persons are appointed as members of the Working Group on Jobs, Wages, and Benefits ("**Working Group**") to serve until the date of sunset.
 - a. **STEPHEN TAYLOR** as a representative of the Executive Branch of the government of the District of Columbia, replacing Brian Kenner;
 - b. **ANDREW WASHINGTON** as a representative of labor unions and entities organized for the benefit of employees, replacing Delvone Michael.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-123
September 15, 2016

SUBJECT: Appointments – Urban Forestry Advisory Committee

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(6) and (11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(6) and (11) (2014 Repl.), and in accordance with Mayor's Order 2015-260, dated December 22, 2015, which established the District of Columbia Urban Forestry Advisory Committee ("**Committee**"), it is hereby **ORDERED** that:

1. The following persons are appointed to the Committee to serve at the pleasure of the Mayor:
 - a. **EARL EUTSLER** as a representative of the District Department of Transportation.
 - b. **JEFFREY SELTZER** as a representative of the Department of Energy and Environment.
 - c. **BRENT SISCO** as a representative of the District Department of Parks and Recreation.
 - d. **MARK CHAMBERS** as a representative of the Department of General Services.
 - e. **MAUREEN M. HOLMAN** as a representative of the General Manager of DC Water.
2. The following persons are appointed to the Committee for terms to end May 9, 2019:
 - a. **MARK BUSCAINO** as a technical member.
 - b. **DENNIS CHESTNUT** as a technical member.
 - c. **IRV SHEFFEY** as a community member.
 - d. **DELORES BUSHONG** as a community member.

- e. **NATHAN H. McELROY** as a Pepco representative member.
 - f. **PERRY C. WHEELLOCK** as a National Park Service representative member.
 - g. **ROBIN L. SNYDER** as a General Services Administration representative member.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-124
September 15, 2016

SUBJECT: Appointment – Apprenticeship Council


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and established by section 2 of An Act To provide voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1402), it is hereby **ORDERED** that:

1. **ALICIA BOLTON** is appointed as a member to the District of Columbia Apprenticeship Council, as the designee representative of the District of Columbia Public Schools, and shall serve in that capacity at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



 MURIEL BOWSER
 MAYOR

ATTEST: 

 LAUREN C. VAUGHAN
 SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-125
September 15, 2016

SUBJECT: Appointments — District of Columbia Innovation and Technology
Inclusion Council


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and pursuant to section 4(b) and section 5(a) of Mayor's Order 2014-139, dated June 11, 2014, establishing the District of Columbia Innovation and Technology Inclusion Council, and as amended by Section 4 of Mayor's Order 2014-236, dated October 10, 2014, it is hereby **ORDERED** that:

1. The following people are appointed as *ex officio* members of the District of Columbia Innovation and Technology Inclusion Council to serve at the pleasure of the Mayor:
 - a. **KATE MEREAND** as a representative of the Department of Small and Local Business Development (DSLBD), to replace Philip Reeves.
 - b. **KARIMA WOODS** as a representative of the Deputy Mayor for Planning and Economic Development (DMPED), to replace Erin Horne McKinney.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-126
September 15, 2016

SUBJECT: Appointments — District of Columbia Interagency Coordinating Council

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and in accordance with the Individuals with Disabilities Education Act, Pub. L. 94-142, as amended, applicable federal regulations, and Mayor's Order 2012-49, dated April 5, 2012, as amended by Mayor's Order 2013-053, dated March 4, 2013, it is hereby **ORDERED** that:

1. **MADONNA COATES** is appointed to the District of Columbia Interagency Coordinating Council, ("**Council**") as a parent of a child with a disability representative, for a term to end May 3, 2019.
2. **LINDA FLORES** is appointed to the Council as a parent of a child with a disability representative, for a term to end May 3, 2019.
3. **LAVDENA ORR** is appointed to the Council as a representative of an agency responsible for payment of early intervention services, for a term to end May 3, 2018.
4. **ELIZABETH GROGINSKY** is appointed to the Council as a representative of an agency responsible for child care, and shall serve for a term to end May 3, 2019.
5. **CARLENE REID** is appointed to the Council as the State Education Agency representative from the Office of the State Superintendent of Education ("**OSSE**"), and shall serve in this capacity at the pleasure of the Mayor.
6. This Order shall supersede paragraph 1b. of Mayor's Order 2015-261, dated December 22, 2015.

7. **EFFECTIVE DATE:** This Order shall be effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-127
September 15, 2016

SUBJECT: Appointments and Reappointments — District of Columbia State Rehabilitation Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with Mayor's Order 2001-173, dated November 30, 2001, it is hereby **ORDERED** that:

1. The following people are appointed as members of the District of Columbia State Rehabilitation Council ("**Council**"), and shall serve for terms to end November 17, 2018.
 - a. **DARNISE HENRY BUSH** as a representative of disability advocacy member.
 - b. **JONATHAN LUCUS** as a representative from a community rehabilitation program service provider member.
2. The following people are reappointed as members of the Council and shall serve for terms to end April 4, 2019.
 - a. **STEVEN POWE** as a current or former applicant for or recipient of vocational rehabilitation services member.
 - b. **MARION LEVINE** as a public member.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to November 12, 2015.



MURIEL BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-128
September 19, 2016

SUBJECT: Appointments— District of Columbia Financial Literacy Council

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with section 5 of the Financial Literacy Council Establishment Act of 2008, effective August 15, 2008, D.C. Law 17-209, D.C. Official Code § 38-731.04 (2012 Repl.), it is hereby **ORDERED** that:

1. **SYBONGILE COOK** is appointed a member of the District of Columbia Financial Literacy Council, as a District resident with extensive knowledge of financial institutions, personal finance, and financial literacy programs, replacing Jeffrey A. Banks for a term to end April 2, 2020.
2. **DAMEON PROCTOR** is appointed a member of District of Columbia Financial Literacy Council, as a District resident with extensive knowledge of financial institutions, personal finance, and financial literacy programs, replacing Tamara Daufour, for a term to end April 2, 2020.
3. **JAMILA YORE** is appointed a member of the District of Columbia Financial Literacy Council, as a District resident with extensive knowledge of financial institutions, personal finance, and financial literacy programs, replacing Joseph Vaughan, for a term to end April 2, 2020.
4. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 23, 2016.



MURIEL BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

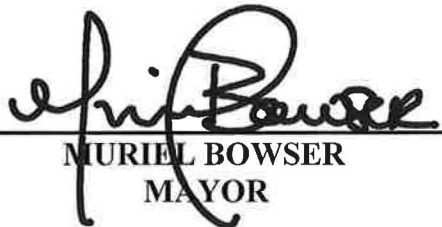
Mayor's Order 2016-129
September 19, 2016

SUBJECT: Appointment — District of Columbia Financial Literacy Council


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and in accordance with section 5 of the Financial Literacy Council Establishment Act of 2008, effective August 15, 2008, D.C. Law 17-209, D.C. Official Code § 38-731.04 (2012 Repl.), it is hereby **ORDERED** that:

1. **JEFFREY A. BANKS** is appointed as a member of the District of Columbia Financial Literacy Council, as a District resident with extensive knowledge of financial institutions, personal finance, and financial literacy programs, replacing Kevin Wrege, for a term to end April 2, 2020.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-130
September 20, 2016

SUBJECT: Designation of Grant-Managing Entity Under the Innovation Fund
Establishment Act of 2013


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl.), and by the Innovation Fund Establishment Act of 2013, effective December 24, 2013, D.C. Law 20-61, D.C. Official Code § 1-325.221 *et seq.* (2014 Repl.) ("**Innovation Fund Establishment Act**"), it is hereby **ORDERED** that:

1. The Community Foundation for the National Capital Region is designated as the grant-managing entity under the Innovation Fund Establishment Act for fiscal year 2017.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-131
September 21, 2016

SUBJECT: Appointments — Metropolitan Washington Regional Ryan White Planning Council

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), (11) (2014 Repl.), and pursuant to §§ 2602(a)(1) and (b)(l) of the Public Health Service Act, as amended by § 101 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, approved August 18, 1990, 104 Stat. 576, 42 U.S.C. 300ff-12(a)(1) and (b)(1), and pursuant to Mayor's Order 2016-001, dated January 8, 2016, it is hereby **ORDERED** that:

1. The following persons are appointed to the Metropolitan Washington Regional Ryan White Planning Council ("**Council**"):
 - a. **SHERLA CANNON-WILLIAMS** replacing Martha Cameron, for a term to end November 5, 2017.
 - b. **ALTMANN PANNELL** replacing Kenneth Chandler, for a term to end November 5, 2018.
 - c. **MELISSA TURNER** for a term to end November 5, 2017.
 - d. **DUSTIN BAKER-HOLLEY** for a term to end November 5, 2018.
 - e. **DEBBIE CRISWELL** replacing Anthony Thomas, for a term to end November 5, 2017.
 - f. **NATHANIEL BAKER-HOLLEY** replacing Ricardo Lumpkin, for a term to end November 5, 2018.
 - g. **MARGOT KIRKLAND-ISAAC** for a term to end May 15, 2018.
 - h. **ROXANNE JACKSON** replacing Ruby Corado, for a term to end November 5, 2018.
2. This Mayor's Order supersedes Mayor's Order 2016-093.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 9, 2016.



MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-132
September 26, 2016

SUBJECT: Appointment — Age-Friendly DC Task Force


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and pursuant to Mayor's Order 2013-172, dated September 20, 2013, as amended by Mayor's Order 2015-142, dated May 27, 2015, it is hereby **ORDERED** that:

1. **DEBORAH ROYSTER** is appointed as a member of the Age-Friendly DC Task Force, as a non-government representative member with a particular focus on domain 3, Housing, replacing Sarah Wartell, for a term to end December 31, 2017.
2. **EFFECTIVE DATE:** This Order shall be effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-133
September 26, 2016

SUBJECT: Appointments – Commission on African-American Affairs

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Rep.), and in accordance with the Commission on African-American Affairs Establishment Act of 2012, effective March 14, 2012, D.C. Law 19-106, D.C. Official Code § 3-1441 *et seq.* (2012 Repl.), which established the Commission on African-American Affairs ("**Commission**"), it is hereby **ORDERED** that:

1. **LEON T. ANDREWS, JR.** pursuant to the Commission on African-American Affairs Leon T. Andrews, Jr. Confirmation Resolution of 2016, effective January 25, 2016, PR21-0444, is appointed as a member of the Commission on African-American Affairs, for a term to end July 8, 2018.
2. **ADJOA B. ASAMOAH** pursuant to the Commission on African-American Affairs Adjoa B. Asamoah Confirmation Resolution of 2016, effective July 2, 2016, PR21-0724, is appointed as a member of the Commission on African-American Affairs, for a term to end June 15, 2019.
3. **LEGRANDE BALDWIN** pursuant to the Commission on African-American Affairs LeGrande Baldwin Confirmation Resolution of 2016, effective July 2, 2016, PR21-0725, is appointed as a member of the Commission on African-American Affairs, for a term to end July 8, 2019.
4. **VIVIAN DERRYCK** pursuant to the Commission on African-American Affairs Vivian Derryck Confirmation Resolution of 2016, effective January 25, 2016, PR21-0445, is appointed as a member of the Commission on African-American Affairs, for a term to end July 8, 2018.

- 5. **ENDREA L. FRAZIER** pursuant to the Commission on African-American Affairs Endrea L. Frazier Confirmation Resolution of 2016, effective January 25, 2016, PR21-0446, is appointed as a member and as Chairperson of the Commission on African-American Affairs, and shall serve in that capacity at the pleasure of the Mayor.
- 6. **SONDRA PHILLIPS-GILBERT** pursuant to the Commission on African-American Affairs Sondra Phillips-Gilbert Confirmation Resolution of 2016, effective July 2, PR21-0727, is appointed as a member of the Commission on African-American Affairs, for a term to end May 15, 2019.
- 7. **GREGORY JEFFERSON** pursuant to the Commission on African-American Affairs Gregory Jefferson Confirmation Resolution of 2016, effective July 2, 2016, PR21-0728, is appointed as a member of the Commission on African-American Affairs, for a term to end June 15, 2019.
- 8. **CAMILLE SMITH** pursuant to the Commission on African-American Affairs Camille Smith Confirmation Resolution of 2016, effective July 2, 2016, PR21-0726, is appointed as a member of the Commission on African-American Affairs, for a term to end June 15, 2019.
- 9. **DAVID N. STREET** pursuant to the Commission on African-American Affairs David N. Street Confirmation Resolution of 2015, effective January 25, 2016, PR21-0447, is appointed as a member of the Commission on African-American Affairs, for a term to end July 8, 2018.
- 10. **ENDREA L. FRAZIER** is appointed Chairperson of the Commission, and shall serve in that capacity at the pleasure of the Mayor.
- 11. **LEGRANDE BALDWIN** is appointed Vice Chairperson of the Commission, and shall serve in that capacity at the pleasure of the Mayor.
- 12. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* the effective date of confirmation.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2016-134
September 30, 2016

SUBJECT: Establishment – St. Elizabeths East Redevelopment Initiative Advisory Board

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §1-204.22(11) (2014 Repl. and 2016 Supp.), it is hereby **ORDERED** that:

I. ESTABLISHMENT

There is hereby established in the Executive Branch of the Government of the District of Columbia, the St. Elizabeths East Redevelopment Initiative Advisory Board (hereinafter referred to as the "**SEERI Advisory Board**").

II. PURPOSE

The SEERI Advisory Board shall provide recommendations on the St. Elizabeths East Redevelopment Initiative's implementation of plans for the redevelopment of St. Elizabeths ("**East Campus**").

III. FUNCTIONS

The SEERI Board shall:

- A. Provide recommendations on strategies for the creation of employment opportunities through the redevelopment of the East Campus;
- B. Make recommendations on the method and manner of attracting small and local businesses to the East Campus and the surrounding area;
- C. Provide recommendations on strategies for community-based redevelopment policies and activities that will support positive growth at the East Campus and the surrounding area;
- D. Make recommendations on strategies for supporting and capitalizing on the federal government's redevelopment of the West Campus of St.

Elizabeths; and

- E. Provide recommendations on advancing innovation strategies, including how to attract science and technology companies to the East Campus.

IV. COMPOSITION

The SEERI Board shall be composed of twelve (12) members who shall be appointed by the Mayor as follows:

- A. Six (6) private sector subject matter experts who have a demonstrated knowledge and competence in business or entrepreneurial development, higher education or academia, infrastructure, transportation and land use, commercial or residential development, and real estate finance or management.
- B. Four (4) community representatives from each category that includes Advisory Neighborhood Commission members, small business owners, faith community leaders, and community leaders within Ward 8.
- C. The Deputy Mayor for Planning and Economic Development, or his or her designee.
- D. An employee of the federal government who has demonstrated knowledge of the St. Elizabeths East Campus redevelopment project, who shall serve as an *ex officio*, non-voting member.

V. TERMS

- A. Community representative and private sector board members appointed to the SEERI Advisory Board shall serve a term of two (2) years. The date on which the first SEERI Advisory Board members are sworn in shall become the anniversary date for all subsequent appointments.
- B. The Mayor shall appoint a member to fill a vacancy in an unexpired term only for the remainder of the unexpired period of the term.
- C. A SEERI Advisory Board member may resign by filing a notice of resignation with the Mayor.
- D. Government representatives shall serve only for the duration of their employment with the District or federal governments, and shall serve at the pleasure of the Mayor.

- E. When necessary, the Mayor may remove a board member for inefficiency, neglect of duty, malfeasance in office, indictment for a criminal offense relating to breach of trust or fiduciary duty, conduct bringing disrespect to or impugning the character of the board, or any other reason deemed appropriate by the Mayor.

VI. ORGANIZATION

1. The Deputy Mayor for Planning and Economic Development, or his or her designee, shall serve as the chairperson of the SEERI Advisory Board.
2. The Mayor shall designate two (2) vice chairpersons of the SEERI Advisory Board, one (1) from the community representative board members and one (1) from the private sector board members, who shall serve in those capacities at the pleasure of the Mayor.
3. The SEERI Advisory Board shall convene at quarterly meetings throughout the year, the date, location, and agenda of which shall be announced by the chairperson.
4. The SEERI Advisory Board may use telephone conferencing, video conferencing, or other electronic mechanisms to fulfill the meeting requirements.
5. There shall be no voting by proxy.

VII. COMPENSATION

Members of the SEERI Advisory Board shall serve without compensation, except that a member may be reimbursed for expenses incurred in the authorized execution of official SEERI Advisory Board duties, if approved in advance by the Deputy Mayor for Planning and Economic Development, or his or her designee, subject to appropriations and the availability of funds.

VIII. SUNSET

The SEERI Advisory Board shall remain in existence until the earlier of the following dates:

- A. The date on which the SEERI Advisory Board issues its final written findings to the St. Elizabeths East Redevelopment Initiative; or
- B. December 31, 2020.

IX. RESCISSIONS


Mayor's Order 2012-21, dated February 9, 2012, and Mayor's Order 2014-224, dated October 23, 2014, are rescinded.

- X. EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 2, 2016.



MURIEL BOWSER
MAYOR

ATTEST:



LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

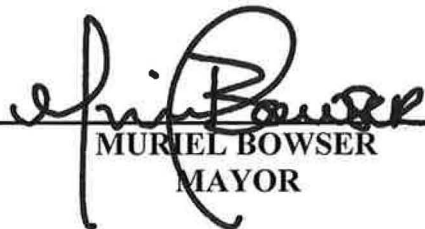
Mayor’s Order 2016-135
September 30, 2016

SUBJECT: Amendment – Mayor’s Office of Talent and Appointments — Authority to Administer Oaths


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2), (6), and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), (6), and (11) (2014 Repl.), section 2 of the District of Columbia Administration of Oaths, Public Assistance Technical Clarification, and Police Service and Fire Service Schedule Approval Act of 1982, effective May 19, 1982, D.C. Law 4-108, D.C. Official Code § 1-301.22 (2014 Repl.), and section 408 of the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, D.C. Law 2-139, D.C. Official Code § 1-604.08 (2014 Repl.), it is hereby **ORDERED** that:

1. Section 1 of Mayor’s Order 2015-064, dated February 2, 2015, is amended by striking the phrase “Deputy Director” and inserting the phrase “Director of Operations” in its place.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-136
September 30, 2016

SUBJECT: Appointment – Advisory Board on Veterans Affairs for the District of Columbia


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and pursuant to Mayor's Order 2001-92, dated June 22, 2001, as amended by Mayor's Order 2002-142, dated August 19, 2002, it is hereby **ORDERED** that:

1. **NANCY BLACK** is appointed as an *ex-officio*, non-voting District government official member of the Advisory Board on Veterans Affairs, representing the Department of Behavioral Health, filling a vacant seat, and shall serve in that capacity at the pleasure of the Mayor.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 20, 2016.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-137
September 30, 2016

SUBJECT: Amendment and Appointment – Metropolitan Washington Regional Ryan White Planning Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), (11) (2014 Repl. and 2016 Supp.), and pursuant to §§ 2602(a)(1) and (b)(1) of the Public Health Service Act, as amended by § 101 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, approved August 18, 1990, 104 Stat. 576, 42 U.S.C. 300ff-12(a)(1) and (b)(1), and Mayor's Order 2016-001, dated January 8, 2016, it is hereby **ORDERED** that:

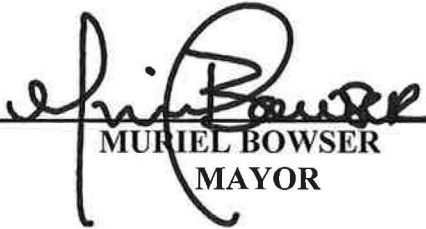
1. Section IV.a. of Mayor's Order 2016-001 is amended as follows:
 - A. The lead-in text is amended by striking the phrase "thirty-three (33)" and inserting the phrase "thirty-four (34)" in its place.
 - B. Paragraph 2 is amended to read as follows:

" 2. The following four (4) government members:


 - A. One (1) non-voting representative from the District of Columbia Department of Health Care Finance;
 - B. One (1) non-voting representative from the District of Columbia Department of Behavioral Health;
 - C. One (1) non-voting representative from the District of Columbia Department of Health; and
 - D. One (1) voting representative of the District of Columbia Department of Health, the agency administering the program under Part B of Title XXVI of the Public Health Service Act (42 U.S.C. § 300ff-21 *et seq.*)."
2. **KA'LEEF MORSE** is appointed to the Washington Metropolitan Regional Ryan White Planning Council ("**Council**") as the non-voting representative from the District of

Columbia Department of Health, and shall serve in that capacity at the pleasure of the Mayor.

3. **KA'LEEF MORSE** is appointed as Governmental Co-Chair to the Council, and shall serve in that capacity at the pleasure of the Mayor.
4. **EFFECTIVE DATE**: This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-138
September 30, 2016

SUBJECT: Appointments — Concealed Pistol Licensing Review Board


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and in accordance with section 908 of the Firearms Control Regulations Act of 1975, effective June 16, 2015 (D.C. Law 20-279; D.C. Official Code § 7-2509.08 (2016 Supp.)), it is hereby **ORDERED** that:

1. **SONJIAH DAVIS** is appointed, as a public member, as a mental health professional, to the Concealed Pistol Licensing Review Board ("**Board**"), replacing Dr. Clayton Lawrence, to serve the remainder of an unexpired term, to end July 23, 2018.
2. **DEBRA LONG-DOYLE** is appointed, as a member, as the representative of the United States Attorney's Office for the District of Columbia to the Board, replacing Laura Ingersoll, to serve the remainder of an unexpired term, to end November 21, 2018.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2016-139
September 30, 2016

SUBJECT: Appointments – St. Elizabeths East Redevelopment Initiative Advisory Board


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §1-204.22(2) (2014 Repl. and 2016 Supp.), and in accordance with Mayor's Order 2016-134, dated September 30, 2016, it is hereby **ORDERED** that:

1. The following persons are appointed as members of the St. Elizabeths East Redevelopment Initiative Advisory Board ("**Board**") to serve at the pleasure of the Mayor:
 - a. **BRIAN KENNER** as the Deputy Mayor for Planning and Economic Development, or his designee.
 - b. **JOHNATHAN SCHAFLER** as a federal government employee member with knowledge of the St. Elizabeths East Campus redevelopment project, who shall serve as a non-voting member.
2. The following persons are appointed as members of the Board for terms to end two (2) years after the date on which the first Board members are sworn in:
 - a. **BARRON HARVEY** as a private sector subject matter expert member who has demonstrated knowledge and competence in business or entrepreneurial development.
 - b. **TELAEKAH BROOKS** as a private sector subject matter expert member who has demonstrated knowledge and competence in higher education or academia.
 - c. **MARY CUTHBERT** as a community representative member who is an Advisory Neighborhood Commission member.
 - d. **SHEILA BUNN** as a community representative member who is a community leader within Ward 8.

- e. **BRENDA JONES** as a community representative member who is a small business owner.
 - f. **CHRISTOPHER EARLEY** as a private sector subject matter expert member who has demonstrated knowledge and competence in real estate finance or management.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.


MURIEL BOWSER
MAYOR

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2016-140
September 30, 2016

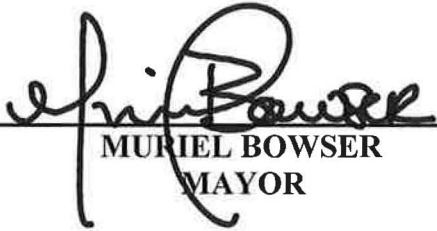
SUBJECT: Reappointments and Appointment — District of Columbia Not-for-Profit Hospital Corporation Board of Directors

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and pursuant to section 5115 of the Not-For-Profit Hospital Corporation Establishment Amendment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code 44-951.04)(2012 Repl.), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01 (2014 Repl. and 2016 Supp.)), it is hereby **ORDERED** that:

1. **SEAN PONDER** pursuant to the District of Columbia Not-For-Profit Hospital Corporation Board of Directors Sean Ponder Confirmation Resolution of 2016, effective June 18, 2016, PR 21-0668 is appointed as a member of the District of Columbia Not-for-Profit Hospital Board of Directors, replacing Dr. Ricardo Brown, for a term to end July 9, 2018.
2. **KHADIJAH TRIBBLE** pursuant to the District of Columbia Not-For-Profit Hospital Corporation Board of Directors Khadijah Tribble Confirmation Resolution of 2016, effective June 18, 2016, PR 21-0667 is reappointed as a member of the District of Columbia Not-For-Profit Hospital Board of Directors, for a term to end July 9, 2019.
3. **CHRIS GARDINER** pursuant to the District of Columbia Not-For-Profit Hospital Corporation Board of Directors Chris Gardiner Confirmation Resolution of 2016, effective June 18, 2016, PR 21-0666 is reappointed as a member of the District of Columbia Not-For-Profit Hospital Board of Directors, for a term to end July 9, 2019.

4. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to the date of confirmation.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2016-141
September 30, 2016

SUBJECT: Appointment and Reappointment — Construction Codes Coordinating Board


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl. and 2016 Supp.), and pursuant to Mayor's Order 2009-22, dated February 25, 2009, as amended by Mayor's Order 2012-32, dated February 29, 2012, it is hereby **ORDERED** that:

1. **CHRISTOPHER BAILEY** is appointed to the Construction Codes Coordinating Board ("**Board**") as an Office of the Construction Code Official member, replacing Gary Englebert, for a term to end February 15, 2018.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

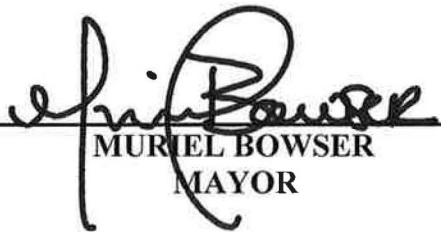
Mayor's Order 2016-142
September 30, 2016

SUBJECT: Appointment— Board of Chiropractic


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2014 Repl. and 2016 Supp.), and in accordance with section 216 of the District of Columbia Health Occupations Revision Act of 1985, effective March 21, 1995 (D.C. Law 10-231; D.C. Official Code § 3-1202.16) (2012 Repl.), it is hereby **ORDERED** that:

1. **DR. TOREY MACK** is appointed as a member of the Board of Chiropractic, as the designee of the Director of the Department of Health, replacing Sajeed Popat, to serve for a term to end June 23, 2019.
2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to June 23, 2016.



MURIEL BOWSER
MAYOR

ATTEST: 

LAUREN C. VAUGHAN
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor’s Order 2016-143
September 30, 2016

SUBJECT: Appointment – Coordinator, Office of Clean City


ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2014 Repl.), and pursuant to Mayor’s Order 2001-31, dated March 1, 2001, it is hereby **ORDERED** that:

1. **MALIK WILLIAMS** is appointed Coordinator, Office of Clean City, and shall serve in that capacity at the pleasure of the Mayor.
2. This Order supersedes Mayor’s Order 2005-3, dated January 10, 2005, and any previous Mayor’s Orders to the extent of any inconsistency.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER
MAYOR

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

**APPLETREE EARLY LEARNING
PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Special Education Teaching Support Services**

AppleTree Early Learning PCS is seeking an organization(s) to provide special education teaching services. Please contact Jenna Umansky, Special Education Manager, for details on the RFP. The deadline for responding to the RFP is October 17, 2016 at 4pm. Contact – Jenna Umansky, Special Education Manager, 415 Michigan Avenue NE, Washington, DC 20017, (202) 821-3288, jenna.umansky@appletreepcs.org.

OFFICE OF THE CHIEF FINANCIAL OFFICER
Office of Revenue Analysis

NOTICE OF CHANGE IN TAX ON OTHER TOBACCO PRODUCTS
IN TAX YEAR 2017

Pursuant to D.C. Code §47-2402.01, the District of Columbia shall provide notice of the tax rate on other tobacco products on or before September 1st of each year for the upcoming tax year that begins on October 1st. The tax for other tobacco products shall be equal to the cigarette tax and surcharge on a pack of 20 cigarettes under §47-2402 a.(1)-(2), expressed as a percentage of the average wholesale price of a package of 20 cigarettes for the March 31, preceding the September 1st announcement of the change in rates.

The Office of Revenue Analysis collected wholesale price data from the United States Department of Labor: Bureau of Labor Statistics. Based on the analysis of the data, the Office of Revenue Analysis has determined that the average wholesale price of a package of 20 cigarettes in the District as of March 21, 2016 was \$4.52, and the calculated tax applicable to other tobacco products for tax year 2017 shall be 65 percent.

Calculated Tax on Other Tobacco Products
for Tax Year 2017

2016 Average Wholesale Price for a Package of 20 Cigarettes	\$4.52
Tax on a Package of 20 Cigarettes	\$2.50
Surcharge on a Package of 20 Cigarettes	\$0.42
Total tax on a Package of 20 Cigarettes	\$2.92
Total Tax on a Package of Cigarettes as a Percent of Wholesale price	65%

OFFICE OF THE CHIEF FINANCIAL OFFICER
Office of Revenue Analysis

NOTICE OF INCREASE IN THE TAX YEAR 2017 SURTAX
FOR CIGARETTE PACKAGES IN THE DISTRICT OF COLUMBIA

Pursuant to D.C. Code §47-2402(a)(3)(A), the District of Columbia shall provide notice of the appropriate calculated surtax on a package of cigarettes on or before September 1st of each year for the upcoming tax year that begins on October 1st. The calculated surtax levy shall be equivalent to a levy of the general sales tax rate in effect for the upcoming tax year.

In March 2014, the Office of Revenue Analysis collected retail sale price data on packages of 20 cigarettes from a cross section of retail outlets in the city. In 2016, and in 2015, we used the Bureau of Labor Statistics' Consumer Price Index (CPI) for all urban consumers' data to compare prices of cigarettes in February 2015 and February 2016. Based on analysis of the data, with respect to the aforementioned legislation, the Office of Revenue Analysis has determined that the 2016 average retail sale price of a package of 20 cigarettes in the city is \$8.56, and the calculated surtax for tax year 2017 shall be \$0.42 per pack of cigarettes, up from \$0.41 for tax year 2015.

A package of cigarettes is defined as one with 20 or fewer cigarettes. However, if a package of cigarettes sold in tax year 2016 contains more than 20 cigarettes, the surtax per pack must be incrementally increased by \$0.020 per each cigarette above 20.

Calculated Surtax on a Package of 20 Cigarettes (or Fewer)
For Tax Year 2017

2015 Average Retail Sale Price for a Package of 20 Cigarettes	\$8.56
Less Current Surtax & Estimated Costs of Business	-\$1.22
Adjusted Average Retail Sales Price	\$7.35
Calculated Surtax (5.75% Sales Tax Equivalent) Effective October 1, 2016	\$0.42

Effective October 1, 2016, the above surtax of \$0.42 per pack of cigarettes is in addition to the cigarette excise tax of \$2.50 per pack. Thus, the total tax levy for cigarettes in the District of Columbia for tax year shall be \$2.92 per pack of 20.

**CITY ARTS & PREP PUBLIC CHARTER SCHOOL
FOR THE PERFORMING ARTS**

REQUEST FOR PROPOSALS

Executive Search Firms

The City Arts & Prep Public Charter School for the Performing Arts, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 (“Act”), hereby solicits expressions of interest from Vendors or Consultants for the following tasks and service:

- Executive Search Firms

Please send an email to bids@cityartspcs.org to receive a full RFP offering more detail on scope of work and bidder requirements.

Proposals shall be received no later than 5:00 pm, Wednesday, October 26, 2016.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Bid Administrator
bids@cityartspcs.org

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**DC Board of Accountancy
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**Friday, October 7, 2016
9:00 AM**

1. Call to Order – 9:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Accept Meeting Minutes,
7. Executive Session - Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session to receive advice from counsel, review application(s) for licensure and discuss disciplinary matters.
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – November 4, 2016 at 9am

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Barber and Cosmetology
1100 4th Street SW, Room E300
Washington, DC 20024**

**Meeting Agenda
Monday, October 3, 2016
10:00 a.m.**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Applications for Licensure
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn

Next Scheduled Board Meeting – Monday, June 6, 2016

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Funeral Directors
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**October 6, 2016
1:00 PM.**

1. Call to Order – 1:00 p.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, September 1, 2016
7. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – November 3, 2016 at 1:00 p.m.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Board of Industrial Trades
1100 4th Street, S.W., Room 300
Washington, D.C. 20024**

**AGENDA - Draft
October 18, 2016**

1. Call to Order – 1:00 p.m.
2. Attendance
3. Executive Session (Closed to the Public) – 1:15 p.m. - 2:15 p.m.
4. Start of Public Session – 2:20 p.m.
5. Comments from the Public
6. Minutes
7. Board Discussions
8. Recommendations
 - Applications for Licensure
9. Old Business
10. New Business
11. Adjourn

Next Scheduled Regular Board Meeting, November 15, 2016
1100 4th Street, SW, Room 300B, Washington, DC 20024

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Board of Real Estate Appraisers
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**October 19, 2016
10:00 AM**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, September 16, 2015
7. Executive Session (Closed to the Public) {Closed to the Public – to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – November 18, 2015 at 10:00 a.m.

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

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

October 2016

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Cynthia Briggs	Board of Accountancy	7	8:30 am-12:00pm
Patrice Richardson	Board of Appraisers	19	8:30 am-4:00 pm
Patrice Richardson	Board Architects and Interior Designers	No Meeting	8:30 am-1:00 pm
Cynthia Briggs	Board of Barber and Cosmetology	3	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	20	7:00-pm-8:30 pm
Sheldon Brown	Board of Funeral Directors	6	11:00am-1:00 pm
Avis Pearson	Board of Professional Engineering	27	9:00 am-1:30 pm
Leon Lewis	Real Estate Commission	11	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	18	1:00pm-3:30 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

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

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING ADMINISTRATION**

**D.C. BOXING AND WRESTLING COMMISSION
NOTICE OF PUBLIC MEETING
1100 4th Street, SW, Suite 200E, Washington, DC 20024**

**AGENDA
October 20, 2016
7:00 P.M.**

1. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
2. Call to Order
3. Attendance (Start of Public Session)
4. Comments from the Public
5. Minutes – September 15, 2016
6. Budget
7. Correspondence
8. Old Business
9. New Business
 - A. Upcoming Professional Events
 - B. Upcoming Amateur Events
10. Adjournment

NEXT MEETING SCHEDULED FOR NOVEMBER 17, 2016

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**District of Columbia Professional Engineers
1100 4th Street SW, Room 300
Washington, DC 20024**

AGENDA

**October 27, 2016 ~ Room 300
9:00 A.M. (Application Review by Board Members)**

11:00 A.M.

- 1) Call to Order – 11:00 a.m.
- 2) Attendance
- 3) Executive Session - **Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session – Closed to the Public**
 - Deliberation over applications for licensure
 - Review complaints and investigations
- 4) Comments from the Public
- 5) Review of Minutes
- 6) Recommendations
- 7) Old Business
- 8) New Business
- 9) Adjourn

Next Scheduled Meeting – August 25, 2016
Location: 1100 4th Street SW, Conference Room E300

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION**

NOTICE OF PUBLIC MEETING

**Real Estate Commission
1100 4th Street SW, Room E300
Washington, DC 20024**

MEETING AGENDA

**October 11, 2016
10:00 AM**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, September 13, 2016
7. Executive Session (Closed to the Public)
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – November 8, 2016 at 10:00 a.m.

DC SCHOLARS PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Assessment System, Coaching, and Professional Development**

DC Scholars Public Charter School intends to enter into a sole source contract with The Achievement Network (ANET) for a contracted Assessment system, Coaching, and Professional Development for approximately \$33,000 for the school year 2016-17. The Achievement Network previously provided these services to DC Scholars Public Charter School through its prior charter management organization, Scholar Academies. The decision to sole source is due to the fact that The Achievement Network provides a high-quality assessment platform and assessment materials with questions aligned to Common Core standards and in a format similar to the PARCC, and also provides training and coaching on teacher-friendly data analysis, creating targeted, practical re-teach plans, and making instructional adjustments based on benchmark data. The Achievement Network previously trained DC Scholars Public Charter School teachers on the assessment platform and assessment materials and it would be most effective to continue these services through The Achievement Network. The Achievement Network has a proven history on creating standard-based assessment questions for informal and interim assessments with the appropriate level of rigor.

The Sole Source Contract will be awarded at the close of business on October 14, 2016. If you have questions or concerns regarding this notice, contact **Emily Stone** at [202-559-6138](tel:202-559-6138) or estone@dcscholars.org no later than **4:00 pm October 14, 2016**.

DC SCHOLARS PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Reading Instructional Materials**

DC Scholars Public Charter School intends to enter into a sole source contract with AKJ Education for contracted classroom reading materials for approximately \$26,000 for the school year 2016-17. The decision to sole source is due to the fact that AKJ Education provides leveled libraries for classrooms that are categorized based on Fountas and Pinnell reading levels. DC Scholars Public Charter School purchases books from AKJ Education each year because the books are already packed and sorted based on reading levels aligned to our Fountas and Pinnell reading assessment. DC Scholars Public Charter School needs to purchase several more sets of leveled texts for school year 2016-17 due to the expansion of our Middle School program.

The Sole Source Contract will be awarded at the close of business on October 14, 2016. If you have questions or concerns regarding this notice, contact **Emily Stone** at [202-559-6138](tel:202-559-6138) or estone@dcscholars.org no later than **4:00 pm October 14, 2016**.

DC SCHOLARS PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Recruiting and Training Teacher Residents**

DC Scholars Public Charter School intends to enter into a sole source contract with Urban Teachers for contracted instructional support for approximately \$75,000 for the school year 2016-17. Urban Teachers has long and proven history of training novice teachers to be effective in urban education, using their unique evidence-based approach to teacher preparation. DC Scholars Public Charter School will use the services of Urban Teachers to recruit, select, train, and provide ongoing support and development for three teachers during school year 2016-2017. The decision to sole source is due to the fact that Urban Teachers is the only vendor who can position DC Scholars Public Charter School to achieve a full return on investment associated with the program model, through its teachers' four-year commitment to teaching. Teachers trained by Urban Teachers possess deeper knowledge of and experience with our students and various demographics compared to other novices, that enables them to be better equipped and prepared for their first year of lead teaching.

The Sole Source Contract will be awarded at the close of business on October 14, 2016. If you have questions or concerns regarding this notice, contact **Emily Stone** at [202-559-6138](tel:202-559-6138) or estone@dcscholars.org no later than **4:00 pm October 14, 2016**.

E.L. HAYNES PUBLIC CHARTER SCHOOL**NOTICE OF EXTENSION OF REQUEST FOR PROPOSALS****Roof Replacement**

E.L. Haynes Public Charter School, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995 (“Act”), hereby extends solicits and expressions of interest from Vendors or Consultants for the following service(s) that was originally posted on September 23, 2016:

- Roof Replacement

E.L. Haynes will offer one opportunity to walk the roof, Wednesday, October 12, 2016 (weather permitting). Interested parties MUST RSVP to kyochum@elhaynes.org by October 11, 2016 at 5 pm if they plan to attend.

Proposals are due via email to Kristin Yochum no later than 5:00 PM on Friday, October 21, 2016. The 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

E.L. HAYNES PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Marketing and Development Transition Services**

E.L. Haynes Public Charter School requires services to transition from our interim marketing and development structure to our new full time Senior Director of Marketing and Development. We initiated a short term contract with Chris Stacey to provide interim support and guidance to our marketing and development team. The search for a permanent Senior Director of Marketing and Development took longer than anticipated, a further contract with Ms. Stacey to cover this additional transition period. Total expenditures for all projects with Ms. Stacey will not exceed \$40,000.

The Sole Source Contract will be awarded at the close of business on October 14, 2016. If you have questions or concerns regarding this notice, please contact our Procurement Officer:

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

OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

NOTICE OF PUBLIC MEETING

DCPS RISING LEADERSHIP COMMITTEE

Deputy Mayor for Education Jennifer Niles announces the scheduling of a DCPS Rising Leadership Committee meeting to discuss the search for the next Chancellor of the District of Columbia Public Schools. The purpose of the meeting is to finalize recommendations for the Mayor.

Date: October 17, 2016

Time: 6:00 p.m.

Location: Trinity Washington University
125 Michigan Ave NE
Washington, DC 20017

Contact: Office of the Deputy Mayor for Education
202.727.3636 or dcpsrising@dc.gov

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS
PUBLIC NOTICE**

The Board of Elections at a Special Board Meeting on Wednesday, September 14, 2016, certified the short title and summary statement of the proposed Advisory Referendum entitled "Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016." Pursuant to 3 DCMR §1906.3, the Board hereby publishes the short title and summary statement, as proposed by the D.C. Council in Council Resolution 21-570 and as certified by the Board of Elections. The proposed Advisory Referendum will be presented to the voters at the General Election to be conducted on Tuesday, November 8, 2016.

ADVISORY REFERENDUM B

SHORT TITLE

"Advisory Referendum on the State of New Columbia Admission Act Resolution of 2016"

SUMMARY STATEMENT

To ask the voters on November 8, 2016, through an advisory referendum, whether the Council should petition Congress to enact a statehood admission act to admit the State of New Columbia to the Union. Advising the Council to approve this proposal would establish that the citizens of the District of Columbia ("District"):

- (1) agree that the District should be admitted to the Union as the State of New Columbia;
- (2) approve of a Constitution of the State of New Columbia to be adopted by the Council;
- (3) approve the State of New Columbia's boundaries, as adopted by the New Columbia Statehood Commission on June 28m 2016; and
- (4) agree that the State of New Columbia shall guarantee an elected representative form of government.

Shall the voters of the District of Columbia advise the Council to approve or reject this proposal?

YES, to approve _____

NO, to reject _____

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY**Clean Vessel Act Request for Partners**

The Department of Energy and Environment (the Department) seeks applications from potential partners to be included in a grant application to the U.S. Fish and Wildlife Service (USFWS) Clean Vessel Act grant program, CFDA 15.616, for funding to purchase or provide maintenance for boat sewage pumpout systems, portable pumpouts, or pumpout boats. Potential partners will support DOEE in promoting improved water quality and increased compliance with the District of Columbia's statute prohibiting discharge of sanitary sewage from vessels, D.C. Official Code § 8-103.06(m). DOEE may request from USFWS up to \$1,500,000 for one or more projects. All accepted projects will be included in a competitive proposal to USFWS. Acceptance into the DOEE proposal to USFWS is not a guarantee of funding.

Beginning 10/7/2016, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department's website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information in the *Attachments* section.

Email a request to 2016wildliferfa.grants@dc.gov with "Request copy of RFA 2017-1703-FWD" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Joanne Goodwin at (202) 535-1798 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Joanne Goodwin RE:2017-1703-FWD" on the outside of the envelope

The deadline for application submissions is 11/7/2016, at 5:00 PM. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2016wildliferfa.grants@dc.gov.

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

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: 2016wildliferfa.grants@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY**Communications for RiverCents Automotive Pollution Prevention Program**

The Department of Energy and Environment (the Department) seeks eligible entities to provide communications and design support for a program, called the RiverCents Automotive Pollution Prevention Program (P2 Program) that the Department is developing. The project will create unified language and branding for the P2 Program that is effective at engaging businesses and educating their customers about pollution prevention. The P2 Program will provide workshops, onsite technical visits, newsletters, and a certification program that will be integral to the District's efforts to improve local environmental health by reducing pollution from automotive repair shops. The amount available for the project is approximately \$33,744.00. This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 10/7/2016, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department's website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to RiverCentsCommunications@dc.gov with "Request copy of RFA 2016-1610-SWMD" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Clara Elias at (202) 645-4231 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Clara Elias RE:2016-1610-SWMD" on the outside of the envelope.

An informational conference call and opportunity for question and answers will be held on October 21, 2016 at 2:00PM at 1200 First Street NE, Fifth Floor, Washington, DC 20002. The call number is 1- 866-741-7514 and the conference code is 2014667.

The deadline for application submissions is 11/7/2016, at 5:00 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to RiverCentsCommunications@dc.gov.

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

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: RiverCentsCommunications@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY

DCA Airplane Noise Assessment

The Department of Energy and Environment (the Department) seeks eligible entities to help the District of Columbia better understand the impacts of airplane noise on DC-area communities and identify potential improvements to existing noise abatement programs. The amount available for the project is approximately \$260,000.00.

Beginning 10/7/2016, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department's website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

Email a request to 2016dcanoiserfa.grants@dc.gov with "Request copy of RFA 2016-1702-AQD" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Jessica Daniels at (202) 741-0862 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Jessica Daniels RE:2016-1702-AQD" on the outside of the envelope.

The deadline for application submissions is 11/10/2016, at 5:00 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2016dcanoiserfa.grants@dc.gov.

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

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: 2016dcanoiserfa.grants@dc.gov.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FUNDING AVAILABILITY**Technical Assistance for RiverCents Automotive Pollution Prevention Program**

The Department of Energy and Environment (the Department) seeks eligible entities to create a new RiverCents program (P2 Program) that will help reduce land, air, and stormwater pollution from District automotive repair shops through pollution prevention. The P2 Program will include onsite technical assistance and certification program that will be integral to the District's efforts to improve local environmental health by reducing pollution from auto body shops and mechanics. The amount available for the project is approximately \$110,992.00. This amount is subject to availability of funding and approval by the appropriate agencies.

Beginning 10/7/2016, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

Download from the Department's website, www.doe.dc.gov. Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to the announcement for this RFA. Click on *Read More* and download this RFA and related information in the *Attachments* section.

Email a request to RiverCents.TechSupport@dc.gov with "Request copy of RFA 2016-1611-SWMD" in the subject line.

Pick up a copy in person from the Department's reception desk, located at 1200 First Street NE, 5th Floor, Washington, DC 20002. To make an appointment, call Clara Elias at (202) 645-4231 and mention this RFA by name.

Write DOEE at 1200 First Street NE, 5th Floor, Washington, DC 20002, "Attn: Clara Elias RE:2016-1611-SWMD" on the outside of the envelope.

An informational conference call and opportunity for question and answers will be held on October 21, 2016 at 2:00PM at 1200 First Street NE, Fifth Floor, Washington, DC 20002. The call number is 1- 866-741-7514 and the conference code is 2014667.

The deadline for application submissions is 11/7/2016, at 5:00 p.m. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to RiverCents.TechSupport@dc.gov.

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

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith-based organizations;
- Government agencies
- Universities/educational institutions; and
- Private Enterprises.

For additional information regarding this RFA, write to: RiverCents.TechSupport@dc.gov.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

Office of Government Ethics

BEGA – Advisory Opinion – 1009-013 – Post-Employment Restrictions

September 26, 2016

Via email: vorange@dcchamber.org

Vincent B. Orange, Sr.
President and CEO
D.C. Chamber of Commerce
506 9th Street, N.W.
Washington, D.C. 20004

Dear Mr. Orange:

This responds to your request for a formal opinion concerning your employment with the District of Columbia Chamber of Commerce (“Chamber”) as its President and Chief Executive Officer, effective August 15, 2016.

Introduction and Background

Your request was initially addressed by email to the Director of Government Ethics on August 2, 2016, a time when you anticipated completing your term as an at-large member of the Council of the District of Columbia and as Chairman of the Council’s Committee on Business, Consumer and Regulatory Affairs. The request sought guidance on “what limitations and/or restrictions, if any, will occur while serving in these positions, when [you] would need to seek recusal on matters and any post Council employment restrictions.”¹ However, you resigned from office on August 15, and we understand that, in a conversation with the Director of Government Ethics that day, you asked that the guidance be limited to post-Council employment restrictions.²

While your resignation may have rendered moot some of the issues that we would have been required to address had you served until the end of your term, we will not confine ourselves in this opinion to post-employment considerations. The need to provide guidance that is useful not only to you, but to others in your position in the future, warrants a broader discussion. That said,

¹ A copy of the initial request is attached as Exhibit 1.

² We also understand that, during the conversation, the Director advised you that the guidance would be provided directly by this Board.

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and in order to provide a relevant context for that discussion, a chronology of certain events that occurred both before and after your request for an opinion must first be established.³

The first contact regarding possible employment with the Chamber came on July 8, when you received an unsolicited telephone call from a member of the Chamber's Executive Search Committee. You were advised that the search to fill the position of President and Chief Executive Officer had been reopened and that you were on a list of potential candidates. You were also told that, if interested, you could attend one of several upcoming interviews.

You interviewed with the Search Committee on July 12. Two days later, you followed-up with a letter, formally expressing interest in being considered for the position.

The Council recessed for the summer on July 15. The Committee on Business, Consumer and Regulatory Affairs met the day before for the last time before the recess, when it held a public hearing on a number of bills.

You had a second interview with the Search Committee on July 22, which was followed by several days of active negotiation. On July 27, you accepted the position, entering into a written contract for employment to commence on August 15. In a position specification incorporated into the contract, the Chamber is described as "provid[ing] Washington businesses with advocacy on business matters, valuable networking opportunities and enlightening educational programs."⁴ The specification also lists several key responsibilities of the President and Chief Executive Officer, including "identifies priority public policy issues and position" and "ensures effective representation before relevant local government bodies to achieve desired outcomes."

On July 28, in a telephone conversation, you informed the Council's General Counsel that you had accepted the position. The General Counsel followed-up that conversation by sending you an email, confirming the conflict of interest provisions of Rule I of the Council's Code of Official Conduct. She sent you another email the following day.

On August 1, you met with the General Counsel in person to discuss all the relevant provisions of the Code of Official Conduct. The next day, you emailed the Director of Government Ethics to request a formal opinion.

On August 12, after some discussion with the Council Chairman and the Council's General Counsel during the previous days, you announced your resignation from the Council. The

³ The chronology that follows in the text is based on discussions that you had with this Board's Senior Attorney Advisor, documents that you made available to him for inspection, his discussions and communications with Council staff, as well as information generally available to the public.

⁴ The Chamber is a nonprofit organization. See <https://www.dchamber.org/the-chamber/chamber-opportunities> (last visited Sept. 16, 2016) (stating that the Chamber is "a 501(c)(6) non-profit organization dedicated to promoting economic, commercial, industrial and general civic welfare of the District of Columbia").

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resignation became effective on August 15, when you also began your employment with the Chamber.

Discussion

I. Applicable Law (Generally)

In providing any guidance, we rely on both federal and District government ethics laws. We reference them generally in this section.

On the federal side, provisions of several criminal conflict of interest laws apply to present and former District government employees alike.⁵ For example, 18 U.S.C. § 208(a), which prohibits financial conflicts of interest, applies to an individual who is “an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee.”⁶ While this Board does not have the authority to enforce these federal laws, we do look to them for guidance, along with their implementing regulations and OGE’s interpretive materials.

In terms of District law, section 202(a)(1) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”),⁷ authorizes us to administer and enforce the Code of Conduct. The Ethics Act defines the Code of Conduct as being composed of eight elements, one of which is, for members and employees of the Council, “the Code of Official Conduct of the Council of the District of Columbia, as adopted by the Council.”⁸ For the current Council Period, the Code of Official Conduct was adopted pursuant to section 3 of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 21, Resolution of 2015.⁹

⁵ Violation of any of these laws is punishable pursuant to 18 U.S.C. § 216.

⁶ See also federal Office of Government Ethics (“OGE”) Informal Advisory Letter 97 x 9 at 2 (May 21, 1997) (written for former Councilmember) (confirming that, for post-employment purposes, “sections 207(a)(1) and 207(a)(2) [of Title 18 of the United States Code] are the only substantive provisions of the current version of the statute which apply to former employees of the District of Columbia government”); OGE Informal Advisory Letter 86 x 18 at 1 (Dec. 9, 1986) (concluding that “section 207 [of Title 18 of the United States Code] does apply to Council employees, based on the plain language of the statute, its legislative history, and consistent administrative practice”).

⁷ Effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1162.02(a)(1)).

⁸ Section 101(7)(A) of the Ethics Act (D.C. Official Code § 1-1161.01(7)(A)). For employees and public officials who are not members or employees of the Council, the Code of Conduct is defined as “Chapter 18 of Title 6B of the District of Columbia Municipal Regulations.” Section 101(7)(E) of the Ethics Act (D.C. Official Code § 1-1161.01(7)(E)).

⁹ Effective January 2, 2015 (Res. 21-1; 62 DCR 493).

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For purposes of this opinion, specific provisions of federal law and the Council's Code of Official Conduct are discussed in the following text.

II. Conflicts of Interest While Seeking Employment

An individual is prohibited by 18 U.S.C. § 208(a) from, among other things, “participat[ing] personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, ... any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.”¹⁰ For conflict of interest purposes, the rationale underlying section 208(a) is that the financial interests of the entity with which an employee is seeking employment are generally imputed to the employee with respect to any given particular matter.¹¹ The remedy for an employee finding himself or herself in such a job search situation is recusal, which is accomplished by not participating in the particular matter.¹²

However, even if the Chamber's financial interests could have been imputed to you during the job search process,¹³ recusal would still not have been required because, by the time active negotiations¹⁴ began after your second interview on July 22, the Council had been in recess for at least a week. In other words, due to the recess, you were not participating in any pending particular matters at all. Consequently, the need for any recusal did not arise.

¹⁰ Written in very similar language, section 223(a) of the Ethics Act (D.C. Official Code § 1-1162.23(a)) is the District's analog to 18 U.S.C. § 208(a). Rule I(a) of the Council's Code of Official Conduct, which is also substantively similar to 18 U.S.C. § 208(a), is discussed in the text below.

¹¹ See 5 C.F.R. § 2635.402(b)(2)(v); see also OGE Memorandum DO-06-029 at 3-4 (Oct. 4, 2006) (“OGE has emphasized that the term [“particular matter”] typically involves a specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties ... It is important to remember that the term does not [generally] cover particular matters of general applicability, such as rulemaking, legislation, or policy-making of general applicability.”).

¹² See 5 C.F.R. § 2635.604(a).

¹³ See Financial Interests of Nonprofit Organizations for Purposes of 18 U.S.C. § 208, 30 Op. O.L.C. 64 (2006) (concluding that “a nonprofit organization [does not have] a financial interest in a particular matter solely by virtue of the fact that the organization spends money to advocate a position on the policy at issue in the matter”).

¹⁴ The regulations implementing 18 U.S.C. § 208(a) define the term “negotiations” as meaning “discussion or communication with another person, or such person's agent or intermediary, mutually conducted with a view toward reaching an agreement regarding possible employment with that person. The term is not limited to discussions of specific terms and conditions of employment in a specific position.” 5 C.F.R. § 2635.603(b)(1)(i). Here, while you may not have discussed “specific terms and conditions of employment” during your first interview on July 12, that meeting, nevertheless, was “mutually conducted with a view toward reaching an agreement regarding possible employment,” therefore falling within the meaning of the regulatory definition. Accordingly, we use the word “active” several places in the text to describe the negotiations following your second interview on July 22.

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The result is no different here under Rule I of the Council's Code of Official Conduct. Subsection (a) of the Rule prohibits a Council employee from using his or her official position or title, or personally and substantially participating, in particular matters "in a manner that the employee knows is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee." The term "person closely affiliated with the employee" is defined by Rule I(e)(5) to include an "affiliated organization," which, in turn, is defined by Rule I(e)(1)(B) to mean "[a] person with whom the employee is negotiating for or has an arrangement concerning prospective employment." Again, you were not participating in any particular matters pending during the time of your active negotiations with the Chamber. The last time that you participated personally and substantially in any pending matters was on July 14, the day before recess, when you chaired your committee's public hearing on six bills.¹⁵ However, none of those measures appears to be "focused upon the interests of specific persons, or a discrete and identifiable class of persons," thereby meeting the definition of a "particular matter" under Rule I(e)(4).¹⁶ Accordingly, recusal was not required.

III. Avoiding Appearances of Impropriety

Although 18 U.S.C. § 208 and Rule I of the Council's Code of Official Conduct may not have applied while you sought employment with the Chamber, you were, during that time, bound by a separate duty under Rule 202(a) of the Council's Rules of Organization and Procedure to avoid "both actual *and perceived* conflicts of interest and preferential treatment."¹⁷

Rule 202(a) is not part of the Code of Conduct under the Ethics Act,¹⁸ and, therefore, this Board has no authority to enforce it. Further, there is no provision in the Council's Code of Official Conduct that requires recusal for Councilmembers faced with situations creating only the appearance of violating the law or ethical standards. Nevertheless, from our perspective, the facts here indicate that you took steps to receive guidance on the way forward. On July 28, the day after executing the contract, you informed the Council's General Counsel that you had accepted the position with the Chamber. Several days later, you met with the General Counsel to discuss the relevant provisions of the Code of Official Conduct¹⁹ and requested a formal opinion

¹⁵ Bill 21-291, the "DCRA Infractions Fine Increase Regulation Amendment Act of 2015"; Bill 21-466, the "Local Business Support Amendment Act of 2015"; Bill 21-527, the "Vacant and Blighted Buildings Enforcement Amendment Act of 2015"; Bill 21-598, the "Vacant Property Enforcement Amendment Act of 2016"; and Bill 21-689, the "Homeowners Protection from Construction Damage Amendment Act of 2016".

¹⁶ *Cf.* 5 C.F.R. § 2635.604(a)(2) (authorizing employee's participation in particular matter when, among other things, "[t]he matter is not a particular matter involving specific parties").

¹⁷ Emphasis added. The Rules were adopted pursuant to section 2 of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 21, Resolution of 2015.

¹⁸ *See* section 101(7) of the Ethics Act (D.C. Official Code § 1-1161.01(7)).

¹⁹ Pursuant to Rule XI(d)(1) of the Council's Code of Official Conduct, the General Counsel is authorized to provide an employee "confidential advice about compliance with the Code of Conduct and any other applicable laws and regulations." *Cf.* 5 C.F.R. § 2635.502(a)(1) ("In considering whether a relationship would cause a reasonable person

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from the Director of Government Ethics. Then, on August 12, after several days of discussions with the Council Chairman and the General Counsel, you announced your resignation from the Council.

We understand that some on the Council, as well as others in the public, raised government ethics issues that may have arisen had you undertaken your job with the Chamber during the remainder of your term. However, we cannot be concerned here with what might have been. The fact is that you resigned, and all the information available to us indicates that you received advice and counsel before doing so. Consequently, we cannot find that you, at any relevant time, took any action creating the appearance of impropriety.

IV. Post-Employment

Your obligation to abide by government ethics laws did not end with your resignation. As discussed in this section, there are a number of limitations that apply to your post-Council activities.

A. Permanent Prohibition

Under Rule VIII(a) of the Code of Official Conduct, former Council employees, including Councilmembers, are prohibited from knowingly making, with the intent to influence, any communication to or appearance before any officer or employee of a District government agency or court, on behalf of any other person (except the District), with respect to particular matters involving specific parties and in which the District is a party or has a direct and substantial interest, if the employee had participated personally and substantially in such matters as an officer or employee.

Rule VIII(a) does not expressly provide for the duration of the prohibition. However, its heading (“PERMANENT RESTRICTIONS ON REPRESENTATION ON PARTICULAR MATTERS”) clearly signals the Council’s intent that the duration be permanent. Further, the similar post-employment prohibition in 18 U.S.C. § 207(a)(1), which applies to District government employees, is also permanent.²⁰

The Rule does provide for exceptions.²¹ For example, the prohibition does not apply to a former Council employee who acts on behalf of the United States or the District, or acts as an elected official of a state or local government. Also, the Rule does not prevent a former employee giving testimony under oath, or from making statements required to be made under penalty of

to question his impartiality, an employee may seek the assistance of his supervisor, an agency ethics official or the agency designee.”).

²⁰ See 5 C.F.R. § 2641.201(c) (“18 U.S.C. 207(a)(1) is a permanent restriction that commences upon an employee’s termination from Government service. The restriction lasts for the life of the particular matter involving specific parties in which the employee participated personally and substantially.”).

²¹ See subsection (d)(1) of the Rule.

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perjury.²²

A number of the terms found in Rule VIII(a) are significant enough that we should discuss their meaning. However, because the Rule itself does not contain any definitions of these terms, we look elsewhere in the Code of Official Conduct or to the regulations implementing 18 U.S.C. § 207(a)(1).

The first term is “with the intent to influence.” A communication or appearance is made with the intent to influence when it is “made for the purpose of seeking a Government ruling, benefit, approval, or other discretionary Government action; or affecting Government action in connection with an issue or aspect of a matter which involves an appreciable element of actual or potential dispute or controversy.”²³

A “communication” occurs when an individual “imparts or transmits information of any kind, including facts, opinions, ideas, questions or direction, to an employee of the [District government], whether orally, in written correspondence, by electronic media, or by any other means.”²⁴ Under this definition, communications are limited only to those with respect to which the former employee intends that the information conveyed will be attributed to himself or herself.²⁵ The significance of this element of intent is discussed below, in the section on behind the scenes activities.

The term “particular matter,” as defined by Rule I(e)(4) of the Code of Official Conduct, is “limited to deliberation, decision, or action that is focused upon the interest of specific persons, or a discrete and identifiable class of persons.” We note that most matters considered by the Council (for example, bills, resolutions, and budget requests of general applicability) would not be considered particular matters involving specific parties for purposes of Rule VIII(a).²⁶ In contrast, contracts, tax exemptions, tax relief bills, grants, and lawsuits would, in most cases, likely meet the definition.²⁷

The last term, “participate personally and substantially,” can be broken down into its principal elements. To participate personally means to participate “[d]irectly, either individually or in

²² See subsection (d)(2) of the Rule.

²³ 5 C.F.R. § 2641.201(e)(1).

²⁴ 5 C.F.R. § 2641.201(d)(1).

²⁵ *Id.*

²⁶ See related discussion of OGE’s view in footnote 11.

²⁷ *Cf.* 5 C.F.R. § 2641.201(h) (“[O]nly those particular matters that involve a specific party or parties fall within the prohibition of [18 U.S.C. §] 207(a)(1). Such a matter typically involves a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identified parties, such as a specific contract, grant, license, product approval application, enforcement action, administrative adjudication, or court case.”).

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combination with other persons; or through direct and active supervision of the participation of any person he supervises, including a subordinate.”²⁸ To participate substantially requires that the employee’s involvement be “of significance to the matter.”²⁹ Further, participation may be substantial, even though it is not determinative of the outcome of a particular matter, and it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue.³⁰

The foregoing discussion of some of the terms used in Rule VIII(a) is necessary because most of the terms themselves figure into the other post-employment prohibitions covered below. However, in any given case, the underlying facts will determine which of the terms we apply – or not – to a former employee’s actions. For example, your communication to a committee staffer would be permissible, where your intent is only to find out the status of a particular matter. The communication, in other words, would not be made with the intent to influence. On the other hand, you could communicate with a former colleague on the Council about a particular matter on which you had no personal and substantial involvement.

B. Two-Year Prohibition

Under Rule VIII(b) of the Code of Official Conduct, former Council employees are prohibited, within two years of terminating employment with the Council, from knowingly making, with the intent to influence, any communication to or appearance before any officer or employee of a District government agency or court, on behalf of any other person (except the District), with respect to particular matters involving specific parties and in which the District is a party or has a direct and substantial interest, if the employee knows, or reasonably should know, was actually pending under his or her official responsibility as an officer or employee within one year before he or she terminated service or employment with the Council.³¹

Rule VIII does not define “official responsibility.” However, inasmuch as the Rule is substantively similar to 18 U.S.C. § 207(a)(2), which applies to District government employees, we again look for meaning to the regulations implementing the federal statute. There, the term is defined, in pertinent part, as “the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.”³² In more practical terms, if a former Councilmember or non-elected Council employee supervised other employees on a particular matter involving specific parties – even if he or she had no personal

²⁸ 5 C.F.R. § 2641.201(i)(2).

²⁹ 5 C.F.R. § 2641.201(i)(3).

³⁰ *Id.*

³¹ Rule VIII(b) is subject to the same exceptions as described above in the text with respect to Rule VIII(a).

³² 5 C.F.R. § 2641.202(j)(1). For Executive Branch employees, 6B DCMR § 1899.1 provides a substantively identical definition.

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involvement in the matter – he or she is barred for two years from communicating with, or appearing before, those in the District’s agencies and courts regarding the matter.

C. One-Year Cooling Off Period

Rule VIII(c) of the Code of Official Conduct prohibits a former Councilmember, within one year after leaving employment with the Council, from “knowingly mak[ing], with the intent to influence, any communication to or appearance before ... any former subordinate employee, on behalf of any other person, other than the District of Columbia, in connection with any matter on which the former [Councilmember] seeks action by a Councilmember or Council employee in his or her official capacity.”³³ We assume that the prohibition is intended to address the same concern that underlies the one-year cooling off period applicable to Executive Branch employees, that is, “the possible use of personal influence based on past government affiliations to facilitate the transaction of business.”³⁴

A number of observations about the prohibition are worth noting. First, as applied to a former Councilmember, the prohibition is extremely narrow, reaching only contacts with former subordinates.³⁵ It does not extend, for example, to central Council staff or to Legal Service employees, for whom the personnel authority is the Chairman. However, while we have recommended expanding the scope of the prohibition in pending legislation,³⁶ we can only interpret Rule VIII(c) as it now exists.

Second, Rule VIII(c) applies, on its face, to communications or appearances made in connection with “any matter,” as opposed to any “particular matter,” as that term is used in both subsection (a) and (b) of the Rule. We view the use of the broader term “any matter” in subsection (c) to be purposeful. Had the Council intended to limit the one-year cooling off period to the narrower class of particular matters, it clearly could have done so.

Third, the use of the term “any matter” in Rule VIII(c) may reasonably be taken to reflect the Council’s intention to extend the one-year prohibition to *all* matters, even those, for example, in which the former employee had no involvement.³⁷ However, we are not called upon to make that determination for purposes of this opinion.

³³ Rule VIII(c) is subject to the same exceptions as described above in the text with respect to Rule VIII(a).

³⁴ See 6B DCMR § 1811.11. The one-year cooling off period itself is set out in 6B DCMR § 1811.10.

³⁵ For former non-elected Council employees, Rule VIII(c) extends the prohibition to making communications or appearances “before the Councilmember for whom the employee worked,” in addition to any former subordinate employee.

³⁶ See discussion of Bill 21-250, the “Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015”, in the Conclusion below.

³⁷ Cf. 6B DCMR § 1811.11 (providing that one-year cooling off prohibition in 6B DCMR § 1811.10 “shall apply without regard to whether the former employee had participated in, or had responsibility for, the particular matter, and shall include matters which first arise after the employee leaves government service”).

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D. Behind the Scenes Activities

There is no provision in the Code of Official Conduct that prohibits former Councilmembers – or, for that matter, former non-elected Council employees – from engaging in post-employment behind the scenes activities (for example, advising and consulting), even if the individual had participated personally and substantially in a given particular matter.³⁸

This lack of a prohibition against behind the scenes activities parallels the practice in the federal system, but with one exception. The regulation that implements the permanent prohibition in 18 U.S.C. § 207(a)(1) contains a proviso: “Nothing in this [regulation] prohibits a former employee from providing [behind the scenes] assistance to another person, provided that the assistance *does not involve a communication* to or an appearance before an employee of the United States.”³⁹

The proviso takes on added significance because the term “communication” is defined, in pertinent part, to include “only those communications with respect to which the former employee intends that the information conveyed will be attributed to himself, although it is not necessary that any employee of the United States actually recognize the former employee as the source of the information.”⁴⁰ Indeed, in promulgating the regulation, OGE included the following in a number of examples to illustrate the meaning of “communication”:

Example 5 to paragraph (d): A former employee established a small government relations firm with a highly specialized practice in certain environmental compliance issues. She prepared a report for one of her clients, which she knew would be presented to her former agency by the client. The report is not signed by the former employee, but the document does bear the name of her firm. The former employee expects that it is commonly known throughout the industry and the agency that she is the author of the report. If the report were submitted to the agency, the former employee would be making a communication and not merely confining herself to behind-the-scenes assistance, because the circumstances indicate that she intended the information to be attributed to herself.

To the extent that 18 U.S.C. § 207(a)(1) applies to elected and non-elected Council employees alike, we cite the above example as a cautionary note that some conduct can, even indirectly,

³⁸ In contrast, former Executive Branch employees are subject to a two-year behind the scenes prohibition. *See* 6B DCMR § 1811.8.

³⁹ *See* 5 C.F.R. § 2641.201(d)(3) (emphasis added).

⁴⁰ 5 C.F.R. § 2641.201(d)(1).

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extend beyond permissible behind the scenes assistance to impermissible communication made with the intent to influence an individual's former colleagues.⁴¹

E. Confidential Information

Rule VII of the Code of Official Conduct prohibits both elected and non-elected Council employees from disclosing or using confidential or privileged information acquired by reason of their position, unless authorized or required by law to do so. They also are prohibited from divulging information in advance of the time prescribed for its authorized issuance or from otherwise making use of, or permitting others to make use of, information not available to the general public. Both these prohibitions apply to all former Council employees as well.

V. Conclusion

The foregoing guidance is based on your actions in seeking and securing your position with the Chamber. However, as a former District government employee, you are encouraged to avail yourself of continuing post-employment advice, if you obtain different employment in the future. Other restrictions may apply. For example, if you were to join an accounting or law firm, 18 U.S.C. § 203(b) may prevent you from sharing in any fees earned by the firm for representing clients before agencies and courts of the District, if those representations were made at a time when you were served on the Council.⁴²

Speaking of the future, we expect the Council to act soon on Bill 21-250, the "Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015".⁴³ The bill was submitted by this Board at the Council's direction, and it would amend the Ethics Act to establish a unified ethics scheme for the Executive and Legislative Branches of the District government. To that extent, we mention the bill because its reach would extend to all areas of government ethics, not just those discussed in this opinion. For example, the bill would expand the scope of the Council's one-year post-employment cooling off period to prohibit, among other things, Councilmembers from having any transactions intended to influence their former colleagues or employees in connection with matters on which they seek official action. You may well find, then, if you return for advice, that some aspects of the law have changed.⁴⁴

⁴¹ See "Communications" Under 18 U.S.C. § 207, 25 Op. O.L.C. 59, 62 (2001) ("In order to use influence gained while a high-ranking government official, a former official must intend that information or views conveyed to her former agency be attributed to her.").

⁴² As an attorney, you also must be mindful of the D.C. Rules of Professional Responsibility, insofar as they govern your post-employment activities. See, e.g., Rule I.11 (Successive Government and Private Employment), Rule I.6 (Confidentiality of Information) and Rule I.9 (Conflict of Interest: Former Client). You should consult with the D.C. Bar's Legal Ethics Committee if you have additional questions about your legal (as opposed to government) ethics obligations.

⁴³ Introduced on June 12, 2015; referred to the Committee on the Judiciary.

⁴⁴ We do not decide, for purposes of this opinion, whether any future change in the law would apply to you as a former employee. Any future advice would depend on the facts presented and the applicable law, whatever it is then determined to be.

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In closing, note that this advisory opinion is provided to you pursuant to section 219 of the Ethics Act.⁴⁵ Therefore, no enforcement action for violation of the Code of Conduct may be taken against you, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking the opinion. Also, section 219(b) of the Ethics Act⁴⁶ provides that this opinion must be published in the *D.C. Register* within 30 days of its issuance, but that your identity cannot not be disclosed unless you consent to such disclosure in writing. We encourage individuals to consent in the interest of greater government transparency. Please, then, let the Director of Government Ethics know your wishes about disclosure.

The foregoing is the opinion of the Board, as demonstrated by the signature of the Chairman below.

/s/

Robert J. Spagnoletti
Chairman, Board of Ethics and Government Accountability

Date: September 26, 2016

Attachment (as stated)

#1009-013

⁴⁵ D.C. Official Code § 1-1162.19.

⁴⁶ D.C. Official Code § 1-1162.19(b).

EXHIBIT 1

-----Original Message-----

From: Orange, Vincent B. (Council) [<mailto:VOrange@DCCOUNCIL.US>]

Sent: Tuesday, August 02, 2016 3:13 PM

To: Sobin, Darrin (BEGA)

Cc: Efros, Ellen (Council); Mendelson, Phil (COUNCIL); Orange, Vincent B. (Council)

Subject: Request for Formal Opinion

Dear Mr. Sobin:

I would like to request a formal opinion on my new position of President and CEO District of Columbia Chamber of Commerce effective August 15, 2016, and finishing my term (which ends on January 2, 2017) as an at-large member of the Council of the District of Columbia, and Chairman of the Committee on Business, Consumer and Regulatory Affairs.

I'm requesting to be included in the opinion what limitations and/or restrictions, if any, will occur while serving in these positions, when I would need to seek recusal on matters and any post Council employment restrictions.

Thank you in advance for your prompt consideration of this request.

Vincent Orange

Sent from my iPhone

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

Office of Government Ethics

Advisory Opinion – 1531-001 – Redacted – Post-employment - Whether an employee participated personally and substantially in a particular matter involving specific parties prior to his departure from the District government within the meaning of DPM §§ 1811.3 and 1811.4.

CONFIDENTIAL

September 9, 2016

Ronaldo T. Nicholson, P.E.
PARSONS
100 M Street SE
Washington DC 20003
ronaldo.nicholson@parsons.com

Dear Mr. Nicholson:

This letter responds to your request for a determination as to whether, for purposes of the District's postemployment restrictions, you participated personally and substantially in the South Capitol Street Project (Contract DCKA-2013-Q-0040), while employed with the District's Department of Transportation, and are thus barred from appearing or communicating with District agencies with respect to that project. For the reasons that follow, I find that the South Capitol Street Project was a particular matter involving specific parties prior to your departure, that your participation was personal and substantial, and that you are subject to the post-employment restrictions that prohibit you from acting as a representative, or appearing or communicating with District agencies with the intent to influence District employees.¹

In your request, through your counsel, you state that:

Parsons and a teaming partner, [REDACTED], are contemplating preparing and submitting a proposal for the Douglas Bridge replacement and ultimately all of the South Capitol Street improvements (the "Project"). It is expected that Nick would, following the second anniversary of his departure from DDOT (April 26, 2016), actively participate in the preparation and presentation of the Parsons/[REDACTED] submittal for that Project.

¹ Whether an individual's participation was personal and substantial is typically a question resolved by the agency where the former employee worked, as the agency is best able to gauge the extent of the former employee's work in a matter and the importance of that work to the matter. Federal OGE Informal Advisory Letter 96 x 7 (March 27, 1996). However, in this instance, it is the agency that referred the question to this office.

As Chief Engineer for DDOT, the DDOT Project Manager and Deputy Chief Engineer (Nick's direct reports) and the consultant who authored the documents would seek guidance from Nick and approval of their recommendations to ensure that the path forward was consistent with the Directors'/Mayor's vision, budget allocations and the like. His review was high level and limited to ensuring that the structure and intent of the procurement document(s) were consistent with industry practice and DC procurement laws. The production development and day-to-day decision making were done by his subordinates.

Although former District employees are subject to three classes of post-employment restrictions, a one-year cooling off period, a two-year prohibition and a permanent prohibition, only the permanent prohibition is implicated because you left the District government more than two years ago. This restriction is what is commonly referred to as the "permanent ban." The permanent ban prohibits a former District government employee from "switching sides," i.e., appearing before any District agency for the life of a particular matter involving specific parties, in which the former employee participated personally and substantially.

DPM § 1811.3 provides that:

A former government employee shall be permanently prohibited from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.

Similarly, DPM § 1811.4 states that "[a] former government employee shall be permanently prohibited from making any oral or written communication to an agency with the intent to influence that agency on behalf of another as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee."

These two provisions, therefore, operate as a permanent ban (for the duration of the specific contract or other matter), on a former employee undertaking representational activities, i.e., appearances and communications, regarding any particular matters involving specific parties on which the employee participated personally and substantially (i.e., did substantive work) while in the government's employ.

According to OCP's online posting, on June 13, 2013, in Contract DCKA-2013-Q-0040, DDOT solicited Statements of Qualifications (SOQs) from entities (Prospective Contractors) interested in providing design-build services for the South Capitol Street Corridor, Segments 1 & 2. At that time, it became a particular matter. On January 31, 2014, the District notified a short list of contractor teams of their eligibility to respond to the solicitation. At that time it became a particular matter involving specific parties. Your employment with the District government ended on April 26, 2014. That meant the agency had identified specific parties involving a particular matter -- Contract DCKA-2013-Q-0040, prior to the date of your departure.²

² See, e.g., 5 CFR 2641.201(4):

Based on those facts, and an interview with you held on May 16, 2016, the only remaining question is whether your participation in Contract DCKA-2013-Q-0040, during your tenure with DDOT was personal and substantial. If so, you are barred from communicating or appearing before any District agency with respect to that particular matter (contract). Notwithstanding the permanent prohibition, you would not be prohibited from working behind the scenes on the matter.

The DPM requires District employees to comply with federal post-employment statutes and the post-employment guidance found in the Code of Federal Regulations. See, DPM § 1811.1 (“District employees shall comply with the provisions of 18 U.S.C. § 207 and implementing regulations set forth at 5 C.F.R. Part 2641, Subparts A and B.”). 5 C.F.R. § 2641.201 contains the federal guidance on matters that are subject to the permanent ban, and explains the meaning of the terms used in the DPM.

To participate personally and substantially in a matter means that you directly participated in the matter as a government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other direct participation in a matter. Additionally, the participation must have been of significance to the matter (or form a basis for a reasonable appearance of such significance), which may be based on the amount and importance of the employee’s effort. 5 CFR § 2641.201(i).

Under 5 CFR § §2641.201 (i)(2)(ii), an employee has participated personally if they participated in a particular matter “[t]hrough direct and active supervision of the participation of any person he supervises, including a subordinate.” Under 5 CFR § §2641.201(i)(3), to participate “substantially” means that the employee's involvement is of significance to the matter. If an employee “participates in the substantive merits of a matter, his participation may be substantial even though his role in the matter, or the aspect of the matter in which he is participating, may be minor in relation to the matter as a whole.”

As part of this determination, we reviewed a large number of your DDOT emails and found at least 9 that document the nature of your participation in the South Capitol Street Project. These include the following:

Preliminary or informal stages in a matter. When a particular matter involving specific parties begins depends on the facts. A particular matter may involve specific parties prior to any formal action or filings by the agency or other parties. Much of the work with respect to a particular matter is accomplished before the matter reaches its final stage, and preliminary or informal action is covered by the prohibition, provided that specific parties to the matter actually have been identified. With matters such as grants, contracts, and other agreements, ordinarily specific parties are first identified when initial proposals or indications of interest, such as responses to requests for proposals (RFP) or earlier expressions of interest, are received by the Government; in unusual circumstances, however, such as a sole source procurement or when there are sufficient indicia that the Government has explicitly identified a specific party in an otherwise ordinary prospective grant, contract, or agreement, specific parties may be identified even prior to the receipt of a proposal or expression of interest.

- An email from you to 4 DDOT employees and 4 contractors, dated 6/27/2013, recommending edits to potential questions and answers for a pre-proposal conference.
- An email from [REDACTED] of CH2M.com, the project consultant, dated 6/21/2013, to you in response to a request for the status of Phase 1 and the acquisition schedule for “South Cap.”
- An email from you to your subordinate, [REDACTED] and others, dated 6/12/2013, directing that DDOT maintain the schedule for the Statement of Qualifications.
- An email dated 6/12/2013, from you responding to the DDOT Director’s questions regarding a PLA for the South Capitol Street Project.
- An email from you to [REDACTED], [REDACTED] and others, dated 6/11/2013, directing that certain changes be made to the SOQ/RFQ for the South Capitol Street Project.
- An email from you dated 6/6/2013, to [REDACTED], [REDACTED] and others on DBE recommendations for the “SCS” signal design work.
- An email from you to [REDACTED] and [REDACTED] dated 5/17/2013, attaching the schedule for the Utility Accommodations Manual for the South Capitol Street Project.
- An email from you dated May 14, 2016, to [REDACTED] and [REDACTED] of CH2M Hill, directing [REDACTED] to print nondisclosure forms for your signature for the South Capitol Street procurement.
- An email from [REDACTED] of CH2M Hill, the project consultant, dated 6/28/2013, requesting your signature and approval of DDOT’s Construction Impact Assessment Report for DDOT Structures.

Additionally, at the Pre-proposal Conference held at the Matthews Memorial Baptist Church on June 27, 2013, you are listed as a presenter. There is a photo of you at the podium, and in the background is a screen entitled “RFQ Questions.” This is the last page of the presentation that according to the attendance log was attended by 156 interested persons.³ This gives the appearance that you are representing the District government on this contract, such that if you were to make a presentation on behalf of a private entity on the same particular matter would be switching sides in a manner prohibited by the post-employment rules. Moreover, the Contracting Officer’s Technical Representative on the South Capitol St Corridor RFQ dated June 13, 2013 is listed as [REDACTED], a program manager who you are directing or consulting with on a number of the emails above.⁴ [REDACTED] also appears to report to you so that his participation is imputed to you under 5 CFR § 2641.201(2)(ii).

One example from the CFR reflects that an employee who is frequently consulted as to filings and strategy participates personally and substantially in the matter.⁵ The email communications set forth above amply demonstrate that you participated in the development and strategy to implement the SOQ for the South Capitol Street Project.

³ See, <http://bit.ly/2cbuqeR> (Last visited September 9, 2016).

⁴ See, <http://bit.ly/2c5gWFX> (Last visited September 9, 2016).

⁵ See 5 C.F.R. § 2637.201, Example 2, stating that one way to measure a government attorney’s participation. “A Government lawyer is not in charge of, nor has official responsibility for a particular case, but is frequently consulted as to filings, discovery, and strategy. Such an individual has personally and substantially participated in the matter.”

Two other examples from the CFR reflect that a **very low threshold** is required for a finding of personal and substantial participation.⁶

For those reasons, I conclude that your participation was personal and substantial, and that you are precluded from appearing or communicating with District agencies with respect to the South Capitol Street Project (Contract DCKA-2013-Q-0040).⁷

This advice is provided to you pursuant to section 219 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.19), which empowers me to provide such guidance. As a result, no enforcement action for violation of the District’s Code of Conduct may be taken against you in this context, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking this advisory opinion.

You also are advised that the Ethics Act requires this opinion to be published in the District of Columbia Register within 30 days of its issuance, but that your identity will not be disclosed unless you consent to such disclosure in writing. We encourage individuals to so consent in the interest of greater government transparency. Please, then, let me know your wishes about disclosure.

Pursuant to section 219 (c)(1) of the Ethics Act (D.C. Official § 1–1162.19 (c)(1)), you may appeal this determination to the Ethics Board. If you wish to do so, please send a written appeal to: Board of Ethics and Government Accountability, Attn: John Grimaldi, Esq., 441 4th Street, N.W., Suite 830 South, Washington, D.C. 20001, or email to bega@dc.gov.

/s/

DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

#1531-001 DS/BF

cc: John C. L. Guyer
john.guyer@parsons.com

⁶ See, Examples 2 and 3 to 5 C.F.R. § 2637.201 (i). Example 2: An Internal Revenue Service (IRS) attorney is neither in charge of nor does she have official responsibility for litigation involving a particular delinquent taxpayer. At the request of a co-worker who is assigned responsibility for the litigation, the lawyer provides advice concerning strategy during the discovery stage of the litigation. The IRS attorney participated personally in the litigation.

Example 3 to paragraph (i): The IRS attorney in the previous example had no further involvement in the litigation. She participated substantially in the litigation notwithstanding that the post-discovery stages of the litigation lasted for ten years after the day she offered her advice.

⁷ As noted previously, you are not prohibited from participating behind-the-scenes with respect to the contract. See BEGA Advisory Opinion #1318-001, dated April 15, 2015, published at 62 DCR 8152 (describing examples of permissible behind-the-scenes activity).

FRIENDSHIP PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS

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

- Professional Development and Curriculum Support Consultants
- Staffing and search firms to assist in recruiting long term substitute teacher placement

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, October 26th, 2016. No proposals will be accepted after the deadline. Questions can be addressed to ProcurementInquiry@friendshipschools.org.

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

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 1225 I Street, NW, 4th Floor, Washington, DC 20005 on **Wednesday, October 12, 2016 at 5:30 pm**. The call in number is 1-877-668-4493, Access code 730 150 257. The Executive Board meeting is open to the public.

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

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Pharmacy (“Board”) hereby gives notice of a change in its regular meeting pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2012 Repl.) .

The Board was scheduled to meet on Thursday, October 6, 2016. However, due to a Department of Health function in which all Pharmacy staff is required to participate, the Board will meet instead on Friday, October 7, 2016.

The meeting will be open to the public at 9:30 a.m. to discuss various agenda items and any comments and/or concerns from the public. The Board will conduct a disciplinary hearing in the matter of Patricia O’Malley, R.Ph., at 11:00 a.m. In accordance with 17 DCMR § 4109.1, the hearing is open to the public.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed to the public after conclusion of the disciplinary hearing for the Board to deliberate upon the hearing, and for the Board to plan, discuss, or hear reports concerning specific individual licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Physical Therapy (“Board”) hereby gives notice of a change in its regular meeting, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)) (2012 Repl.).

The Board will change its meeting schedule, previously set on a bi-monthly basis, to a monthly schedule starting with its next meeting, to be held on Wednesday, October 12, 2016 from 3:30 PM to 5:30 PM. The meeting will be open to the public from 3:30 PM until 4:00 PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Act of 2010, D.C. Official Code § 2-574(b), the meeting will be closed from 4:00 PM to 5:30 PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The Board’s meetings for the remainder of 2016 will be held on Wednesday, November 16, 2016 and Wednesday, December 14, 2016.

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

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFF

GAS TARIFF 2016-01, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RESIDENTIAL ESSENTIAL SURCHARGE TARIFF;

AND

FORMAL CASE NO. 1127, IN THE MATTER OF THE COMMISSION'S ESTABLISHMENT OF A DISCOUNT PROGRAM FOR LOW-INCOME NATURAL GAS CUSTOMERS IN THE DISTRICT OF COLUMBIA

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-205 of the District of Columbia Code,¹ of its intent to act upon the proposed Residential Essential Service ("RES") Surcharge of Washington Gas Light Company ("WGL")² in not less than 30 days after the date of publication of this Notice of Proposed Tariff ("NOPT") in the *D.C. Register*.

2. On July 13, 2016, the Commission, in Order No. 18263, approved WGL's proposed RES Surcharge Tariff and directed WGL to file an updated RES Surcharge Tariff based on the most recent heating season.³ On August 12, 2016, WGL, as directed in Order No. 18263, submitted an updated RES Surcharge based on the immediately prior heating season's participation rate with accompanying work papers.⁴ On September 21, 2016, WGL submitted corrections to its August 12, 2016 filing.⁵

3. In the RES Surcharge Tariff, WGL sets forth the process to be used to recover from its non-RES customers the costs of the RES Program in accordance with the following tariff pages:

GENERAL SERVICES TARIFF, P.S.C. of D.C. No. 3
Sixteenth Revised Page No. 1
Superseding Fifteenth Revised Page No. 1

¹ D.C. Code § 34-802 (2001); D.C Code § 2-505 (2001).

² *Formal Case No. 1127, In the Matter of the Commission's Establishment of a Discount Program for Low-Income Natural Gas Customers in the District of Columbia* ("Formal Case No. 1127"), Updated Residential Essential Service ("RES") Surcharge of Washington Gas Light Company, filed August 12, 2016 ("WGL's Updated RES Surcharge"); and *Formal Case No. 1127, Corrections to the Updated Residential Essential Service ("RES") Surcharge of Washington Gas Light Company*, filed September 21, 2016 ("WGL's Corrections").

³ *Formal Case No. 1127*, Order No. 18263, ¶ 19, rel. July 13, 2016.

⁴ *Formal Case No. 1127*, WGL's Updated RES Surcharge.

⁵ *Formal Case No. 1127*, WGL's Corrections.

**P.S.C. of D.C. No. 3
Seventh Revised Page No. 4
Superseding Sixth Revised Page No. 4**

**P.S.C. of D.C. No. 3
Second Revised Page No. 5A
Superseding First Revised Page No. 5A**

**P.S.C. of D.C. No. 3
Fifth Revised Page No. 9B
Superseding Fourth Revised Page No. 9B**

**P.S.C. of D.C. No. 3
Second Revised Page No. 9C
Superseding First Revised Page No. 9C**

**P.S.C. of D.C. No. 3
Sixth Revised Page No. 13
Superseding Fifth Revised Page No. 13**

**P.S.C. of D.C. No. 3
Second Revised Page No. 13F
Superseding First Revised Page No. 13F**

**P.S.C. of D.C. No. 3
First Revised Page No. 18B
Superseding Original Page No. 18B**

**P.S.C. of D.C. No. 3
First Revised Page No. 22E
Superseding Original Page No. 22E**

**P.S.C. of D.C. No. 3
Twelfth Revised Page No. 48
Superseding Eleventh Revised Page No. 48**

**P.S.C. of D.C. No. 3
Fourth Revised Page No. 65
Superseding Third Revised Page No. 65**

4. The RES Surcharge consists of a Current Factor and Reconciliation Factor. WGL's RES Surcharge shows that the Current Factor to be used during the 2016-2017 heating season is \$ 0.0029 with no Reconciliation Factor as this is the first year that the RES Surcharge would be utilized. In addition, WGL expresses its intent to collect the RES Surcharge beginning with the November billing period.

5. The RES Surcharge may be reviewed at the Office of the Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800,

Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's web site at www.dcpssc.org. Once at the website, open the "eDocket" tab, click on the "Searchable database" and input "FC1127" as the case number and "92" as the item number (for the August 12, 2016 updated RES Surcharge) or "96" as the item number (for the September 21, 2016 corrections to the RES Surcharge). Copies of the tariff are available upon request, at a per-page reproduction cost, by contacting the Commission Secretary at (202) 626-5150 or psc-commissionsecretary@dc.gov.

6. All persons interested in commenting on the RES Surcharge are invited to submit written comments and reply comments no later than 30 and 45 days, respectively, after the publication of this NOPT in the D.C. Register. Written comments should be filed with: Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or at the Commission's website at <http://edocket.dcpssc.org/comments/submitpubliccomments.asp>.

WASHINGTON LATIN PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS**

Issued: October 7, 2016

The Washington Latin Public Charter School solicits expressions of interest in the form of proposals with references from qualified vendors for Educational Travel Services. We specifically seek a vendor to arrange an educational trip to France. Questions and proposals may be e-mailed directly to aporcelli@latinpcs.org and gizurieta@latinpcs.org with the subject line Educational Travel Services.

Deadline for submissions is **12pm (noon) October 14, 2016**. No phone calls please. E-mail is the preferred method for responding but you can also mail (must arrive by deadline) proposals and supporting documents to the following address:

Washington Latin Public Charter School
Attn: Finance Office
5200 2nd Street NW
Washington, DC 20011

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Audit Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Thursday, October 27, 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.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

- | | |
|--|--------------------|
| 1. Call to Order | Committee Chairman |
| 2. Summary of Internal Audit Activity -
Internal Audit Status | Internal Auditor |
| 3. Executive Session | Committee Chairman |
| 4. Adjournment | Committee Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Environmental Quality and Sewerage Services Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee will be holding a meeting on Thursday, October 20, 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

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| 1. Call to Order | Committee Chairperson |
| 2. AWTP Status Updates
BPAWTP Performance | Assistant General Manager,
Plant Operations |
| 3. Status Updates | Chief Engineer |
| 4. Project Status Updates | Director, Engineering &
Technical Services |
| 5. Action Items
- Joint Use
- Non-Joint Use | Chief Engineer |
| 6. Emerging Items/Other Business | |
| 7. Executive Session | |
| 8. Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, October 27, 2016 at 11:00 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 lmanley@dewater.com.

DRAFT AGENDA

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|--|------------------------------|
| 1. Call to Order | Chairman |
| 2. September 2016 Financial Report | Director of Finance & Budget |
| 3. Agenda for November Committee Meeting | Chairman |
| 4. Adjournment | Chairman |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Governance Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Wednesday, October 12, 2016 at 9:00 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.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

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|----|---|-------------|
| 1. | Call to Order | Chairperson |
| 2. | Emerging Issues | Chairperson |
| 3. | Agenda for Upcoming Committee Meeting (TBD) | Chairperson |
| 4. | Executive Session | |
| 5. | Adjournment | Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Retail Water and Sewer Rates Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, October 25, 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 the DC Water’s website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

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|-------------------------------|-------------------------|
| 1. Call to Order | Committee Chairman |
| 2. Monthly Updates | Chief Financial Officer |
| 3. Committee Work plan | Chief Financial Officer |
| 4. Other Business | Chief Financial Officer |
| 5. Adjournment | Chief Financial Officer |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Water Quality and Water Services Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Water Quality and Water Services Committee will be holding a meeting on Thursday, October 20, 2016 at 11 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

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|--|--|
| 1. Call to Order | Committee Chairperson |
| 2. Water Quality Monitoring | Assistant General Manager, Consumer Ser. |
| 3. Action Items | Assistant General Manager, Consumer Ser. |
| 4. Emerging Issues/Other Business | Assistant General Manager, Consumer Ser |
| 5. Executive Session | |
| 6. Adjournment | Committee Chairperson |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17527-A of John R. Klein, II, as amended,¹ pursuant to 11 DCMR § 3103.2² and § 3104.1, for variances from the parking space requirements under §§ 2115.1 and 2117.5, and a 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).

HEARING DATES: July 19, 2016, and September 13, 2016

DECISION DATE: September 13, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Revised – Exhibit 45; Original - Exhibit 5.) 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") 3F and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3F, which is automatically a party to this application. The ANC submitted a report on June 24, 2016 indicating that at a duly noticed and regularly scheduled public meeting on June 21, 2016, at which a quorum was in attendance, ANC 3F voted unanimously (7-0-0) in support the application, subject to 11 conditions. (Exhibit 29.) At

¹ The original application did not include the request for variances from parking space dimension and drive aisle width requirements, which were added to the application by revised self-certification form on September 7, 2016. (Exhibit 45.) The Applicant provided notice of the amendment by posting notice on the property on August 29, 2016, in advance of the continued hearing date. (Exhibit 42.) The caption has been revised accordingly.

² This and all other references in this Order to provisions contained in Title 11 DCMR, except those references made in the final all-capitalized paragraphs, are to provisions that were in effect on the date this Application was heard and decided by the Board of Zoning Adjustment ("the 1958 Regulations"), but which were repealed as of September 6, 2016 and replaced by new text ("the 2016 Regulations"). The repeal of the 1958 Regulations has no effect on the validity of the Board's decision or the validity of this order. Pursuant to Subtitle A § 104 of the 2016 Regulations, the construction authorized by this Order is vested as to the area requirements contained in 1958 Regulations as of September 5, 2016.

the public hearing on September 13, 2016, ANC 3F Commissioner Malachy Nugent also testified in support of the ANC's proposed conditions, which included a four-year time limit on any relief approved by the Board.

The Office of Planning ("OP") submitted a timely report, dated July 12, 2016, recommending approval of the special exception under § 213, subject to conditions consistent with those proposed by the ANC. (Exhibit 35.) OP also testified at the hearing in support of the original application. After the Applicant amended its application to add a request for variances from the parking dimension requirements of § 2115.1 and the drive aisle requirements of § 2117.5, OP submitted a supplemental report recommending approval of the amended application, subject to conditions. (Exhibit 43.)

The District Department of Transportation ("DDOT") submitted two reports. On July 12, 2016, DDOT submitted a report indicating that additional information was needed from the Applicant before it could provide a recommendation on this application. (Exhibit 36.) On September 1, 2016, DDOT submitted a supplemental report indicating that it had no objection to the granting of the application, with conditions. (Exhibit 44.)

At the public hearing on September 13, 2016, the Applicant testified that it accepted the conditions proffered by the ANC, OP, and DDOT, except that the Applicant proposed a ten-year time limit on the relief, while the ANC, OP, and DDOT proposed a four-year time limit. The Board determined to impose a ten-year limit on its order granting relief, finding that a longer term is appropriate because the conditions include an annual reporting requirement to the ANC and because the ten-year term allows for the Board to impose a condition requiring previous paving between the eighth and ninth year of that time period, if not sooner.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the parking lot requirements under § 213, to permit the continued operation of an accessory parking lot in the R-1-B District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to §§ 3104.1 and 213, 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.

Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of

BZA APPLICATION NO. 17527-A
PAGE NO. 2

proving the elements that are necessary to establish the case, pursuant to 11 DCMR § 3103.2, for variances from the parking space requirements under §§ 2115.1 and 2117.5, to permit the continued operation of an accessory parking lot in the R-1-B District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from §§ 2115.1 and 2117.5, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 41 AND THE FOLLOWING CONDITIONS:**

1. The Board's approval shall be valid for a period of **TEN (10) YEARS** beginning on the effective date of this order.
2. The Applicant shall provide up to 19 parking spaces, including one accessible space, in compliance with the American with Disabilities Act requirements and guidelines, on the site.
3. All areas, except the landscaped area, shall be maintained with a paving of material forming an all-weather impervious surface. The existing impervious material shall be replaced with pervious material between the eighth and ninth year of approval, or sooner, if major repaving activities are required.
4. All parts of the lot shall be kept free of refuse and debris. All wheel stops and signage shall be maintained, and damaged and bent wheel stops and signs shall be repaired and/or replaced.
5. No vehicle or any part of a vehicle shall be permitted to project over any lot line or into the public space.

6. The garbage container/dumpster shall not be permitted to project over any lot line or into the public space.
7. Landscaping shall be provided as identified on the landscaping plan, Exhibit 7E of the record. The landscaping shall be maintained in a healthy, growing condition and in a neat and orderly appearance.
8. No other use shall be conducted from or on the premises.
9. Any lighting used to illuminate the parking lot shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.
10. The Applicant shall provide to the ANC-3F an annual report demonstrating compliance with the conditions of this order.
11. The Applicant shall post a "Compact Vehicles Only" sign at the entry to the parking lot and shall also mark the parking spaces as "Compact Vehicles Only."
12. The Applicant will preserve a potential future pass-through space for a possible drive aisle connection to the adjacent parking lot as shown on the Revised Parking Plan. (Exhibit 41.) The Applicant shall have flexibility to modify the plans approved by the Board for the purpose of creating a drive aisle connection to the adjacent parking lot.

VOTE: 3-1-1 (Anita Butani D'Souza, Jeffrey L. Hinkle, and Frederick L. Hill to APPROVE; Peter G. May³ to DENY; Marnique Y. Heath not participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: September 22, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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

³ Commissioner May did not participate in the original hearing of this case on July 19, 2016, but indicated that he had read the record in order to participate on the continued hearing and decision.

AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 18114-B of Ward 5 Improvement Association, pursuant to 11 DCMR §§ 3100 and 3101, from decisions of the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Certificate of Occupancy No. 1001838 on April 21, 2010, Certificate of Occupancy No. 1002471 on June 22, 2010, and Certificate of Occupancy No. CO1101152 on June 24, 2011, all for a restaurant with nightclub (not a sexually oriented business establishment), in the C-M-2 District at premises 2127 Queens Chapel Road, N.E. (Square 4258, Lot 34).¹

HEARING DATES: October 26, 2010 and September 27, 2011

DECISION DATES: December 7 and 14, 2010, and February 8, March 29, July 12, September 20, and November 8, 2011

**DECISION DATES ON
REMAND:** June 16, July 21, August 4, September 22, October 6, and
October 27, 2015

DECISION AND ORDER ON REMAND

This appeal was submitted on June 11, 2010 by Don Padou on behalf of the Ward 5 Improvement Association (“Appellant”) to challenge the issuance of certificates of occupancy to the Stadium Group LLC to operate a “restaurant with nightclub, not a sexually oriented business establishment” at 2127 Queens Chapel Road, N.E., on the ground that the business was operating as a sexually oriented business (“SOBE”) and therefore was not permitted as a matter of right. Parties in this proceeding are the Appellant, the Department of Consumer and Regulatory Affairs (“DCRA”), and Advisory Neighborhood Commission (“ANC”) 5C,² RF Holdings, LLC, the owner of the property, and RCX, LLC, the current lessee of the subject property.

¹ The caption has been modified from that used in the public notice of this proceeding to reflect that the appeal was amended to encompass certificates of occupancy issued subsequently. The appeal originally challenged only one certificate of occupancy issued for the subject property in April 2010. By letters dated June 27, 2010 and August 4, 2010, the Appellant indicated that the appeal was intended to encompass a permanent certificate of occupancy issued June 21, 2010 as well as the temporary certificate of occupancy that was issued April 21, 2010 and extended on May 21, 2010, with the same basis for the appeal with respect to each certificate of occupancy. Finally, the Appellant was permitted to amend the appeal to encompass a new certificate of occupancy, issued June 24, 2011, which superseded the prior certificate.

² The Board is required to give “great weight” to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)). When the appeal was filed, the subject property was located within the boundaries of ANC 5B. As a result of a subsequent redistricting, ANC 5C is now the “ANC for the area within which the property that is the subject of the appeal is located,” and was therefore substituted for ANC 5B as a party

Following a public hearing, the Board of Zoning Adjustment (“Board” or “BZA”) voted on November 8, 2011 to deny the appeal. An order reflecting that decision was issued on August 24, 2012. That order was subsequently vacated and remanded by the District of Columbia Court of Appeals, in *Ward 5 Improvement Association v. District of Columbia Board of Zoning Adjustment*, 98 A.3d 147 (D.C. 2014). In response to remand instructions provided by the Court of Appeals, the Board issued a Briefing Order on Remand on May 21, 2015 directing the parties to address specific issues in memoranda based solely on the record in this proceeding. After receiving submissions from the Appellant, DCRA, and the Stadium Group LLC (a prior lessee of the subject property), the Board held additional deliberations and voted, at its public meeting on October 27, 2015, to reverse the decision of the Zoning Administrator (“ZA”) on the ground that the business was operating as a sexually oriented business establishment.

FINDINGS OF FACT

1. The property that is the subject of this appeal is located at 2127 Queens Chapel Road, N.E. (Square 4258, Lot 34). The property is now leased to RCX LLC for its operation of a business called the Stadium Club.
2. Several certificates of occupancy have been issued for the Stadium Club. The first (No. CO1001525) was issued on April 2, 2010 as a temporary conditional certificate that approved use of the subject property as “Nightclub and Restaurant with accessory parking (Not a Sexually Oriented Business Establishment).” Two additional certificates of occupancy (No. CO1001838 and No. CO1002471) were issued in 2010 to authorize new limits on the occupancy load. (Exhibit 12.) A year later, after the Stadium Club began operations, DCRA issued another certificate of occupancy (No. CO1101152, issued June 24, 2011) that reiterated the approved use as a “Restaurant with Nightclub with accessory parking (Not a Sexually Oriented Business Establishment)” and increased the maximum occupancy load to 396, with “349 interior seats and a summer garden with 15 seats.” The “summer garden” – a portion of the building with a roof supported by columns, but open on the sides – allowed a change in load so that the Stadium Club could create an outdoor area where patrons could smoke. (Exhibits 42, 38.)
3. The nightclub portion of the Stadium Club contains a bar, an adjoining area with low tables and chairs for patrons, three stages for dancing, one stage for a DJ booth, and a series of 12 small rooms along a hallway behind the bar, which are used for private dances. The private rooms, most of which are eight feet by eight feet in dimension, are open to the hallway and are not enclosed by doors or curtains.
4. Before approving issuance of the first certificate of occupancy, the Zoning Administrator made a determination that the planned use of the subject property by the Stadium Club

to this proceeding. See 11 DCMR § 3199.1(a)(4), definition of “Party” and Appeal No. 18114-A (order issued May 21, 2015). Neither ANC has participated in this appeal, and thus there are no statements of issues or concerns to which the Board can give great weight.

would not constitute a “sexually oriented business establishment” as defined in the Zoning Regulations because the activities, including the nude dancing, planned at the establishment would not entail any of the “specified sexual activities” set forth in the zoning definition of a sexually oriented business establishment. In making that determination, the Zoning Administrator considered materials provided with the certificate of occupancy application, consultation with DCRA counsel, and telephone calls and a meeting with a representative of the Stadium Club to discuss the proposed use, taking into account matters such as the nature of the entertainment that would be offered; what portions of the club would be used for what purpose, considering the floor plans of the planned space; the location and the state of dress of the dancers when performing; and the planned use of the lounges behind the stage.

5. The Stadium Club has established “rules and regulations for dancers.” Among other things, the rules prohibit the performers from having physical contact with patrons or with each other during performances, and require that all dancing must be on designated stages or on tables at least three feet from customers. The rules direct that “dancers shall not fondle or touch their genitals, pubic region, buttocks or breasts in a suggestive or erotic manner. Dancers shall not simulate (or perform) any acts of intercourse, masturbation, sodomy, bestiality or other acts intended to stimulate or arouse.” The rules purport to require strict adherence, with violations resulting in “immediate voiding of our rental space agreement.” (Exhibits 25, 42; transcript of Oct. 26 at 192-193.)
6. After the Stadium Club opened, pursuant to the certificates of occupancy issued in 2010, the Appellant recruited two individuals, Benjamin Petok and Marshall Chriswell, to observe the club’s operations. As noted by the Court of Appeals, on “July 19, 2010, the D.C. Office of Zoning, and thus the [Zoning Administrator], received notarized affidavits” from those individuals. *Ward 5 Imp. Ass'n v. D.C. Bd. of Zoning Adjustment*, 98 A.3d 147, 150 (D.C. 2014). (Exhibits 13 and 14.)
7. The Zoning Administrator also recalled receiving the affidavits during the summer of 2010. (Transcript of Oct. 26 at 192-193.)
8. Both affidavits stated that performances in the main bar area lasted 10 to 15 minutes and continued during the entire evening, with three dancers performing at a time.
9. The affidavit of Benjamin Petok related his observations of the performers in both the main bar area and in the small rooms, which he termed an alcove called a “champagne room.” Petok recounted that two of the three stages in the main room were occupied throughout the evening by various dancers who began each dance wearing a bikini or dress and, with some variation in each performance, removed all their clothing. Many of the dancers fondled their naked breasts and genitalia in a sexual manner while they were on stage, gyrating their hips in a sexual manner and fondling their exposed breasts, nipples, and vaginas. One dancer, “Star,” crouched after removing her clothes, exposing her vagina, and allowed her fingers to touch the area around her vagina. Star would

crouch and expose her vagina when a customer would come directly up to the stage (less than two feet away) where she was dancing and, after exposing her vagina to the customer, she would ask for a tip to be placed in her garter belt. Another dancer, "Cory," also exposed her vagina to customers by standing facing away from the customer and bending over, exposing her anus and vagina. A third dancer, "Sonny," danced naked in a sexually suggestive manner, gyrating her hips, crouching to expose her vagina, and fondling her breasts. When she danced near Petok and exposed her vagina and anus to him, he placed a \$1 tip in her elastic garter belt.

10. The affidavit of Benjamin Petok also described "table dances," performances by a dancer on a table in the main bar area for an individual patron or group of patrons. During a table dance, "Cory" removed all her clothing and danced nude, rubbing her breasts and vagina and exposing her genitalia to patrons. Another dancer, "Sonny," also performed table dances, during which she encouraged patrons to touch her legs and arms while she danced in a sexual manner, and she exposed and fondled her genitalia and breasts. Both dancers charged \$20 for the table dances and expected tips throughout the performances.
11. The affidavit of Benjamin Petok also described private dances performed in a "champagne room," one of several small alcoves lined with curtains, each furnished with a small table and two sofas against a wall. Petok paid \$150, plus a \$20 tip, for a private dance lasting 20 minutes, during which "Cory" danced nude on the table, rubbing her breasts and nipples, repeatedly exposing her vagina and anus, and rubbing her vagina. "Cory" also whispered in Petok's ear in a sexually suggestive manner and rubbed her hand on his chest and back. During another private dance lasting 15 minutes, "Sonny" removed her clothing and slapped her buttocks, inviting Petok to do the same, which he did. During the private dance, "Sonny" moved her hips back and forth, bringing Petok's face very close to her anus and buttocks, fondled her breasts, and sat in Petok's lap, grinding her genitalia into his lap and allowing his hands to touch her legs, back, buttocks, and breasts. He also ran his hand up and down her leg while placing tips in her garter belt.
12. Mr. Petok's testimony at the October 26, 2010 hearing was consistent with the statement he made in the affidavit.
13. The affidavit of Marshall Chriswell also described dancers who fondled their breasts and genitalia in a sexual manner while dancing nude in the main bar area of the Stadium Club. The performers often came within inches of the patrons, and occasionally touched the face, arms, or chests of patrons near the stage. The performers also climbed, swung, and slid on a dancer's pole during the performances.
14. After the Stadium Club applied on February 9, 2011 for a new certificate of occupancy to reflect a load change, DCRA undertook an investigation to observe the actual operation of the establishment. The investigation encompassed an inspection of the Stadium Club operation by Justin Bellow, then a member of the Zoning Administrator's staff for zoning

enforcement; discussions between the Zoning Administrator and representatives of the Stadium Club to gather additional information about the Stadium Club's rules for its performers and to discern whether those rules were clearly communicated as part of the management operation as an indication as to whether any sexually oriented activity would be tolerated; and the Zoning Administrator's discussions with representatives of the Alcoholic Beverage Regulation Administration ("ABRA," the licensing entity for the Stadium Club, with its own set of licensure regulations) to inquire as to whether ABRA had any evidence in the form of complaints or investigation results of any sexually oriented activity occurring at the Stadium Club.

15. Justin Bellow, a DCRA employee in zoning enforcement, went to the Stadium Club on March 24, 2011. He stayed approximately 40 minutes, primarily in the main bar area, and did not observe the activities in the private rooms. He saw approximately 12 dancers, who appeared on one of three stages and "used a pole mounted at the center of the stage to perform various maneuvers during their allotted performance time" as well as performing table dances for patrons in the seating area, a "setup [that] afforded minimal interaction between dancers and patrons, as dancers performed on tables while the patrons remained seated." He saw "instances where a dancer would momentarily touch her breast and/or buttock, but these instances lasted for no more than a second" and "did not rise to the level of fondling" in his opinion.
16. As found by the Court of Appeals, "Mr. Bellow also answered yes when asked in his September 27, 2011, testimony before the BZA if the dancers had 'ben[t] over and expose[d] their anus or vagina to the patrons.'" 98 A.3d at 153-154.
17. Webster's Unabridged Dictionary definition of "fondle" includes: "to treat with doting indulgence," "to handle tenderly, lovingly, or lingeringly," to "treat caressingly," and "to show affection or desire by caressing."

CONCLUSIONS OF LAW AND OPINION

The Court of Appeals Remand

As noted, the Board of Zoning Adjustment order in Appeal No. 18114 was vacated and remanded by the District of Columbia Court of Appeals in *Ward 5 Improvement Association v. District of Columbia Board of Zoning Adjustment*, 98 A.3d 147 (D.C. 2014). The Court found that "the BZA ... failed to make key factual findings and ... left legal questions unresolved." The court directed the Board, on remand, to "consider whether the ZA erred in granting Stadium Club a second permanent certificate of occupancy on June 24, 2011, given the information available to the ZA at that time." 98 A.3d at 156. In particular, the BZA must "consider whether the kind of dancing featured at Stadium Club involves 'fondling,' 'erotic touching,' or acts of 'sexual stimulation or arousal,' as the BZA interprets those terms in light of its precedent."

The court concluded that, in assessing whether the Zoning Administrator properly granted the certificate of occupancy, the Board erred in relying almost exclusively on information available to the ZA at the time he granted the first permanent certificate of occupancy on June 22, 2010. Instead, the court held, the Board “should have fully considered, as well, information available to the ZA at the time he granted the second permanent certificate of occupancy on June 24, 2011 – including, in particular, information about how Stadium Club had been operating since it opened a year earlier.” 98 A.3d at 149.

With respect to the information that the Board should have considered, the court noted that before the second permanent certificate was issued on June 24, 2011

both the ZA and BZA had additional relevant information, including: Stadium Club owner James Redding’s testimony at the October 26, 2010, hearing about personal lap dances performed in the back rooms; Ben Petok’s affidavit and testimony, also at the October 26, 2010, hearing, alleging, for example, that “[d]uring the table dance, ‘Cory’ would remove all of her clothing and dance nude, rubbing her breasts and vagina and exposing her genitalia [sic] to her patrons”; and the report from Justin Bellow’s March 24, 2011, visit to Stadium Club, in which he noted “instances where a dancer would momentarily touch her breast and/or buttock.” Mr. Bellow also answered yes when asked in his September 27, 2011, testimony before the BZA if the dancers had “ben[t] over and expose[d] their anus or vagina to the patrons.”

98 A.3d at 153-154.

The court also noted that “Mr. Bellow could not testify about the private rooms or about customers’ reaction to the dancers,” and stated that on remand “the Board may consider both whether the ZA had adequate information and whether he adequately considered the information he had.” 98 A.3d at 154, fn. 12.

On remand the Board was to also consider whether the Zoning Administrator reasonably made determinations regarding erotic touching at the Stadium Club, and make its own *de novo* interpretation of “fondling,” distinguished from “other erotic touching of human genitals, pubic region, buttock, or breast.” The court found the BZA’s discussion of fondling deficient because the Board did not make clear whether it was deferring to the Zoning Administrator’s interpretation of the term. Such deference, if it had occurred, would be inconsistent with the Board’s “final administrative responsibility to interpret the Zoning Regulations.” 98 A.3d at 154 (internal quotation marks omitted).

The Board also must make additional findings of fact with respect to acts of “sexual stimulation or arousal” sufficient to explain how the manner in which the women display themselves at the Stadium Club did not promote sexual stimulation or arousal, given that seemingly similar activity was found to constitute “sexual stimulation or arousal” and therefore a “specified sexual

activity” in Appeal No. 13967 (order issued November 22, 1983 (“*California Steak House*”), or explain a deliberate change in those prior policies and standards.³ 98 A.3d at 156.

The Board’s Application of the Court of Appeals’ Remand Instructions.

In relevant portion the Zoning Regulations define a “sexually oriented business establishment” as:

an establishment that presents as a substantial or significant portion of its activity, live performances, films, or other materials, that are distinguished or characterized by their emphasis on matters depicting, describing, or related to specified sexual activities and specified anatomical areas....

11 DCMR § 199.1.

The “specified sexual activities” are: “(a) Acts of human masturbation, sexual intercourse, sexual stimulation or arousal, sodomy, or bestiality; and (b) Fondling or other erotic touching of human genitals, pubic region, buttock, or breast.” The “specified anatomical areas” are the following “parts of the human body:” “(a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and (b) Human genitals in a discernibly turgid state, even if completely and opaquely covered.” 11 DCMR § 199.1.

Because it is undisputed that the women who perform there are sometimes nude, the Board concludes that the Stadium Club is an establishment that presents “live performances...distinguished or characterized by their emphasis on matters depicting, describing, or related to...specified anatomical areas” within the meaning of “sexually oriented business establishment.” No party disputed that the parts of the human body listed in the Zoning Regulations are sometimes visible during the live performances at the Stadium Club.

The remaining issue, therefore, is whether the Stadium Club operations “are distinguished or characterized by their emphasis on matters depicting, describing, or related to specified sexual activities.” In the absence of evidence of acts of human masturbation, sexual intercourse, sodomy, or bestiality, the Board concludes that the “specified sexual activities” at issue in this proceeding are acts of “sexual stimulation or arousal” and “[f]ondling or other erotic touching of human genitals, pubic region, buttock, or breast.” Both aspects must be present for an entity to meet the zoning definition of “sexually oriented business establishment.”

³. As described by the Court of Appeals, “[i]n *California Steak House*, the establishment appealed the ZA’s decision to revoke its certificate of occupancy. The ZA had determined that the establishment was operating as a SOBE, beyond the scope of its certificate of occupancy. In addition to upholding the ZA’s decision on the merits, the BZA also dismissed the appeal as not timely filed.”

Typically, an entity obtains a certificate of occupancy before beginning operations. In the case of the Stadium Club and the issuance of its 2011 certificate of occupancy, the Zoning Administrator had an opportunity to consider the actual operation of the business before deciding whether the actual use complied with applicable zoning requirements of the authorized use.

The information available to the Zoning Administrator concerning the actual operations of the Stadium Club prior to the issuance of the certificate of occupancy in June of 2011 consisted of the investigative report of DCRA inspector Justin Bellow, the ZA's discussions with ABRA representatives and representatives of the Stadium Club, the affidavits of Mr. Petok and Mr. Chriswell, and the testimony of Mr. Petok, Mr. Bellow, and James Redding, an owner of the Stadium Club, at the Board's hearing held on October 26, 2010. The pertinent portion of this information is summarized in the findings of fact Nos. 9 through 11 and 15 through 16 ("the Available Information").

The Board finds that the Petok and Chriswell affidavits and Mr. Petok's testimony fully and accurately reflect the actual operations of the Stadium Club and the conduct of its performers. The affidavits corroborated each other and elements of the affidavits were also corroborated by other testimony, including statements by the Stadium Club owner and the DCRA investigator. And Mr. Petok's testimony was consistent with his affidavit. Further, as noted by the Court of Appeals, Mr. Bellow could not testify about the private rooms, about which Mr. Petok provided detailed information, and therefore Mr. Bellow's understanding of the full nature of the Stadium Club's activities was incomplete.

Having determined the relevant facts in this case, the Board will now apply those facts to the question of whether the Stadium Club's performances involved "sexual stimulation or arousal" and "[f]ondling or other erotic touching of human genitals, pubic region, buttock, or breast."

A. Sexual Stimulation or Arousal.

In evaluating potential acts of sexual stimulation or arousal in the context of a live performance, the Board considers the intent of the performer. *See California Steak House* (Board's conclusion that activities occurring at an establishment clearly went "beyond the limits of dancing in the nude" was based on findings that the positions assumed by the dancers and the manner in which they displayed themselves were "clearly designed to stimulate or arouse patrons."). Both DCRA and the Stadium Club advocated use of the "performers' intent" standard, citing *California Steak House*. The Board agrees with DCRA that an emphasis on the performers is "a clearer standard than attempting to discern the effect of a particular type of performance on a viewer" because the "focus on the performer provides clear rules for both the ZA and establishments providing nude dancing without being a SOBE, whereas relying on a viewer's response potentially risks changing rules between establishments and over time."

The Board also agrees with DCRA that "[a]ttempting to determine a 'reasonable viewer' standard would be almost impossible as it would have to bridge the vast gaps between persons of

different ages, cultural backgrounds, religious beliefs, genders and sexual orientation over what activities qualify as ‘acts of ... sexual stimulation or arousal.’” (Exhibit 18114A-4.) For the reasons given by DCRA, the Board was not persuaded by the Appellant that a reasonable person standard should be used to “avoid the potentially difficult problem of inferring subjective intent from a person’s conduct.”

Further, the Board reaffirms its previous holding that nude dancing alone does not make an establishment a “sexually oriented business establishment” as defined in the Zoning Regulations.⁴ As DCRA has noted, nude dancing is not one of the “specified sexual activities” listed in the zoning definition; therefore, an establishment offering nude dancing would not comprise a SOBE for zoning purposes unless its live performances were characterized by their emphasis on both the specified anatomical areas and the specified sexual activities. The Board has also previously held that “sexual stimulation or arousal” does not require touching or direct physical stimulation.⁵

The “Available Information” known to the Zoning Administrator prior to the issuance of Certificate of Occupancy No. CO1101152 on June 24, 2011 clearly indicated that the actions of the performers at the Stadium Club were intended to promote “sexual stimulation or arousal” because those actions were designed to stimulate viewers in a sexually exciting way. As such, these actions satisfied the first element of what constitutes a “specified sexual activity.” As in *California Steak House*, the Board finds in this proceeding that the positions assumed by the dancers at the Stadium Club, and the manner in which they displayed themselves, were clearly designed, in the words of the Court of Appeals, “to promote sexual stimulation or arousal”⁶ of the patrons of the establishment. The Board concludes that it was not reasonable for Zoning Administrator to have found otherwise.

B. Fondling or Other Erotic Touching.

The other essential component of the zoning definition of “specified sexual activities” is “fondling or other erotic touching of human genitals, pubic region, buttock, or breast.” The term “fondle” is not defined in the Zoning Regulations. The regulations provide that undefined terms “shall have the meanings given in Webster’s Unabridged Dictionary.” 11 DCMR § 199.2.

Based on his reading of the dictionary definition, the ZA concluded that the term incorporated a temporal element, such that “fondling” was identified as a form of touching done for a reasonable length of time and intentionally, not an accidental touch done in passing, and

⁴ See *California Steak House* at 12, 13 (Board found that activities seen during live performances “clearly [went] beyond the limits of dancing in the nude” and in fact constituted a specified sexual activity).

⁵ See *California Steak House* at 13. When that appeal was decided, the zoning definition of “specified sexual activities” merely listed various activities in subparts 1 and 2. The definition now employs the same list of activities but with the addition of “and” between the two subparts, thus clarifying that at least one activity from both subparts must be present to meet the definition of “specified sexual activities.”

⁶ 98 A.3d at 156.

encompassed touching that could be characterized as loving, caressing, or affectionate. The BZA has reviewed the definition, and agrees with the ZA's view that "fondling" has a temporal component, as a lingering touch that is tender or loving (rather than a momentary or accidental touch), where the duration of the touch is consistent with an intent to create sexual stimulation or arousal in the viewer.

In response to the Court of Appeals' concern, the Board wishes to make it clear that though it is agreeing with the ZA's interpretation of the term "fondling," it is not deferring to him. Instead the Board independently interpreted the term's meaning consistent with "its final administrative responsibility to interpret the zoning regulations." *Bannum, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 894 A.2d 423, 431 (D.C. 2006), quoting *Murray v. District of Columbia Bd. of Zoning Adjustment*, 572 A.2d 1055, 1058 (D.C.1990).

The Zoning Administrator's analysis did not consider "other erotic touching" as a separate aspect of the specified sexual activity, such that a particular type of touching could be considered "erotic" but not necessarily "fondling." The Board concludes that the term "other erotic touching" encompasses other types of deliberate touching, not necessarily characterized by a temporal aspect or a caressing nature, such as a repetition intended to promote sexual stimulation or arousal in the viewer.

The "Available Information" known to the Zoning Administrator prior to the issuance of Certificate of Occupancy No. CO1101152 on June 24, 2011 clearly indicated that the actions of the performers at the Stadium Club included "fondling or other erotic touching of human genitals, pubic region, buttock, or breast." Considering especially the nature of the touching – the contact with the naked human genitals, pubic regions, buttocks, and breasts by dancers touching themselves – and the types of live performances observed at the Stadium Club, including changes in the nature of the dancing when performers attempted to solicit tips from nearby patrons, the Board concludes that the performances at the Stadium Club included instances of fondling or other erotic touching. The touching was deliberate and either lingering or repetitive, and done with the intent to promote sexual stimulation or arousal in the viewers. The Board concludes that the ZA's unreasonably determined that this element was not satisfied.

The Parties' Exceptions

Because a majority of the Board members participating in this remand did not personally hear the evidence in this case, a Proposed Decision and Order on Remand was provided to the parties on July 18, 2016 to afford them an opportunity to present written exceptions, pursuant to D.C. Official Code § 2-509(d) (2016 Supp.). Exceptions were submitted by the Appellant, DCRA, and RCX, LLC.⁷

⁷ RCX contends that the written submission by the Appellant should be stricken "because Ward 5 is not adversely affected" by the Board's proposed order. When, as in this proceeding, a majority of the participating Board members did not personally hear the evidence, the exceptions process requires "a proposed order or decision...served upon the parties and an opportunity...afforded to each party adversely affected to file exceptions

The Appellant contends that “the proposed order incorrectly identifies the current certificate of occupancy” since the Stadium Club “now operates under certificate of occupancy number CO1500097, issued on November 18, 2014.” In response, “DCRA asserts that it is procedurally inappropriate to incorporate the 2014 CofO into the Board’s ruling because the appeal did not incorporate the 2014 CofO.”

The Board agrees with DCRA that this order should not address the certificate of occupancy issued to the Stadium Club in 2014. The 2014 certificate of occupancy was not in the record at the time of the Board’s decision on remand in this proceeding, and the Board has no information about the circumstances of its issuance. “If the ZA has issued superseding certificates of occupancy to Stadium Club during the pendency of this appeal, the BZA should consider whether the ZA erred in issuing the latest certificate given the information available.” 98 A.3d at 156, Fn. 17. The latest certificate for which information is available in the record of this proceeding remains the certificate of occupancy issued June 24, 2011.

The Board does not agree with the contention of RCX that issuance of the 2014 certificate of occupancy rendered the appeal moot. DCRA describes the 2014 certificate as “identical to the 2011 CofO except for the change of ownership.” Issuance of the 2014 certificate of occupancy therefore did not constitute a new zoning decision with respect to the authorized use of the subject property different from the use authorized by the 2011 certificate.

The Stadium Club has obtained a series of certificates of occupancy, initially temporary and subject to conditions, and later two permanent certificates of occupancy, including the 2011 issuance. Each new certificate superseded the prior issuance. The Board previously allowed an amendment to this appeal to encompass the 2011 certificate, because the issuance of the new certificate of occupancy had not disposed of the grounds for the appeal. *See* Order No. 18114 at 11. Similarly, since the 2014 certificate of occupancy did not change the authorized use of the subject property, but merely reflected a change in ownership, its issuance also did not dispose of the grounds for the appeal or render the appeal moot.

For the same reasons, the Board rejects the assertion by RCX that “the Proposed Order and any final order issued has no impact on RCX’s operation under its current certificate of occupancy.” Instead, the Board agrees for the purposes of the mootness argument with DCRA that “a ruling by the Board invalidating the 2011 CofO would also invalidate the 2014 CofO as they are both based on the same determination made by the ZA.”

and present argument...” D.C. Official Code § 2-509(d) (2016 Supp.) (emphasis added). The Board finds no merit in the contention that the Appellant, or any other party, should not be afforded an opportunity to submit comments on the proposed order. The statute plainly requires service of the proposed decision on *all* parties participating in the proceeding. The opportunity to file exceptions afforded to “each party adversely affected” recognizes that any party – even the prevailing party – might take exception to some aspect of the proposed order. If any party perceives a potentially adverse outcome arising from a proposed order, that party may submit written exceptions to that effect; presumably a party would not be inclined to submit comments unless some aspect of the proposed order was perceived to create some adverse effect on that party.

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The Appellant contends that “the issuance of the 2014 certificate is just as unreasonable as was the issuance of the 2011 certificate” and that the Board’s order should “make clear” “that such issuance is, therefore, vacated.” Toward that end, the Appellant urges the Board to “explicitly find that Stadium Club is a SOBE rather than simply holding that the Zoning Administrator unreasonably issued certificates of occupancy.” In response, DCRA requested “that the Stadium Club have an opportunity to respond to the Board’s ruling to determine if it can make the changes necessary to avoid classification as a ‘sexually oriented business establishment.’”

The Board concludes, based on the findings of fact in this order, that the Stadium Club was operating as a sexually oriented business establishment, as that term is defined in the Zoning Regulations, at the time of the issuance of the 2011 certificate of occupancy, and therefore also concludes that the certificate of occupancy was issued in error. By operation of the Construction Code, the 2011 C of O apparently must be revoked ten days after this order becomes final.⁸ Accordingly, the Board declines to vacate the certificate of occupancy, which would be superfluous given the apparent mandate of the Construction Code.

RCX argues that “[r]evocation or invalidation of the RCX, LLC’s certificate of occupancy would constitute a denial of due process,” in part because the appeal addressed the operation of the Stadium Club by the prior lessee in 2011 rather than the operation by RCX at present. First, the Board is not revoking or invalidating RCX’s current C of O, but finding that the 2011 C of O was issued in error. In any event, the Board has no jurisdiction to rule on the merits of constitutional claims. *See Appeal No. 17504 of JMM Corporation* (2007) (“Board concluded that in denying appeal of DCRA revocation of C of O because bookstore was operating as a SOBE it had “no jurisdiction to decide questions of constitutionality, as its authority is limited to hearing appeals alleging error in the administration and enforcement of the Zoning Regulations”).

RCX next contends that “the Board members who voted [on the proposed order] did not have adequate knowledge of the prior proceedings,” in violation of 11 DCMR § 3105.15.⁹ As RCX notes, Board member Hinkle is the only member who has participated in this appeal since the initial hearing. However, the other Board members and the Zoning Commission member who voted on the proposed order – that is, Chairperson Heath, Board member Hill, and Commissioner

⁸ Pursuant to 12A DCMR § 110.5.3.2, “When a written order of the Board of Zoning Adjustment concludes that a certificate of occupancy was issued in error, the certificate of occupancy shall be revoked effective ten days after the Board of Zoning Adjustment Order becomes final pursuant to the provisions of the Zoning Regulations. Appeal of revocations under this provision shall be governed by Section 110.6.1.” The effect of this provision is for DCRA to decide.

⁹ That provision states that:

A member attending the decision meeting and having read the transcript and reviewed the complete record may participate and may vote even though that member may not have attended any or all of the prior meetings or hearings on the appeal or application.

Miller – all confirmed, during a public meeting in the remand proceeding, that they had reviewed the entire record in this case.¹⁰

As RCX notes, the participating members, except for Commissioner Miller, did not state that they had each reviewed the record until the August 4, 2016 meeting. The Board now confirms that each participating member had in fact examined the entire record before beginning deliberations on June 16, 2015, except for Board member Hill, who did not begin his participation in this case until August 4, 2016. While RCX contends that “some pivotal decisions were made” on June 16, 2015, the Board rejects the assertion that its deliberations violated § 3105.15. The Board’s deliberations on June 16, 2015 did not comprise a final decision on any issue in this proceeding, as reflected in additional deliberations undertaken at subsequent public meetings on August 4, September 22, and October 27, 2015. The Board also concludes that RCX’s allegations about Commissioner Cohen are simply mistaken, as Commissioner Cohen did not participate in this proceeding in any substantive way and was therefore not obligated to review the record.¹¹

Finally, RCX challenges the proposed order as legally deficient, faulting both the Board’s findings of fact and its conclusions of law. The Board finds no merit in these assertions and declines to address them at this stage in the proceeding. After its initial order was remanded by the Court of Appeals, the Board reopened its record and invited additional submissions so that all parties could respond to the questions raised by the Court of Appeals. The Board fully considered each submission, including the arguments made by RCX, in reaching its decision on remand, and finds no reason to revisit its remand decision now. The Board notes that the exceptions process requires notice of a proposed decision and an opportunity for the parties to present argument to a majority of those who are to render the final decision as a means to prevent the final order, “to those who are to make the final decision, from being a pro forma appeal whereby those who make the final decision merely ‘rubber stamp’ the [proposed] decision.” *Woodridge Nursery School v. Jessup*, 269 A.2d 199, 202 (D.C. 1970). In this case, the same Board members made both the proposed decision and the final decision on remand, and fully considered the entire record, including RCX’s filings, in doing so.

Conclusion

The performances occurring in the Stadium Club were intended by the performers to sexual stimulate and arouse the customers and their performances included fondling and other erotic touching” of the relevant anatomical areas. As such the performances at the club met the “specified sexual activities” element of the SOBE definition. Since, as explained above, the other elements of the definition were also satisfied, the Board concludes that the Zoning Administrator erred in authorizing the issuance of Certificate of Occupancy No. CO1101152, not

¹⁰ See Transcript of August 4, 2016 at 7-8.

¹¹ Commissioner Cohen voted on a procedural motion to schedule a public meeting for additional deliberations in this proceeding. See Transcript of October 6, 2015 at 10-11.

because the ZA had inadequate information, but because he inadequately considered the information he had.

Based on the findings of fact and conclusion of law, the Board finds that the certificates of occupancy were issued in error and therefore **REVERSES** the determination of the Zoning Administrator in the issuance of Certificate of Occupancy No. CO1101152 to the Stadium Group LLC.

VOTE: 3-1-1 (Marnique Y. Heath, Frederick L. Hill, and Robert E. Miller voting to GRANT the Appeal; Jeffrey L. Hinkle opposed; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of Board members approved the issuance of this order.

FINAL DATE OF ORDER: September 26, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19124 of Eye Street JV LLC, pursuant to 11 DCMR §§ 3103.2 and 3104.1,¹ for a variance from the closed court width and area requirements under § 776, and special exception relief from the penthouse setback requirements under §§ 411 and 777.1, to allow the construction of a new mixed-use residential building in the DD/C-3-C District at premises located on Square 453, Lots 40, 50, 815-819, 821, 835, and portions of a public alley to be closed.²

HEARING DATES: December 8, 2015, and May 24, 2016

DECISION DATES: February 2, March 8, May 24, and September 20, 2016

SUMMARY ORDER

SELF-CERTIFICATION

Pursuant to 11 DCMR § 3113.2, Eye Street JV LLC (the “Applicant”) submitted a self-certified application. (Ex. 5 (original), Ex. 45 (amended).) 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.

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”)

¹ This and all other references in this Order to provisions contained in Title 11 DCMR, except those references made in the final all-capitalized paragraphs, are to provisions that were in effect on the date this Application was heard and decided by the Board of Zoning Adjustment (“the 1958 Regulations”), but which were repealed as of September 6, 2016 and replaced by new text (“the 2016 Regulations”). The repeal of the 1958 Regulations has no effect on the validity of the Board’s decision or the validity of this order. Pursuant to Subtitle A § 104 of the 2016 Regulations, the construction authorized by this Order is vested as to the area requirements contained in 1958 Regulations as of September 5, 2016.

² The Applicant’s original application dated August 25, 2015 (Exhibit [“Ex.”] 1-15) requested a variance from the court requirements of § 776 and special exception relief from the penthouse setback requirements of §§ 411 and 770.6. Following publication of Z.C. Order No. 14-13 in the *DC Register* on January 8, 2016, which amended the text of the Zoning Regulations insofar as they relate to penthouse height, design, and use, § 770.6 became inapplicable in this case. Instead, § 777.1 of the new penthouse regulations applies, since it renders the provisions of 11 DCMR § 411 applicable to penthouses in Commercial Districts. In addition, the original application requested penthouse setback relief in eight distinct locations (*see* Ex. 11). Since that filing, the Applicant withdrew the need for special exception relief in seven out of eight locations (*see* Ex. 48), such that the only remaining location where penthouse setback relief is needed would be for the 9’-9” tall penthouse that is set back eight feet from the open court wall to the south of the building.

2C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C submitted a letter to the Board dated October 27, 2015. (Ex. 30.) The ANC letter noted that on Monday, October 19, 2015, at the regularly scheduled, duly noticed meeting of ANC 2C, with a quorum of commissioners and the public present, ANC 2C voted 2:0:0 to approve the project with conditions. The Board modified those conditions at the public meeting of March 8, 2016 to remove the reference to a public park outside the scope of the application and adopted the conditions as revised.

The Office of Planning (“OP”) submitted a report dated December 1, 2015. (Ex. 31.) The OP report recommended approval of the closed court variance, approval of the penthouse setback special exception in five of the eight original locations, and denial of the penthouse setback special exception in three out of the eight original locations. At the December 8, 2015 public hearing on the application, OP testified that based on further evidence presented by the Applicant at the hearing, OP believed that all of the proposed penthouse setbacks met the special exception standards set forth in 11 DCMR §§ 3104 and 411. (See 12/8/2015 Transcript, pp. 125-127.)

OP submitted a second report dated February 16, 2016 (Ex. 40), wherein it responded to a report submitted by the National Capital Planning Commission (Ex. 38). This OP report stated that OP had “confirmed with the Office of the Attorney General that interpretation of the Height Act provisions rests solely with the Zoning Administrator,” and that “recent changes approved by the Zoning Commission to the penthouse provisions in the [Z]oning [R]egulations did not impact the provisions of the Height Act, or the long standing Zoning Administrator interpretation of the Height Act.” (Ex. 40, p. 1.) The OP report also confirmed that the Applicant “may request relief from the setback provisions for the proposed penthouse based on the interpretation of the Zoning Administrator, but must adequately address the special exception test.” (Ex. 40.)

Finally, OP submitted a third report dated April 4, 2016 wherein it provided additional information about the relationship between the public alley to be closed and the Board’s consideration of penthouse setbacks. (Ex. 41.)

The District Department of Transportation (“DDOT”) filed a report with the Board on December 1, 2015. (Ex. 32.) The DDOT report stated that it had no objection to approval of the requested variance and special exception relief, and indicated that the “project will have no adverse impacts on the travel conditions of the District’s transportation network.” (Ex. 32, p. 1.)

Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to 11 DCMR § 3103.2, for a variance from the court requirements under 11 DCMR § 776. No parties appeared at the public hearing in opposition to this application for variance relief. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR § 776, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the Applicant in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to 11 DCMR §§ 3104.1 and 411. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 411, and 777.1 that the requested relief can be granted, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED**, and pursuant to 11 DCMR § 3125.8, **SUBJECT TO THE APPROVED DRAWINGS AT EXHIBIT 29B, AS SUPPLEMENTED BY THE DRAWINGS AT EXHIBIT 42C AND EXHIBIT 44D, ALL AS AMENDED BY THE CORRECTED DRAWINGS AT EXHIBIT 48, AND SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Applicant shall establish a Community Space, permanently, in the proposed new development. This space shall serve to benefit the entire community, in the Single Member District.
2. The Applicant shall provide for the upkeep and maintenance of the immediate surrounding area, including the area around the development on H Street, Eye Street, and 6th Street. The Applicant shall be responsible for the maintenance of the alley, between H Street and Eye Street. The Applicant shall bear the responsibility, including but not limited to the cleanliness, repair, maintenance and security of the alley. Use of the alley shall be amicably shared by all neighbors. Additionally, the occupant of the building shall see to it that there is no unwanted loitering and soliciting activities in the alley.

VOTE:³ **4-1-0** (Frederick L. Hill, Marnique Y. Heath, Anita Butani D'Souza (by absentee ballot), and Anthony J. Hood, to APPROVE; Jeffrey L. Hinkle to DENY.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: September 28, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, 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

³ The Board previously voted on this case on March 8, 2016 and May 24, 2016 and took its final vote on September 20, 2016. On March 8, 2016, the Board granted relief for closed court and for five roof structure setbacks and denied relief for three other setbacks by a vote of 3-0-2. After reopening the record to revisit its decision and to hold a limited hearing on May 24, 2016, the Board voted on May 24, 2016 to approve closed court relief by a vote of 5-0-0, approve setback relief for an eight-foot east penthouse by a vote of 4-1-0, approve relief for multiple enclosure heights by a vote of 5-0-0, and failed to approve relief for a 15' 6'' west penthouse setback, by a vote of 2-3-0. Revised plans consistent with the Board's approvals in its decision on May 24, 2016 were filed to the record at Exhibits 47 and 48. On September 20, 2016, the Board reopened the record and approved the amended plans and relief. That is the vote reflected herein.

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MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19315 of Associated Catholic Charities, as amended¹, pursuant to 11 DCMR § 3103.2², for area variances from the lot area requirements under § 401.3 and the alley access requirements under § 2507.2, and a use variance from the flats on alley lot requirements under § 2507.1, to construct three flats in the R-4 District at premises (rear) 611-617 Rhode Island Avenue N.W. (Square 442, Lots 4, 49-50).

HEARING DATES: July 6, 2016 and September 13, 2016

DECISION DATE: September 13, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.) 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") 6E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. ANC 6A submitted a report in support of the application, which indicated that at a duly noticed and regularly scheduled meeting of the ANC on June 7, 2016, at which a quorum was present, the ANC voted 7:0:0 to approve the application. (Exhibit 33.)

¹ The Applicant testified at the hearing that originally-requested variances from lot width (§ 401.3) and rear yard (§ 404.1) were eliminated in the revised plans under Exhibit 26. The Applicant's original filing (Exhibit 4) also referenced lot occupancy (§ 403.2), which the Applicant no longer requests. The Applicant also clarified what it was requesting for amended relief in its Supplemental Submission. (Exhibit 32.) The caption has been changed accordingly.

² This and all other references in this Order to provisions contained in Title 11 DCMR, except those references made in the final all-capitalized paragraphs, are to provisions that were in effect on the date this Application was decided by the Board of Zoning Adjustment ("the 1958 Regulations"), but which were repealed as of September 6, 2016 and replaced by new text ("the 2016 Regulations"). The repeal of the 1958 Regulations has no effect on the validity of the Board's decision or the validity of this order. Pursuant to Subtitle A § 104 of the 2016 Regulations, the construction authorized by this Order is vested as to the area requirements contained in 1958 Regulations as of September 5, 2016.

The Office of Planning (“OP”) submitted a timely report recommending denial of the requested variances. (Exhibit 27.) However, at the hearing OP testified that the letters from the DC Fire & EMS Department (“FEMS”) (Exhibit 30) and the DC Water (Exhibit 32H) addressed most of their concerns regarding the alley width variance. OP continued to recommend denial for the lot area variance and the use variance to permit flats. OP noted that it had not considered the financial pro-forma included in the Applicant’s supplemental submission, but that in OP’s view the application failed to demonstrate a practical difficulty or undue hardship that arose from the unique conditions of the property.

In examining the evidence of record, the Board determined that there are a number of conditions that are unique to the property. These include the property’s narrow and rhombus shape, its location along an alley in a diverse square, and the fact that the lots were vacant and unimproved.

In assessing the second prong of the variance test, the Board gave great weight to the opinion of OP, and carefully considered and addressed its views in this regard. However, the Board determined that the financial pro-forma was critical evidence and important in evaluating the application. The Board noted that the financial pro-forma, in conjunction with the other evidence presented in the record, demonstrated that complying with the lot area regulation presented a practical difficulty and that complying with the use requirement presented an undue hardship. Accordingly, the Board was not persuaded by OP’s recommendation of denial.

The Board noted that no parties appeared at the public hearing in opposition to this application and that ANC 6E unanimously supported the application. In consideration of the full record, the Board found that variance 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.

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 21.)

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 lot area requirements under § 401.3 and the alley access requirements under § 2507.2, and a use variance from the flats on alley lot requirements under § 2507.1, to construct three flats in the R-4 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

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 § 401.3, 2507.2, and 2507.1 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 or undue hardship 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 PLANS AT EXHIBIT 26, TAB A, AS AMENDED BY EXHIBIT 32E, AND SUBJECT TO THE FOLLOWING CONDITION:**

1. The Applicant shall record a restrictive covenant in the District of Columbia Land Records limiting one of the six dwelling units (as illustrated in Exhibit 32E, SD3.1 - Lot A Unit 1) as an affordable housing unit, which shall be available to households with an annual income of no more than 60% Area Median Income (adjusted for household size) for the life of the project.

VOTE: **3-1-1** (Frederick L. Hill, Robert E. Miller, and Jeffrey L. Hinkle, to APPROVE; Anita Butani D'Souza, OPPOSED; Marnique Y. Heath, not present or participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: September 27, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19324 of 1349 Randolph St. Holdings LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the RF use requirements of Subtitle U § 320.2, to convert a one-family dwelling into a three-unit apartment house in the RF-1 Zone at premises 1349 Randolph Street N.W. (Square 2824, Lot 103).

HEARING DATE: September 20, 2016¹

DECISION DATE: September 20, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) 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") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 14, 2016, at which a quorum was present, the ANC voted 8-0-0 to support the application.

The Office of Planning ("OP") submitted a timely report recommending approval of the application with one condition. (Exhibit 31.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 30.)

The adjacent neighbor at 1347 Randolph Street, N.W. submitted a letter of support for the application. (Exhibit 33.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the RF use requirements of Subtitle U § 320.2, to convert a one-family dwelling into a three-unit apartment house in the RF-1 Zone. No parties appeared at

¹ The case was postponed from the hearing date of September 13, 2016 at the Applicant's request. (Exhibit 28.)

the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle U § 320.2, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7 AND WITH THE FOLLOWING CONDITIONS:**

1. Prior to a permit being issued, the Applicant shall submit to the Zoning Administrator evidence of a plan showing how the adjacent chimney at 1347 Randolph Street will be extended upwards or a written commitment to extend the chimney.

VOTE: **3-1-1** (Anita Butani D'Souza, Frederick L. Hill, and Jeffrey L. Hinkle, to APPROVE; Anthony J. Hood, OPPOSED; Marnique Y. Heath, 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: September 26, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST

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IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19331 of Keith Moore, as amended,¹ pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, and the non-conforming structure requirements of Subtitle C § 202.2, to add a two-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 1625 A Street, S.E. (Square 1086, Lot 60)

HEARING DATE: September 20, 2016

DECISION DATE: September 20, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 (original) and 32 (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") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 13, 2016, at which a quorum was present, the ANC voted 8-0-1 to support the application. (Exhibit 34.)

The Office of Planning ("OP") submitted a timely report (Exhibit 33) and testified at the hearing in support of the application. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the approval of the application.² (Exhibit 31.)

¹The Applicant amended the application (Exhibit 32) by adding a request for special exception for nonconforming structure under Subtitle C § 202.2 to the original request for a special exception for lot occupancy under Subtitle E §§ 5201 and 304.1. The caption has been amended accordingly.

² In its report DDOT noted that the Applicant would still need to resolve public space issues with the projection of the staircase with DDOT's public space process.

The Applicant's adjacent neighbor, Mattie Gardner of 1623 A Street, S.E., filed a letter in support of the application. (Exhibit 10.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E §§ 5201 and 304.1 and Subtitle C § 202.2. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle E §§ 5201 and 304.1, and Subtitle C § 202.2, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7.**

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Anthony J. Hood to APPROVE, Anita Butani D'Souza, not participating, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: September 23, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y

BZA APPLICATION NO. 19331

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§ 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 19333 of The Dirty Goose, LP, pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the 50% linear frontage limitation on eating and drinking establishment requirements of Subtitle K § 811.9(a), to permit a restaurant in the ARTS-2 Zone at premises 913 U Street N.W. (Square 360, Lot 39).

HEARING DATE: September 20, 2016

DECISION DATE: September 20, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 6.) 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") 1B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. Seven signatories of ANC 1B filed a letter noting that the Applicant presented the Application both to the ANC 1B Zoning, Preservation & Development Committee and to the full ANC. The signatories noted that the ANC "took no action in support [of] or opposition to the Application." The ANC signatories expressed support for the application and noted their belief that the Applicant has met the burden of proof. (Exhibit 35.) No one from ANC 1B appeared at the hearing to testify in the Application. Because the ANC did not vote or file a report, there is no "written report" from ANC 1B to which the Board can give "great weight" pursuant to 11 DCMR Subtitle Y § 406.2.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 32 - original, Exhibit 37 - corrected¹.) The District Department of

¹ OP states that corrections to the OP report are in bold as follows:

1) K § 1901.6 (a) cited in section I, page I should be replaced as

- **K § 811.9 (a)** - 50%, (115.20 feet) maximum permitted for eating and drinking establishments; 54 % (125.02 feet) proposed.

Transportation (“DDOT”) submitted a timely report indicating that it had no objection to granting the application. (Exhibit 31.)

Two area residents testified in support of the Application. There were seven support letters entered into the record from neighbors. (Exhibits 30E, 35, and 36.) Testimony in opposition was presented by a representative of Shaw-Dupont Citizens Alliance. One opposition letter from an area resident who is president of the Meridian Hill Neighborhood Association was entered into the record. (Exhibit 38.)

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for an area variance from the 50% linear frontage limitation on eating and drinking establishment requirements under Subtitle K § 811.9(a) in the ARTS-2 Zone. 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 OP report filed in this case, the Board concludes that in seeking a variance from 11 DCMR Subtitle K § 811.9(a), the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED, AND PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 4G – PERMIT SET ISSUE 12-07-2015.**

VOTE: 4-0-1 (Frederick L. Hill, Marnique Y. Heath, Anthony J. Hood, and Jeffrey L. Hinkle to APPROVE; Anita Butani D’Souza not participating).

2) Page 2, Paragraph 5, reference to the measurement table in K § 1906, should read **Table K § 811.9** (Exhibit 37.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: September 27, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001

PUBLIC NOTICE OF CLOSED MEETINGS FOR OCTOBER 2016

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on December 22, 2015, the Board of Zoning Adjustment voted 5-0-0 to hold *closed meetings telephonically on Mondays, October 3rd, October 17th, and October 24th*, beginning at 4:00 p.m. for the purpose of obtaining legal advice from counsel and/or to deliberate upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting, as those cases are identified on the Board's meeting and hearing agendas for October 4th, October 18th, and October 25th.

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

Marnique Y. Heath, Chairperson, Anita Butani D'Souza, Vice-Chairperson, Frederick L. Hill, Jeffrey L. Hinkle, and a Member of the Zoning Commission. Clifford W. Moy, Secretary of the Board of Zoning Adjustment Sara A. Bardin, Director, Office of Zoning.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-04E
Z.C. Case No. 06-04E
Florida & Q Street, LLC
(Minor Modification to PUD @ Square 3100)
July 20, 2016

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on July 20, 2016. At the meeting, the Commission approved an application of Florida & Q Street, LLC (“Applicant”) for minor modifications to an approved planned unit development (“PUD”) for property located at 1600 North Capitol Street, N.W. (Square 3100, Lot 48) (“Property”). Because the modifications were deemed minor, a public hearing was not conducted. The Commission determined that this modification request was properly before it under the provisions of 11 DCMR §§ 2409.9 and 3030.¹

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 06-04, the Commission approved a consolidated PUD and a Zoning Map amendment to rezone the Property from the C-2-A Zone District to the C-2-B Zone District (the “PUD”).
2. Pursuant to Z.C. Order No. 06-04C, the Commission approved modifications to the PUD (the “Modified PUD”). The modified plans are included as Exhibits [“Ex.”] 18A1–18A6 in the case record for the Modified PUD, and reflect a mixed-use development having a total gross floor area (“GFA”) of approximately 85,428 square feet, with approximately 84,306 square feet of GFA devoted to residential use. The Modified PUD will contain between 85 and 95 dwelling units, and approximately 4,998 square feet of floor area will be devoted to retail use in the cellar. The Modified PUD will have a maximum density of 4.5 floor area ratio (“FAR”), a maximum building height of 72’-4½” (not including penthouses), and will include 41 parking spaces located on one level of underground parking accessed from Florida Avenue. (Z.C. Order No. 06-04C, Conditions 1–4).
3. Pursuant to Z.C. Order No. 06-04F, the Commission extended the validity of the PUD for an additional two years, such that construction shall begin no later than June 15, 2018.
4. By letter dated June 1, 2016, the Applicant requested modifications to the architectural drawings approved in Z.C. Order No. 06-04C to revise the penthouse design and use, and to make modifications to the rooftop amenity space, green roof areas, and location of mechanical equipment. (Ex. 1.) The architectural drawings showing the proposed modifications are included in the case record. (Ex. 1G.)

¹ All references to Title 11 DCMR within the body of this Order, except for the final reference, are to provisions that were in effect on the date the application was decided by the Commission, but which were repealed as of September 6, 2016 and replaced by new text. The repeal and adoption of the replacement text has no effect on the validity of the Commission’s decision or the validity of this Order.

5. The Office of Planning (“OP”) reviewed the request for minor modifications, and by report dated June 27, 2016, OP recommended approval of the minor modifications. (Ex. 4.)
6. On July 11, 2016, the Commission held a public meeting wherein it indicated its willingness to approve as a Consent Calendar item the Applicant’s request for a minor modification to revise the penthouse design and add penthouse habitable space. However, the Commission questioned whether the revised penthouse design was in compliance with the 1:1 setback requirements along portions of the penthouse at the rear of the building. The Commission requested that the Applicant reevaluate the setbacks along the rear of the building and to submit a further revised penthouse plan, if necessary.
7. On July 15, 2016, the Applicant submitted a further revised penthouse plan in response to the Commission’s request. The further revised penthouse plan provided the required 1:1 setback along the rear of the building, including those specific portions of the penthouse that the Commission previously commented on at its July 11, 2016, public meeting. (Ex. 6A.)
8. Minor Modifications to the Penthouse Design and Use. As shown in the modified penthouse plans and as revised, the Applicant requested approval for minor modifications to revise the design and use of the building’s penthouse to incorporate approximately 3,904 square feet of GFA of penthouse habitable space. The Applicant stated that while the final layout of the proposed penthouse habitable space is not yet determined, the space will be allocated either as individual dwelling units or made part of dwelling units located on the floor below such that the resulting number of units in the building remains within the 85- to 95-unit range approved under Z.C. Order No. 06-04C. The modified penthouse will include a single enclosure with three separate heights. The penthouse habitable and mechanical space will have a maximum height of 14’-4”, the areas containing screened mechanical equipment will have a maximum height of 8’-0”, and the elevator overruns will have a maximum height of 17’-0”. The modified penthouse will meet the 1:1 setback requirements along all edges of the roof.
9. On June 1, 2016, the Applicant served the minor modification request on Advisory Neighborhood Commission (“ANC”) 5E. On July 11, 2016, ANC 5E submitted a resolution in support of the requested minor modification. (Ex. 5.) In addition, on July 15, 2016, the Applicant served the further revised penthouse plan on the ANC 5E. ANC 5E did not submit a response to the further revised penthouse plan.
10. On July 20, 2016, at a special public meeting, the Commission reviewed the modified and further revised penthouse plans and granted approval of the minor modifications as a Consent Calendar matter.
11. The Commission finds that the requested modifications as depicted in the modified and further revised penthouse plans are minor, and further finds that approval of the modifications is appropriate and not inconsistent with its approval of the original PUD.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission finds that the proposed modifications are consistent with the intent of the previously approved Z.C. Order No. 06-04 and are not inconsistent with the Comprehensive Plan.

The Commission concludes that approving the modifications is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 or 3030. Moreover, the Commission finds that this application meets the filing requirements of 11 DCMR §§ 411.24 and 411.25 to permit Consent Calendar consideration of an application for penthouse habitable space to be added to a building approved by the Commission as a PUD prior to January 8, 2016.

The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

Finally, the Commission finds that the modifications do not affect the essential elements of the approved PUD, including use, height, bulk, parking, or lot occupancy. The modifications are minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for minor modifications to the plans approved pursuant to Z.C. Order No. 06-04C, subject to the architectural plans and elevations submitted at Exhibit 1G of this case record, and as further modified by the architectural plans and elevations submitted at Exhibit 6A.

At its public meeting on July 20, 2016, upon the motion of Commissioner May, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Marcie I. Cohen, and Peter G. May to approve and adopt; Michael G. Turnbull to approve and adopt by absentee ballot).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on October 7, 2016.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-46C**

Z.C. Case No. 06-46C

Half Street Residential PJV, LLC

**(Minor Modification to Capitol Gateway Overlay Design Review Approval @ Square 701)
June 13, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public meeting on June 13, 2016. At the meeting, the Commission approved an application from Half Street Residential PJV, LLC (the "Applicant") for a minor modification to a project approved pursuant to the Capitol Gateway Overlay District design review provisions ("CG Overlay provisions") set forth in § 1604 of the 1958 Zoning Regulations of the District of Columbia (the "1958 Zoning Regulations"),¹ Title 11 of the District of Columbia Municipal Regulations ("DCMR"). Because the requested modification was deemed to be minor in nature, a public hearing was not required. The Commission determined that the modification request was properly before it under the provisions of 11 DCMR §§ 411.24 and 3030 of the 1958 Zoning Regulations.

FINDINGS OF FACT

1. By Z.C. Order No. 06-46 (*dated* February 12, 2007, *effective* November 23, 2007), the Commission approved a new development for the property now designated as Record Lot 168 in Square 701, pursuant to the CG Overlay provisions. The Commission also approved a number of related variances and special exceptions for the project pursuant to 11 DCMR § 1604.9 of the 1958 Zoning Regulations (the "Original Plans").
2. The Original Plans depicted a 762,800 square foot, mixed-use development consisting of two buildings on a single lot of record ("North Building" and "South Building") comprising office, residential, hotel, and retail uses. The North Building was approved for office and retail use while the South Building was approved for hotel, residential, and retail use. The Original Plans were approved for 277,600 square feet of office space, 105,560 square feet of hotel space, 51,010 square feet of retail, and 320,100 square feet of residential. The Original Plans showed a maximum height of 110 feet, not including roof structures, and a maximum density of 7.44 floor area ratio ("FAR"). To achieve the maximum permitted building height and FAR, the Original Plans included the transfer of residential density from Square 700 through a combined lot development that involved the ballpark site to the south.
3. By Z.C. Order No. 06-46A (*dated* January 28, 2008, *effective* December 12, 2008), the Commission approved minor modifications to the Original Plans (Z.C. Case No. 06-46A). The minor modifications included a number of design changes and several changes to gross floor area ("GFA"), including a reduction in office space, and increases

¹The 1958 Zoning Regulations were in effect on the date the application was decided by the Commission, but were repealed as of September 6, 2016 and replaced by new text. The repeal and adoption of the replacement text has no effect on the validity of the Commission's decision or the validity of this Order.

in hotel, retail, and residential space. The minor modifications resulted in a reduction in the overall FAR from 7.44 to 7.35.

4. Following the Commission's approval of the Original Plans, and subsequent minor modification, the North Building was constructed. However, the South Building was never constructed and ownership of the southern portion of Record Lot 168 transferred to the Applicant in the fall of 2014. The portion of Record Lot 168 that transferred to the Applicant is generally defined by the southern façade of the North Building on the north, N Street, S.E. on the south, Half Street, S.E. on the west, and Cushing Place, S.E., a 30-foot public alley, on the east.
5. By Z.C. Order No. 06-46B (*dated* June 29, 2015, *effective* July 31, 2015), the Commission approved modifications to the previously approved plans for the South Building. The Commission also approved related variances and special exceptions pursuant to 11 DCMR § 1604.9 of the 1958 Zoning Regulations (the "South Building Modified Plans"). The South Building Modified Plans are included as Exhibit ["Ex"] 22 of the record for Z.C. Case No. 06-46B.
6. According to Z.C. Order No. 06-46B, the South Building was approved for residential gross floor area ("GFA") ranging from approximately 318,400-402,800 square feet, retail GFA ranging from approximately 55,100-69,200 square feet, and hotel GFA ranging between zero to approximately 78,300 square feet. In addition, the South Building was approved with a maximum density of 6.83 FAR (*see* Z.C. Order No. 06-46B, Conditions 3-4 at p. 19).
7. By letter dated May 12, 2016, the Applicant requested modifications to the South Building Modified Plans to revise the penthouse design and use, and to make modifications to the rooftop amenity space, green roof areas, and location of mechanical equipment. (Ex. 1.) The architectural drawings showing the proposed modification are included in the case record ("South Building Modified Penthouse Plans"). (Ex. 2B.)
8. Minor Modifications to the Penthouse Design and Use. As shown in the South Building Modified Penthouse Plans, the Applicant requested approval to modify the design and use of the South Building's penthouse to include additional penthouse habitable space. Overall, the revised penthouse will contain approximately 9,369 GFA of penthouse habitable space, of which approximately 3,360 GFA will be devoted to communal recreation/amenity space. (Ex. 2B, Sheet A3.) In addition, the revised penthouse will contain approximately 2,199 GFA of penthouse mechanical space, and approximately 3,044 GFA of unenclosed screened mechanical equipment. With respect to penthouse height, the modified penthouse will include a single enclosure with three separate heights. The penthouse habitable space, both communal and non-communal, will have a maximum height of 16'-0" above the roof, and the areas proposed to contain unenclosed screened mechanical equipment will have a maximum height of 17'-0" above the roof. The proposed penthouse mechanical space will have a maximum height of 18'-6." (Ex. 2B, Sheet A4.) The revised penthouse will meet all required setbacks with the exception of a portion of the

main elevator core located at the southern end of the building, which the Commission previously granted relief from as part of its approval of the Original Plans.

9. Minor Modifications to Outdoor Rooftop Amenity Space and Landscape Plan. To accommodate the revised penthouse design, the Applicant revised the outdoor rooftop amenity space and landscape plan. The pool continues to be located on the central east-west wing of the building, and the height of the pool platform remains less than four feet above the adjacent roof. Similar to the South Building Modified Plans, the main outdoor amenity spaces remain located at the south end of the building near the intersection of Half and N Streets. The outdoor amenity spaces will primarily consist of temporary furnishings, planters, a grilling area, and a trellis structure. The landscaped areas of the roof extending along Half and N Streets are now devoted to a collection of private roof terraces and additional landscaped/green roof areas. According to Sheet L2 of the South Building Modified Penthouse Plans, the revised landscape plan increases the total amount of green roof by approximately 1,538 square feet.
10. Minor Modifications to Penthouse Facades. The materials proposed for the revised penthouse design are consistent with the materials that were previously approved for the main portion of the building, and consist of glass storefront windows, darker color fiber cement panels, and differentiated metal panel cladding. (Ex. 2B, Sheet A7.)
11. On April 1, 2016, the Applicant informed Advisory Neighborhood Commission (“ANC”) 6D member Stacy Cloyd, Single Member District 6D02, of its intent to file the minor modification request and offered to formally present the request at a regularly scheduled meeting of the ANC. Commissioner Cloyd informed the Applicant that a formal presentation would not be necessary. Rather, at the ANC’s regularly scheduled and duly noticed meeting held on April 11, 2016, Commissioner Cloyd informed the full ANC of the Applicant’s minor modification request. No objections were raised by the ANC or the public. On May 12, 2016, the Applicant provided the ANC with a copy of the minor modification application that was submitted to the Commission. The ANC did not submit a written report on the minor modification application.
12. The Office of Planning (“OP”) reviewed the South Building Modified Penthouse Plans, and by report dated June 6, 2016, OP recommended approval of the minor modification. (Ex. 4.)
13. On June 13, 2016, the Commission held a public meeting to consider the minor modification shown in the South Building Modified Penthouse Plans. At the meeting, the Commission voted to approve the application for a minor modification to the plans approved in Z.C. Order No. 06-46B.
14. The Commission finds that the requested modification as depicted in the South Building Modified Penthouse Plans are minor, and further finds that approval of the modification is appropriate and not inconsistent with the plans approved in Z.C. Order No. 06-46B.

CONCLUSIONS OF LAW

1. Upon consideration of the record in this application, the Commission finds that the proposed modification is consistent with the intent of the Commission's previous approval in Z.C. Order No. 06-46B, and is not inconsistent with the Comprehensive Plan.
2. The Commission concludes that approving the modification is appropriate and not inconsistent with the intent of 11 DCMR § 3030 of the 1958 Zoning Regulations. Moreover, the Commission finds that this application meets the filing requirements of 11 DCMR §§ 411.24 and 411.25 of the 1958 Zoning Regulations to permit Consent Calendar consideration of an application for penthouse habitable space to be added to a building approved by the Commission through the design review requirements of the CG Overlay provisions prior to January 8, 2016.
3. The Commission concludes that its decision is in the best interest of the District of Columbia, and is consistent with the intent and purpose of the 1958 Zoning Regulations and Zoning Act.
4. Finally, the Commission finds that the modification does not affect the essential elements of the Modified Plans, as approved pursuant to Z.C. Order No. 06-46B, including use, height, bulk, parking, or lot occupancy. The modification is minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for minor modification to the plans approved pursuant to Z.C. Order No. 06-46B, the Modified Plans, subject to the architectural plans and elevations submitted at Exhibit 2B of this case, the South Building Modified Penthouse Plans.

At its public meeting on June 13, 2016, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve and adopt).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the D.C. Register; that is on October 7, 2016.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-10A
Z.C. CASE NO. 13-10A
ZP GEORGIA, LLC
(Time Extension – Consolidated PUD @ Square 2892)
June 27, 2016

Pursuant to notice, a public meeting of the Zoning Commission of the District of Columbia (“Commission”) was held on June 27, 2016. At the meeting, the Commission approved a request on behalf of ZP Georgia, LLC (“Applicant”) for a two-year extension of the time period in which to file a building permit for the construction of a mixed-use development composed of retail and residential uses, which was approved in Z.C. Order No. 13-10.

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 13-10, effective June 27, 2014, the Commission approved applications for a consolidated planned unit development (“PUD”) and related Zoning Map amendment from the GA/C-2-A Zone District to the GA/C-2-B Zone District for a mixed-use retail and residential project at Lots 102, 103, 104, 105, 879, and 910 in Square 2892 (“Subject Property”). Z.C. Order No. 13-10 required that an application for a building permit must be filed no later than June 27, 2016, and that construction must begin no later than June 27, 2017.
2. The approved PUD includes approximately 96,000 square feet of gross floor area devoted to residential uses (105 units, plus or minus 10%) and approximately 3,816 square feet of gross floor area devoted to retail uses. A minimum of eight percent of the building's residential gross floor area was required to be set aside as Inclusionary Zoning (“IZ”) units, consistent with Chapter 26 of the Zoning Regulations. The building was approved with a maximum height of 87 feet. Thirty-six on-site parking spaces were approved to be located in a below-grade parking garage.
3. By letter dated May 25, 2016, the Applicant submitted a request to the Commission for a time extension of Z.C. Order No. 13-10, such that a building permit application must be filed no later than June 27, 2018, and construction must begin no later than June 27, 2019. The Applicant's request was supported by documentation describing a lawsuit against the Applicant regarding development of the Subject Property. The lawsuit was filed on June 17, 2014 in the Superior Court of the District of Columbia by an individual that participated as a party in opposition in Z.C. Case No. 13-10. As a result of the pending litigation, the Applicant suspended all development work pending resolution of the lawsuit.
4. The trial for the lawsuit concluded on May 23, 2016, by the Court dismissing the case, subject to a 30-day appeal period.¹ On May 25, 2016, the Applicant submitted its request for a time extension of the PUD. The request was supported by the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 1A. (Exhibit [“Ex.”] 4, 5.)

¹ The Commission takes notice that on June 21, 2016, the plaintiff filed a Notice of Appeal to the Court of Appeals for the District of Columbia.

The Applicant indicated in its request that following resolution of the lawsuit it would be able to move forward with preparing construction drawings, obtaining bids from general contractors, and taking other steps necessary to develop the Subject Property in accordance with Z.C. Order No. 13-10. The Applicant also indicated that it would be able to file a building permit application for the project by June 27, 2018 and begin construction by June 27, 2019.

5. Pursuant to 11 DCMR § 2408.10, the Commission is authorized to extend time periods set forth in 11 DCMR §§ 2408.8 and 2408.9, provided the following conditions are met: (a) the extension request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond; (b) there is no substantial change in any of the material facts upon which the Commission based its original approval of the planned unit development that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in 11 DCMR § 2408.11.
6. The sole substantive criterion for determining whether a PUD should be extended is whether there exists "good cause shown." The Zoning Regulations define "good cause shown" in 11 DCMR § 2408.11, as evidence of one or more of the following: (a) an inability to obtain sufficient project financing for the planned unit development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control; (b) an inability to secure all required governmental agency approvals for a planned unit development by the expiration date of the planned unit development order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.
7. As a result of the litigation process that was outside of the Applicant's reasonable control, the Commission finds that the Applicant has shown that it is unable to comply with the time limits set forth in Z.C. Order No. 13-10. Accordingly, the Commission concludes that this request for a time extension satisfies the sole criterion for good cause shown as set forth in 11 DCMR § 2408.11(c).
8. Other than the Applicant, the only party to this case was ANC 1A. As indicated on the Certificate of Service, the Applicant served the PUD extension request on ANC 1A on May 25, 2016. (Ex. 1.)
9. ANC 1A submitted a resolution to the record dated June 21, 2016, indicating that at its June 8, 2016 public meeting, at which notice was properly given and a quorum was present, ANC 1A voted 8-0-0 to support the Applicant's request for an extension of the approved PUD, such that a building permit application must be filed by June 27, 2018 and construction must commence by June 27, 2019. (Ex. 5.)

10. OP submitted a report to the record dated June 17, 2016, stating that as a result of the lawsuit, the Applicant was unable to move forward with the project due to circumstances beyond its control. OP thus recommended that the Commission approve the requested two-year PUD extension. (Ex. 4.)

CONCLUSIONS OF LAW

1. The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of approval, provided: (a) the extension request is served on all parties to the application by the applicant, and all parties are allowed 30 days to respond; (b) there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in 11 DCMR § 2408.11. (11 DCMR § 2408.10.) Subsection 2408.11 provides the following criteria for good cause shown: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.
2. The Commission concludes that the Applicant complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the request and allowing them 30 days to respond.
3. The Commission concludes that there has been no substantial change in any material fact that would undermine the Commission's justification for approving the original PUD. The Commission finds that the Applicant remains committed to moving forward with developing the project and fully complying with the conditions and obligations imposed as part of the original PUD order.
4. The Commission concludes that the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DCMR § 2408.11(c). Specifically, the Commission finds that the Applicant provided substantial evidence that the project has experienced delay beyond the Applicant's control due to the existence of litigation against the Applicant regarding development of the Subject Property.
5. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21, D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's written recommendations. ANC 1A submitted a resolution in support of the requested extension. (Ex. 5.) The Commission carefully considered the report and has given ANC 1A's recommendation great weight in approving this request.

6. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. OP submitted a report recommending the Commission approve the requested extension. (Ex. 4.) The Commission carefully considered OP's report and has given OP's recommendation great weight in approving this request.
7. Subsection 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in 11 DCMR § 2408.11. The Commission concludes that a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in 11 DCMR § 2408.11.
8. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of Z.C. Case No. 13-10A, such that an application for the building approved pursuant to Z.C. Order No. 13-10 must be filed no later than June 27, 2018, and construction of the building must begin no later than June 27, 2019.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, genetic information, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On June 27, 2016, upon the motion made by Commissioner Turnbull, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11 DCMR §3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on October 7, 2016.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Zoning Commission Order No. 14-04A
Z.C. Case No. 14-04A
The Professional Associates and International Finance Corporation
(Minor Modification to the Consolidated PUD @ Square 74)
May 23, 2016

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on May 23, 2016. At the meeting, the Commission approved an application of The Professional Associates and International Finance Corporation (collectively, the “Applicant”) for a minor modification to an approved planned unit development (“PUD”) for the property consisting of all of Square 74 (“Property”). Because the modification was deemed minor, a public hearing was not conducted. The Commission determined that this modification request was properly before it under the provisions of §§ 411.24, 2409.9, and 3030 of the Zoning Regulations (Title 11 DCMR)¹.

FINDINGS OF FACT

By Z.C. Order No. 14-04, dated November 10, 2014 (“Order”), the Commission approved a PUD enabling the construction of an addition to the existing International Finance Corporation (“IFC”) headquarters at 2100 K Street, N.W. (“Project”).

In this proceeding, the Applicant requested a minor modification to the approved plan to add penthouse habitable space to the PUD as well as related minor adjustments to the footprint of the penthouse. These modifications create a habitable room with approximately 1,570 square feet of floor area. The penthouse height, materials, and design remain unchanged. (Exhibit [“Ex.”]1.) The proposed changes do not impact the overall height, mass, bulk, or design that was originally approved by the Commission. Rather, they are minor changes required to accommodate the recent changes to the Zoning Regulations regarding habitable space within penthouses.

Pursuant to § 411.25(b), the proposed penthouse complies with all of the penthouse regulations as follows:

- Use (§ 411.4): The penthouse contains mechanical space and habitable indoor space that will be used by the building’s office tenants;
- Single Structure (§ 411.6): The penthouse is located within one enclosure that harmonizes with the main structure in design;
- Enclosure (§ 411.7): All mechanical equipment except for the cooling tower is fully enclosed;

¹ All references to Title 11 DCMR within the body of this order, except for the final reference, are to provisions that were in effect on the date the application was decided by the Commission, but which were repealed as of September 6, 2016 and replaced by new text. The repeal and adoption of the replacement text has no effect on the validity of the Commission’s decision or the validity of this Order.

- Heights (§§ 411.9, 770.6, and 2405.1): The habitable space is one uniform height and the mechanical space is a second, uniform height. The penthouse height does not exceed 20 feet;
- Verticality (§ 411.10): The enclosing walls rise vertically to a roof;
- FAR (§ 411.13): The habitable space is 1,570 square feet, or 0.02 FAR, which is well within the 0.4 FAR maximum for habitable space gross floor area not to be counted toward FAR;
- Parking and Loading (§ 411.15): Consistent with the original approval, the proposed Project exceeds the parking requirements, so the additional required parking space associated with the penthouse can be accommodated within the proposed amount of parking spaces. The penthouse space does not trigger an additional loading requirement;
- Housing Linkage (§ 411.17): The Applicant will provide the required contribution associated with the habitable penthouse space; and
- Setbacks (§ 411.18): The penthouse is set back from the north and east edges of the roof a distance that is at least equal to its height. The west and south edges of the roof of the Project adjoin the existing IFC building. No setback is required from those edges because: (a) the entire structure is one building for zoning purposes; and (b) even if the structures were separate buildings, they have the same permitted height.

On May 16, 2016, the Applicant submitted the amended plans to confirm that the proposed guardrail is also set back 1:1 from the edge of the roof. (Ex. 8.)

The Applicant served the minor modification request on Advisory Neighborhood Commission (“ANC”) 1A as well as the Office of Planning. ANC 2A filed a report noting unanimous support for the minor modification. The Office of Planning recommended approval of the modifications. (Ex. 6.)

On May 23, 2016, at its regular monthly meeting, the Commission reviewed the application as a Consent Calendar matter and granted approval of the application for minor modification to the approved PUD.

The Commission finds that the requested modification is of little consequence to the PUD as a whole, and further finds that approval of the modification is appropriate and not inconsistent with its approval of the original PUD. The Commission also finds that the modification satisfies the requirements of § 411.25 regarding minor modifications to add penthouse habitable space to approved buildings.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission concludes that the proposed modification is minor and consistent with the intent of the previously approved Z.C. Order No. 14-04 and with the requirements for minor modifications to add penthouse habitable space. (11 DCMR §§ 411.24, 411.25, and 2409.9.) Furthermore, the Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations, and is not inconsistent with the Comprehensive Plan.

The Commission also concludes that the modification is of little or no consequence, and is therefore appropriate for consideration on the Consent Calendar, without a public hearing. (11 DCMR § 3030.2.)

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a minor modification of an approved PUD to allow the modifications as shown on Exhibit 8 of the record. All other provisions and conditions of Z.C. Order No. 14-04 shall remain in effect.

On May 23, 2016, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application and **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Peter G. May to approve and adopt; Michael G. Turnbull to approve and adopt by absentee ballot).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the D.C. Register, that is, on October 7, 2016.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**NOTICE OF FILING****Z.C. Case No. 14-18A**

**(Mid-City Financial Corporation, *et al.* – Second-Stage PUD and Modification to
Previously Approved First-Stage PUD @ Square 3953, Lots 1, 2, and 3)
September 28, 2016**

THIS CASE IS OF INTEREST TO ANCs 5C and 5B

On September 22, 2016, the Office of Zoning received an application Mid-City Financial Corporation, Brentwood Associates, LP, and MCF Brentwood SC, LLC (collectively, the “Applicant”) for approval of a second-stage planned unit development (“PUD”) and modification to the previously approved first-stage PUD for the above-referenced property.

The property that is the subject of this application consists of Lots 1, 2, and 3 in Square 1043 in northeast Washington, D.C. (Ward 5), on a site that is bounded by Saratoga Avenue (north), Brentwood Road (west), 14th Street (east), and a public alley (west). The property is currently zoned, through a PUD-related map amendment, RA-2 (the underlying zone is RA-1).

The property that is the subject of this case is one block (Block 7) of a larger PUD. Block 7 was originally approved to include: 1) 28 two-over-two units; and 2) a five-story building with up to 286 units, 150-200 of which comprised a senior housing component. The proposed modification would include: 1) a four-story apartment building containing 131 units with associated ground-floor amenity space and 68 below-grade parking spaces; and 2) a four-story residential building containing approximately 200 seniors-only independent living units with associated ground-floor amenity space and 50 below-grade parking spaces. The proposed modification changes the two-over-two units to a traditional apartment building, which will now house the senior units and reduces the five-story building to four stories.

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 FINAL RULEMAKING
AND
Z.C. ORDER NO. 16-08
Z.C. Case No. 16-08
Office of Planning - Text Amendment - 11 DCMR
(Continuation of Conforming Status of Certain Multiple Dwellings in Squares 2580, 2581,
2582, 2583, 2584, 2586W, 2587, and 2589)
September 12, 2016**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

Government of the District of Columbia
Public Employee Relations Board

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In the Matter of:)	
)	
Department of General Services,)	
)	PERB Case No. 14-UM-02
Petitioner)	
)	Opinion No. 1589
and)	
)	Motion for Reconsideration
AFGE Local 631,)	
AFGE Local 2741,)	
AFGE Local 3444,)	
AFSCME Local 2091,)	
and Teamsters Locals 639 and 730)	
)	
Respondents.)	
<hr/>)	

DECISION AND ORDER

I. Statement of the Case

On May 9, 2016, the Board issued PERB Opinion No. 1575, dismissing PERB Case No. 14-UM-02 for lack of subject-matter jurisdiction. On May 27, 2016, Petitioner, the Department of General Services (“DGS” or “Agency”) filed a Motion for Reconsideration of that decision. The American Federation of Government Employees Local 631 (“Local 631”) and American Federation of State, County and Municipal Employees Local 2091 (“Local 2091”) both opposed the motion. For the reasons stated herein, the Motion is denied.

II. Background

On June 27, 2014, the Department of General Services (“DGS” or “Agency”) filed a Unit Modification Petition (“Petition”), which was later amended on January 30, 2015 (“Amended Petition”). DGS requested that the Board make a unit determination regarding the consolidation of different bargaining units from different agencies into one agency in which multiple labor organizations represented the same classifications within the agency. The AFGE Locals and

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Case No. 14-UM-02
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AFSCME opposed the Amended Petition on jurisdictional grounds, arising from D.C. Official Code § 1-617.09(a).

On May 9, 2016, the Board issued PERB Opinion No. 1575. In that opinion, the Board considered whether it had subject-matter jurisdiction over the Agency's Amended Petition. Because the Board has held that subject-matter jurisdiction cannot be waived and may be raised by the Board at any time, the Board evaluated the jurisdictional issues in the case before addressing the merits.¹

Section 1-617.09(a) of the Comprehensive Merit Personnel Act ("CMPA") provides the Board's subject-matter jurisdiction over unit determinations:

The determination of an appropriate unit will be made on a case-to-case basis and will be made on the basis of a properly-supported request from a labor organization. No particular type of unit may be predetermined by management officials nor can there be an arbitrary limit upon the number of appropriate units within an agency. The essential ingredient in every unit is community of interest: Provided, however, that an appropriate unit must also be one that promotes labor relations and efficiency of agency operations. A unit should include individuals who share certain interests, such as skills, working conditions, common supervision, physical location, organization structure, distinctiveness of functions performed, and the existence of integrated work processes. No unit shall be established solely on the basis of the extent to which employees in a proposed unit have organized; however, membership in a labor organization may be considered as 1 factor in evaluating the community of interest of employees in a proposed unit.²

(Emphasis added).

Interpreting § 1-617.09 strictly, the Board determined that unit modifications are available only to labor organizations. As the petition in this case was filed by the Agency, the Board determined that it did not have subject-matter jurisdiction over the petition. Therefore, the Board dismissed the Amended Petition, and did not discuss the merits of the case.

In its motion for reconsideration, the Agency argues that because Local 631 and the Agency requested that PERB add all transferred employees into one bargaining unit, Local 631 supported its petition. The Agency also argues that Teamster Locals 639 and 730 ("Teamster Locals") supported the Agency petition because, while this case was pending, the Teamster Locals filed its own unit modification petition in which the Teamster Locals asserted some of the same arguments that the Agency raises in its unit modification petition. The Agency also asserts that the Teamster Locals also filed a related compensation unit petition in which it "voluntarily echoed DGS's community of interest arguments."

¹ *FOP/MPD Labor Committee v. MPD*, Slip Op. No. 1372, PERB Case No. 11-U-52 (2013).

² D.C. Official Code (2001 ed. & Supp. 2014).

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III. Discussion

It is well settled that a motion for reconsideration cannot be based on a mere disagreement with the initial decision.³ An argument previously made, considered, and rejected is a “mere disagreement” with the initial decision.⁴ The moving party must provide authority which compels reversal of the initial decision.⁵ Absent such authority, PERB will not overturn its decision.⁶ Moreover, we have long held that a movant cannot use a motion for reconsideration to raise new arguments or present new evidence.⁷

A. AFGE Local 631 did not support the Amended Petition

In its motion, the Agency argues that PERB erroneously concluded “that no labor organization filed or supported the Amended Petition” and that Local 631 objected to the Amended Petition.⁸ However, in the next sentence, the Agency states that “[i]t is true that AFGE Local 631 challenged DGS’s statutorily [sic] ability to file the Amended Petition...”⁹ There is no doubt that Local 631 did not support DGS’s petition. This is evidenced not only by the lack of DGS filing a joint or consent petition but also by the numerous oppositions filed throughout this case. Not at any juncture did AFGE Local 631 miss an opportunity to oppose the petition, nor does DGS point to any. Instead, DGS states in its motion that the proof that Local 631 supports its petition can be found in Local 631’s request for PERB to issue an order requiring DGS, as the successor employer to recognize Local 631 as the exclusive representative of all transferred employees.¹⁰

This argument is fatally flawed. This “request” is embedded in the opposition to the petition for modification. While it appears that Local 631 wants PERB to recognize it as the exclusive representative, it still opposes the DGS petition to modify the unit. Any such opposition cannot be ignored, nor can the statements made in that opposition be construed as support for the DGS petition. Moreover, we decline to consider this argument because DGS raises it for the first time in its motion for reconsideration. As stated earlier, a motion for reconsideration is not a proper

³ *AFSCME District Council 20, Local 2921 and District of Columbia Public Schools*, 62 D.C. Reg. 9200, Slip Op. No. 1518 at p. 3-4, PERB Case No. 12-E-10 (2015). See also, *F.O.P./Metro. Police Dep’t Labor Comm. v. Metro. Police Dep’t*, Slip Op. No. 1554 at 8-9, PERB Case No. 11-U-17 (Nov. 19, 2015); *Rodriguez v. D.C. Metropolitan Police Department*, 59 D.C. Reg. 4680, Slip Op. No. 954 at 12, PERB Case No. 06-U-38 (2010).

⁴ *Renee Jackson v. Teamsters Local Union No. 639*, ___ D.C. Reg. ___, Slip Op. No. 1581 at p.3, PERB Case No. 14-S-02 (2016).

⁵ *Id.*

⁶ *FOP Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department*, 60 D.C. Reg. 12058, Slip Op. No. 1400 at p. 6, PERB Case No. 11-U-01 (2013).

⁷ *AFSCME District Council 20, Local 2921 and District of Columbia Public Schools*, 62 DCR 9200, Op. No. 1518, PERB Case No. 12-E-10 (2015). See also, *Psychologists Union, Local 3758 of the D.C. Dept. of Health, 1199 National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO v. D.C. Dept. of Mental Health*, 59 DCR 3315, Op. No. 816, PERB Case No. 05-U-41 (2005).

⁸ Motion at 3.

⁹ *Id.*

¹⁰ *Id.*

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forum for the Board to entertain new arguments or evidence. Issues not raised in pleadings cannot be the basis for a motion for reconsideration.¹¹

B. Teamster Locals did not support the Amended Petition.

DGS also argues that the Teamster Locals supported the Amended Petition.¹² As evidence, DGS offers that while the instant Petition was pending, Teamsters 639 and 730 filed a unit modification petition and in that petition, Teamsters recited the facts as determined by the hearing examiner and reasserted the same substantive arguments made by DGS in its petition.¹³ This argument fails for a few reasons. First, the Teamsters petition upon which DGS relies was withdrawn. Second, this argument was raised for the first time in the motion for reconsideration. Again, as explained earlier, we decline to consider arguments raised for the first time in a motion for reconsideration.¹⁴

C. D.C. Official Code § 1-617.09(a) bars the Amended Petition.

DGS argues in its motion that PERB should adopt a more liberal interpretation of D.C. Official Code § 1-617.09 to allow for the Amended Petition.¹⁵ The fact that DGS is inferring what PERB “should” do in interpreting its own statute, by its own nature shows that DGS is in disagreement with PERB’s previous decision. As we have stated many times before, a motion for reconsideration cannot be based upon a mere disagreement with the Board’s initial decision.¹⁶ The moving party must provide authority that compels reversal.

In the case at hand, DGS asks PERB to abandon its “plain meaning” of the statute and to interpret § 1-617.09 liberally. In support of this position, DGS cites to a case that it believes stands for the proposition that “the ‘plain meaning’ doctrine has always been subservient to a truly discernable legislative purpose...”¹⁷ Unfortunately, in its motion, DGS only provides a small portion of the text from this case. The excerpt in its entirety reads:

Consideration of the legislature’s policy may occasionally have to yield in a case where the statutory language is so emphatic that it cannot be by-passed — although the “plain meaning” doctrine has always been subservient to a truly discernible legislative purpose however discerned, by equitable construction or recourse to legislative history. But we need

¹¹ See Footnote 7.

¹² *Id.* at 4.

¹³ *Id.* at 4-5.

¹⁴ *FOP Metropolitan Police Department Labor Committee and D.C. Metropolitan Police Department*, 59 DCR 7165, Op. No. 1233, PERB Case No. 11-E-01 (2011).

¹⁵ *Id.* at 7-8.

¹⁶ See *AFSCME District Council 20, Local 2921 and District of Columbia Public Schools*, 62 D.C. Reg. 9200, Slip Op. No. 1518 at p. 3-4, PERB Case No. 12-E-10 (2015).

¹⁷ *District of Columbia v. Orleans*, 406 F.2d 957, 959 (D.C. Cir. 1968).

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not pursue the issue as to when “plain” language must yield, for here the language is not sufficient of itself, without assistance through the maxim of strict construction, to propel us to the result sought by the government.

(*Id.* 958-959.)

The case law from the Court of Appeals has evolved since 1969. As we stated in our initial decision, the D.C. Court of Appeals has more recently stated its “primary and general rule of statutory construction is that the intent of the lawmaker is to be found in the language that he [or she] has used.”¹⁸ The Court of Appeals notes, “The first step in construing a statute is to read the language of the statute and construe its words according to their ordinary sense and plain meaning. If the statute is clear and unambiguous, we must give effect to its plain meaning.”¹⁹ In other words, there is no need to examine the legislative purpose of a statute when its plain meaning is clear. For the reasons stated in our initial decision, the statute is clear that a petition under D.C. Official Code § 1-617.09 must be made on the basis of a properly-supported request from a labor organization. DGS is not a labor organization and therefore the Board does not have jurisdiction over the petition.

III. Conclusion

The Board finds that it does not have subject-matter jurisdiction over the Amended Petition. For the reasons stated herein, the motion for reconsideration is hereby denied.

Order

IT IS HEREBY ORDERED THAT:

1. The Department of General Services’ Motion for Reconsideration is DENIED.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairman Charles Murphy, and Members Ann Hoffman, Barbara Somson, and Douglas Warshof.

July 27, 2016

Washington, D.C.

¹⁸ *Corbin v. United States*, 120 A.3d 588, 597 (D.C. 2015) (citing *Wynn v. United States*, 48 A.3d 181, 188 (D.C. 2012)).

¹⁹ *O’Rourke v. D.C. Police & Firefighters’ Ret. & Relief Bd.*, 46 A.3d 378, 383-84 (D.C. 2012) (citations omitted).

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 14-UM-02 was served to the following parties via File & ServeXpress on this the 16th day of August 2016:

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Government of the District of Columbia
Public Employee Relations Board

_____)	
In the Matter of:)	
)	
District of Columbia Metropolitan Police)	
Department,)	
)	PERB Case No. 16-A-01
Petitioner,)	
)	Opinion No. 1590
and)	
)	
Fraternal Order of Police/)	
Metropolitan Police Department Labor)	
Committee (on behalf of Christopher N. Johnson),)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

I. Introduction

On November 19, 2015, the District of Columbia Metropolitan Police Department (“MPD”) filed an Arbitration Review Request (“Request”) in this matter, seeking review of the arbitration award (“Award”) that sustained the grievance filed by the Fraternal Order of Police/ Metropolitan Police Department Labor Committee (“FOP”).¹ The Union’s grievance protests the 10-day suspension of Officer Christopher N. Johnson (“Grievant” or “Officer Johnson”). The arbitrator determined that MPD violated D.C. Official Code § 5-1031(a) (also referred to as the “90-day rule”) by failing to commence an adverse action against the Grievant within ninety days after the date that MPD knew or should have known of the act allegedly constituting cause.²

¹ MDP filed an initial Arbitration Review Request on November 19, 2015, along with a Motion to Extend Time to File Arbitration Review Request, requesting that review of the Award be extended one day until November 20, 2015. On November 20, 2015, MPD filed an Amended Arbitration Review Request. On November 25, 2015, FOP filed an Opposition to the Motion to Extend Time to File an Arbitration Review Request. On December 9, 2015, MPD’s Motion for Extension of Time was granted.

² The 90-day rule requires MPD to commence an adverse action against an employee within ninety business days after the date that MPD knew or should have known of the act or occurrence allegedly constituting cause. D.C. Code § 5-1031(a) (2014).

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Further, the Arbitrator found that the violation was not *de minimis* or otherwise excused. The issue before the Board is whether the Award on its face is contrary to law and public policy.³

For the reasons stated herein, Petitioner's Request is denied.

II. Statement of the Case

Officer Johnson was assigned to the MPD's Third District as a Property Officer.⁴ On July 13, 2008, a Private Citizen ("PC") was arrested.⁵ When arrested, PC was carrying cash.⁶ PC's cash was confiscated and recorded in Third District's Property Book.⁷ On October 7, 2008, approximately 90 days after PC's money was confiscated, Officer Johnson entered the details of PC's property, including his cash, into PEICS.⁸ However, the property was not recorded on the Property Intake Sheet or transported out of the Third District. On May 8, 2009, PC sought to retrieve his money from Third District.⁹ PC's money could not be located and was never found.¹⁰ The Grievant was the last person to handle PC's money.¹¹

On May 15, 2009, Desk Sergeant Janet Gross e-mailed Third District Manager David Jackson, informing him that the Grievant had processed PC's money and input data concerning the money; however, the money was not recorded on the Property Intake Sheet.¹² At this time, MPD management officials knew of the potential misconduct of the Grievant regarding PC's missing money.¹³

On May 27, 2009, Third District Manager Jackson filed a Preliminary Report Form, advising the Chief of Police that PC's money was missing.¹⁴ Shortly thereafter, Internal Affairs Division ("IAD") Agent James V. McGuire was assigned to conduct an investigation into Grievant's alleged misconduct.¹⁵

³ See D.C. Code § 1-605.02(6) (2014).

⁴ Award at 10.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* The Third District's practice regarding prisoners' money was to place it into a secure drop box. If the cash was not retrieved by the prisoner within 30 days, then a property clerk would transport the cash to the property office, where it would be placed in a secure locker. Thereafter, if the prisoner did not pick up the cash within 60 days, the property clerk was required to input the property data description into the Property Evidence Inventory Control System ("PEICS") and ultimately, record the property data description on a form known as the Property Intake Sheet. Subsequently, the property would be transported to a central storage facility. *Id.* at 10-11.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 11-12.

¹⁴ *Id.* at 12.

¹⁵ General Order 120.23, in pertinent part, provides: "MPD shall notify and consult with the USAO immediately, in no case later than the next day, following the receipt or discovery of any allegations of criminal misconduct..."

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On September 1, 2009, IAD Commander Christopher M. LoJacano sent Agent McGuire's preliminary investigative report to the U.S. Attorney's Office ("USAO") for prosecutorial consideration as a criminal investigation.¹⁶ On September 9, 2009, the USAO declined prosecution and referred Officer Johnson's case to MPD.¹⁷

Thereafter, Agent McGuire continued his administrative investigation, submitting his final Investigative Report with Findings and Recommendations on December 11, 2009.¹⁸ McGuire recommended sustaining the allegation of neglect of duty against Officer Johnson based on the loss of PC's money.¹⁹

MPD commenced disciplinary action against Officer Johnson on January 19, 2010, with a Notice of Proposed Adverse Action ("Notice") for a 10-day suspension.²⁰ On February 19, 2010, Officer Johnson appealed the Notice to Diana Haines-Walton, Director, Human Resources Management Division.²¹ On March 29, 2010, Haines-Walton issued a Final Notice of Adverse Action ("Final Notice") denying Officer Johnson's appeal and suspending him for 10 business days.²² On April 12, 2010, FOP submitted, on Grievant's behalf, a Final Grievance Appeal ("Grievance") to the Chief of Police. On May 3, 2010, the Chief denied the Grievance and imposed a 10-day suspension, but held 5 days in abeyance.²³ On May 24, 2010, FOP demanded arbitration.²⁴

III. Arbitrator's Award

The Arbitrator, based on a review of the evidence before him, sustained FOP's grievance, finding that MPD failed to commence an adverse action against the Grievant within ninety days after the date that MPD knew or should have known of the act allegedly constituting cause as required by the D.C. Code.

The Arbitrator found that May 15, 2009 was the start date of the calculation of the 90-day rule. On that date, Desk Sergeant Janet Gross e-mailed Third District Manager David Jackson, notifying him that the money was missing.²⁵ The Arbitrator then found that the period between May 15, 2009 and September 9, 2009, the date that the USAO declined prosecution, counted towards the calculation of the 90-day rule. He acknowledged that if the period from May 15, 2009 to September 9, 2009—80 business days—was a period of criminal investigation, then the

¹⁶ Award at 12.

¹⁷ *Id.*

¹⁸ *Id.* at 13.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Award at 22.

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time for initiating discipline may be tolled.²⁶ However, the Arbitrator concluded that MPD was not conducting a criminal investigation.²⁷ The Arbitrator noted that MPD's General Order 120.23 requires that MPD notify and consult with the USAO "immediately, in no case later than the next day following the receipt or discovery of any allegations of criminal misconduct..."²⁸ In the current matter, this would have required referral to the USAO by May 16, 2009. Instead, MPD delayed making the referral until September 1, 2009.

The Arbitrator calculated that the total time from the act or occurrence allegedly constituting cause for the discipline and Johnson's receipt of the Notice of Proposed Adverse Action on January 19, 2010, was 163 business days. Based on this calculation, the Arbitrator found that MPD violated D.C. Code § 5-1031(a) when it disciplined the Grievant with a 10-day suspension more than 90 days after the act for which he was disciplined.

Applying the *de minimis* balancing test articulated in *JBG Properties*,²⁹ the Arbitrator determined that MPD's violation of the 90-day rule was not *de minimis* or otherwise excused³⁰ and the appropriate remedy for the violation was to rescind the Grievant's discipline.³¹ Accordingly, the Arbitrator did not address the merits of the decision to suspend.

MPD has filed this Arbitration Review Request seeking to have the Arbitrator's Award reversed on the grounds that it is contrary to law and public policy.³²

IV. Discussion

The Board's authority to review an arbitration award is extremely narrow.³³ In accordance with D.C. Official Code § 1-605.02(6), the Board is authorized to modify or set aside an arbitration award in only three limited circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.³⁴ The U.S. Court of Appeals, District of Columbia Circuit, observed that "the Supreme Court has

²⁶ Award at 23. (Citations omitted). Since the Arbitrator determined that the investigation was administrative, 75 business days count towards the calculation of the 90-day rule, with only the five days of that period during the USAO's consideration of criminal prosecution tolled.

²⁷ Additionally, the Arbitrator determined that MPD failed to produce evidence that it conducted a criminal investigation.

²⁸ *Id.* at 23.

²⁹ 364 A.2d 1183 (D.C. 1976). To determine whether or not a violation was *de minimis*, *JBG Properties* established a balancing test to weigh (1) the potential and actual prejudice to the losing party, and (2) public and private interests in allowing the agency to proceed after the time limit. *Id.* at 1186-1187.

³⁰ Award at 26-27.

³¹ Award at 28.

³² Request at 7-10.

³³ See *Fraternal Order of Police v. D.C. Pub. Emp. Relations Bd.*, 973 A.2d 174, 177 (D.C. 2009) (stating that "The PERB itself has limited authority to overturn an arbitration award").

³⁴ *Fraternal Order of Police/D.C. Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't*, 62 D.C. Reg. 12587, Slip Op. 1531, PERB Case No. 15-A-10 (2015).

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explained that, in order to provide a basis for an exception, the public policy question must be well defined and dominant,” and is to be ascertained “by reference to the law and legal precedents and not from general considerations of supposed public interest.”³⁵ The exception is designed to be narrow so as to limit potentially intrusive judicial review of arbitration under the guise of “public policy.”³⁶

Citing PERB Rule 538.1, MPD contends that the Arbitrator’s Award should be reversed because the award on its face is contrary to law and public policy.³⁷ Specifically, MPD asserts that the Award “created an end run around the protections afforded law enforcement officers during investigatory questioning under *Garrity v. New Jersey*, 385 U.S. 493 (1967), and *Miranda v. Arizona*, 384 U.S. 436 (1966). MPD argues that the Award will result in the infringement of Constitutional protections:

That an investigation into possible criminal activity where an officer’s liberty is at stake can be transformed into a mere administrative investigation by the lack of a telephone call or e-mail has dire implications upon the constitutionally protected rights of the targeted officer against self-incrimination and coerced statements.

(Request at 8).

MPD cites to *Garrity v. New Jersey*, in which the United States Supreme Court held that an employee may be compelled to give statements under the threat of discipline or discharge, but such statements cannot be used in a criminal prosecution.³⁸ By operation of the Award, MPD asserts, “a criminal investigation is deemed an administrative investigation upon MPD’s failure to notify USAO by the next business day of the allegations of criminal misconduct as required under General Order 120.23.”³⁹ “As the investigation is administrative,” MPD continued, “*Garrity* does not apply and the officer can be ordered to provide a statement and the refusal to do so could subject the officer to discipline.”⁴⁰

In response to MPD’s asserted basis for review, FOP argues that “the [Request] represents a mere disagreement with Arbitrator Vaughn’s findings.”⁴¹ In addition, FOP asserts that “MPD ignores the numerous factual findings ... set forth by Arbitrator Vaughn in support of his conclusion that the MPD’s actions taken in its investigation in this matter constituted an

³⁵ *D.C. Metro. Police Dep’t v. Fraternal Order of Police/ D.C Metro. Police Dep’t Labor Comm.*, 63 D.C. Reg. 4573, Slip Op. 1561, PERB Case No. 14-A-09 (2016) (citing *Am. Postal Workers Union, AFL-CIO v. U.S. Postal Service*, 789 F.2d 1, 8 (D.C. Cir. 1986)).

³⁶ *Id.*

³⁷ MPD does not make any contention that the Arbitrator was without or exceeded his authority, or that the Award was procured by fraud, collusion, or other similar and unlawful means.

³⁸ *Garrity v. N.J.*, 385 U.S. 493, 500 (1967) (holding that “the protection of the individual under the Fourteenth Amendment against coerced statements prohibits use in subsequent criminal proceedings of statements obtained under threat of removal from office, and that it extends to all, whether they are policemen or other members of our body politic.”)

³⁹ Request at 8-9.

⁴⁰ *Id.*

⁴¹ Response at 11.

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administrative investigation.”⁴² Finally, FOP asserts that “MPD fails to establish that the Award will result in the infringement of any of the Constitutional protections afforded to police officers during investigatory questioning.”⁴³

The Board finds that MPD’s request is merely a dispute of the Arbitrator’s evidentiary findings and conclusions. In *Garrity*, the Supreme Court recognized that, where an individual was given a choice “between the rock and the whirlpool,” by having to forego his right against self-incrimination in order to avoid forfeiting his job, the resulting statements would represent a “form of compulsion” in violation of the Fifth Amendment and therefore inadmissible at trial.⁴⁴ This case is very different from the circumstances before the court in *Garrity*. In light of the record before the Board, it cannot be said that the Grievant was compelled to provide an answer or even that MPD was conducting a criminal investigation. MPD’s Request constitutes only a disagreement with the Arbitrator’s evidentiary findings of the administrative investigation of the Grievant. “The Board will not second guess credibility determinations, nor will it overturn an arbitrator’s findings on the basis of a disagreement with the arbitrator’s determination.”⁴⁵ Accordingly, enforcement of the Arbitration Award does not compromise any of the public policies and protections allegedly threatened by the Award. Therefore, the Board finds that MPD has not demonstrated that the Award constitutes a violation of an explicit well defined public policy grounded in law or public policy that would compel and mandate setting aside the Arbitrator’s Award.

V. Conclusion

The Board finds that MPD has not cited any specific law or public policy that was violated by the Arbitrator’s Award. Thus, the Board rejects MPD’s arguments and finds no cause to set aside or modify the Arbitrator’s Award. Accordingly, MPD’s request is denied and the matter is dismissed in its entirety with prejudice.

⁴² *Id.*

⁴³ *Id.* at 15.

⁴⁴ *Garrity*, 385 U.S. at 497-99.

⁴⁵ *Fraternal Order of Police/Metro. Police Dep’t Labor Comm. v. D.C. Metro. Police Dep’t*, 59 D.C. Reg. 9798, Slip Op. No. 1271, PERB Case No. 10-A-20 (2012). *See also Metro. Police Dep’t and Fraternal Order of Police/Metro. Police Dep’t Labor Comm.*, 31 D.C. Reg. 4159, Slip Op. No. 85, PERB Case No. 84-A0-05 (1984); *FOP/DOC Labor Comm. v. Dep’t of Corrections*, 52 D.C. Reg. 2496, Slip Op. No. 722, PERB Case Nos. 01-U-21, 01-U-28, 01-U-32 (2005).

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ORDER

IT IS HEREBY ORDERED THAT:

- 1. The arbitration review request is hereby denied.**
- 2. Pursuant to Board Rule 559. 1, this Decision and Order is final upon issuance.**

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy and Members Ann Hoffman, Douglas Warshof, and Barbara Somson.

August 12, 2016

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 16-A-01, Op. No. 1590 was sent by File and ServeXpress to the following parties on this the 22nd day of August, 2016.

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/s/ Sheryl Harrington
PERB

**Government of the District of Columbia
Public Employee Relations Board**

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In the Matter of:)	
)	
Metropolitan Police Department,)	
)	
	Petitioner,)	PERB Case No. 15-A-16
)	
	v.)	Opinion No. 1591
)	
Fraternal Order of Police/Metropolitan Police)	
Department Labor Committee (on behalf of)	
Tania Bell),)	
	Respondent.)	
<hr/>)	

DECISION AND ORDER

The D.C. Metropolitan Police Department (“Department”) has filed an arbitration review request and a supporting memorandum appealing an award issued in a grievance arbitration brought by the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“Union”) on behalf of Sergeant Tania Bell (“Grievant”). The Department contends that in the opinion and award (“Award”) issued by Arbitrator Martha R. Cooper the Arbitrator exceeded her jurisdiction. The Comprehensive Merit Personnel Act (“CMPA”) authorizes the Board to modify, set aside, or remand an arbitration award “if the arbitrator was without or exceeded, his or her jurisdiction.”¹

I. Statement of the Case

An investigation of the conduct of the Grievant while on duty in the early of hours of November 10, 2007, led the Department to prefer charges against her and to issue to her a notice of proposed adverse action. The charges were:

Charge No. 1:	Violation of General Order 120.21, Attachment A, Part A-14, which reads: “Neglect of duty to which assigned or required by rules and regulations adopted by the Department.”
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¹ D.C. Official Code § 1-605.02(6). The other narrow grounds for review, which are not alleged in this case, are that “the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means.”

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- Specification No. 1: In that on November 10, 2007, you responded to the “Avenue” Nightclub after receiving a distress phone call from your subordinate, Officer Talika Moore, who was off-duty. Upon your arrival on the scene, you failed to query officers on the scene, along with Officer Moore to ascertain what occurred. Moreover, you did not determine whether or not there was a complainant involved in this matter, and you placed Officer Moore into a vehicle and allowed her to leave the scene. Despite the objections of the complainant, you allowed Officer Moore to leave the scene, without conducting any type of investigation to determine whether or not a crime had been committed. (R. 27-28.)
- Charge No. 2: Violation of General Order 120.21, Attachment A, Part A12, which reads, “Failure to obey orders or directives issued by the Chief of Police.” This misconduct is further prohibited by General Order 120.23, Part B, Section A, which reads in part, “Members of the Department shall immediately notify an official when any member is accused or an allegation of misconduct is made.”
- Specification No. 1: In that, on November 10, 2007, you responded to the “Avenue” Nightclub after receiving a distress phone call from an off-duty officer (Officer Talika Moore), that you supervise. When you arrived on the scene, you knew or should have known from the behavior that Officer Moore was exhibiting, that she was intoxicated. Being aware of this misconduct, you allowed Officer Moore to leave the scene.
- Specification No. 2: In that, on November 10, 2007, you responded to the “Avenue” Nightclub after receiving a distress phone call from an off-duty officer (Officer Talika Moore), that you supervise. Upon your arrival on the scene, you knew or should have known that Officer Moore was alleged to have engaged in misconduct. However, you failed to contact the Watch Commander from the appropriate District to make the necessary notification.²

On April 8 and 9, 2009, an adverse action panel of the Department (“Panel”) held a hearing on the charges against the Grievant. The Panel found the Grievant guilty of all the charges and recommended that her employment with the Department be terminated.³

² Award 15-16.

³ Award 2, 31.

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On May 13, 2009, Commander Jennifer Greene of the Human Resources Management Division issued the Grievant a final notice of adverse action that accepted the Panel's findings and recommendation.

The Union appealed the final notice to the Chief of Police. The Chief denied the appeal in a letter dated June 12, 2009, but not served on the Grievant until June 17, 2009. The Union notified the Chief that it demanded arbitration of the adverse action in a letter dated July 7, 2009, and received July 8, 2009.⁴

The Panel's record and the briefs of the parties were submitted to the Arbitrator. The Department moved that the Arbitrator dismiss the arbitration on the ground that the demand for arbitration was untimely.

The Arbitrator found that the demand was timely and denied the motion to dismiss. On the merits, the Arbitrator found that substantial evidence supported the allegation of Charge No. 1, Specification No. 1 that the Grievant was guilty of failing to question Officer Moore and the police on the scene to ascertain what had occurred. The Arbitrator found that the last two sentences of Charge No. 1, Specification No. 1 were not supported by substantial evidence because the Grievant had no reason to believe that a complainant was involved or that a crime had been committed. The Arbitrator acknowledged that the complainant yelled to the Grievant that Officer Moore had spat at him but states that the Panel did not find that the Grievant heard him.

The Arbitrator found that substantial evidence supported Charge No. 2, Specification No. 1 because the Grievant should have known from the circumstances that Officer Moore was intoxicated and evidently did know that she was impaired because the Grievant immediately pulled her away from the group and led her to a vehicle. The Arbitrator found that because the Grievant came to the scene in response to a personal call and not a dispatch, substantial evidence did not support Charge No. 2, Specification No. 2's allegation that upon the Grievant's arrival at the scene she "knew or should have known that Officer Moore was alleged to have engaged in misconduct."⁵

Turning to the issue of the appropriate penalty, the Arbitrator focused on the Panel's evaluation of the dozen factors articulated in *Douglas v. Veterans Administration*.⁶ The

⁴ Award 2-3, 4.

⁵ Award 20-30, 46-47.

⁶ 5 M.S.P.B. 313 (1981). In *Douglas* the Merit Systems Protection Board articulated its standard for assessing the appropriateness of a disciplinary penalty imposed by federal agencies. It delineated twelve factors that an agency should consider when determining the appropriate penalty for an act of employee misconduct. These factors include (1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated; (2) the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position; (3) the employee's past disciplinary record; (4) the employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability; (5) the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties; (6)

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Arbitrator found flaws in the Panel's analysis of the *Douglas* factors. With regard to the first and second *Douglas* factors, the Panel performed "such analysis only as to the most serious charge, for which there is not substantial evidence in the Record."⁷ The Grievant's good work record and clean disciplinary record should have made *Douglas* factors 3 and 4 mitigating factors in the Arbitrator's view, but the Panel treated them as neutral factors. The Panel did not consider *Douglas* factors 6 and 7, which involve consistency with past offenses and with the Department's table of penalties. *Douglas* factor 11 calls for consideration of "the mitigating circumstances surrounding the offense." The Panel deemed *Douglas* factor 11 an aggravating factor in this case. It is at worst a neutral factor. The Arbitrator disagreed with the Panel's findings that *Douglas* factors 10 and 12 were aggravating because the Panel relied on unsupported charges in its consideration of those factors and determined that lesser punishment would be ineffective without considering that the Grievant had never before received lesser punishment or any formal discipline from the Department.⁸

The Award reduced the penalty from a termination to a fifteen-day suspension and ordered the payment of back pay from the date the suspension would have been served less any interim earnings or government benefits.⁹

The Department filed an arbitration review request and a supporting memorandum. In its memorandum, the Department contended that the Arbitrator exceeded her authority by modifying the time limit for demanding arbitration that the parties' collective bargaining agreement ("CBA") prescribes, re-weighting the evidence in concluding that the last two sentences of Charge No.1, Specification No. 1 were unsupported,¹⁰ and substituting her judgment for that of the Chief in selecting a penalty.

II. Discussion

A. Arbitrability

An arbitrator derives his jurisdiction from the collective bargaining agreement and any applicable statutory or regulatory provisions.¹¹ The principles the Board has followed in

consistency of the penalty with those imposed upon other employees for the same or similar offenses; (7) consistency of the penalty with any applicable agency table of penalties; (8) the notoriety of the offense or its impact upon the reputation of the agency; (9) the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question; (10) the potential for the employee's rehabilitation; (11) mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and (12) the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

⁷ Award 47.

⁸ Award 31-46.

⁹ Award 49.

¹⁰ The Department does not challenge the Arbitrator's finding that Charge No. 2, Specification No. 2 was not supported by substantial evidence.

¹¹ *AFGE, Local 872 v. D.C. Water & Sewer Auth.*, 63 D.C. Reg. 6477, Slip Op. No. 1566 at 4, PERB Case No. 15-A-09 (2016).

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determining whether arbitrators exceeded their jurisdiction are summarized in *United Paperworkers International v. Misco, Inc.*,¹² where the Supreme Court stated,

[T]he arbitrator's award settling a dispute with respect to the interpretation or application of a labor agreement must draw its essence from the contract and cannot simply reflect the arbitrator's own notions of industrial justice. But as long as the arbitrator is even arguably construing or applying the contract and acting within the scope of his authority, that a court is convinced he committed serious error does not suffice to overturn his decision.¹³

The same principles apply to a claim that an arbitrator's determination of arbitrability exceeded the arbitrator's jurisdiction.¹⁴

The Department contends that this case was not arbitrable because the Union's demand for arbitration was untimely. Article 19, section E(2) of the CBA provides, "Within fifteen (15) business days of the decision of the Chief of Police on an adverse action or grievance, the Union, on behalf of an employee or employees, may advise the Chief of Police in writing, signed by the aggrieved employee, of its demand for arbitration."¹⁵ The Department argues that the arbitrator modified the CBA by finding timely a demand submitted more than fifteen days after the Chief's decision.

The Union in its Opposition argues that the Department's position essentially is a disagreement with the Arbitrator's interpretation of article 19, section E(2). The Union refers to the Department's statement that this section "mandates the submission of a demand for arbitration within fifteen (15) days."¹⁶ Stressing that article 19, section E(2) says that within that time period the Union "may advise the Chief of Police . . . of its demand," the Union asserts that the CBA's use of the word "may" suggests that the provision is not mandatory.¹⁷

The Union is correct that the Arbitrator interpreted rather than modified the contract, but her interpretation of it did not involve any suggestion that the provision was not mandatory. She made clear that the *deadline* is mandatory: "Section E(2) of Article 19 of the Agreement does specify that a demand for arbitration in an adverse action matter is to be filed within fifteen business days of the decision of the Chief of Police."¹⁸ What may be permissive in article 19, section E(2) is whether the Union may choose to demand an arbitration. If the Union so chooses, it *may* demand arbitration, but, as the Board has often said, a union is not required to demand arbitration of every grievance.¹⁹

¹² 484 U.S. 29 (1987).

¹³ *Id.* at 38.

¹⁴ *D.C. Pub. Sch. v. Council of Sch. Officers, Local 4 (on behalf of Wells)*, 62 D.C. Reg. 14658, Slip Op. No. 1540 at 3-4, PERB Case No. 15-A-05 (2015).

¹⁵ Award 13.

¹⁶ Department's Mem. in Support of Arbitration Review Req. 6.

¹⁷ Union's Opp'n to Arbitration Review Req. 9.

¹⁸ Award 4.

¹⁹ *Bonaparte v. Dist. Council #20*, 63 D.C. Reg. 7579, Slip Op. No. 1573 at 5, PERB Case No. 15-U-06 (2016).

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The Arbitrator's decisive interpretation of the section is found in her conclusion "that the demand for arbitration was filed thirteen business days after the Chief's decision was issued to the grievant. It was, therefore, timely filed."²⁰ In so concluding, the Arbitrator interpreted "fifteen days of the decision of the Chief of Police" to mean fifteen days from issuance to the grievant of the decision of the Chief of Police. If the Chief could reduce the period by five days by withholding the decision from the Grievant for five days, could she not hold a decision for fifteen days and foreclose the opportunity to demand arbitration? The Arbitrator interpreted the CBA in a manner that would avoid such a result. Therefore, her finding of arbitrability drew its essence from the contract and did not exceed her authority.

C. The Merits

As described by the Arbitrator, the "contractual and legal framework" of her analysis of the merits of the case begins with article 12, section 8 of the CBA.²¹ Article 12, section 8 provides:

Upon receipt of the decision of the Chief of Police on adverse actions, the employee may appeal to arbitration as provided in Article 19. Employees must use the negotiated grievance procedure (NGP) for a suspension of less than ten (10) days. In cases where a Departmental hearing has been held, any further appeal shall be based solely on the record established in the Departmental hearing. In such a case, the appellate tribunal has the authority to review the evidentiary ruling of the Departmental Hearing Panel, and may take into consideration any documentary evidence which was improperly excluded from consideration by the Departmental Hearing Panel.²²

The Arbitrator stated that under this provision of the CBA she serves as an appellate tribunal and her review is to be based solely on the record.²³ The Arbitrator went on to state:

Under applicable law, the Arbitrator is to review the Panel's decision to determine whether there is substantial evidence in the record to support the Panel's findings, whether there has been procedural error, and whether its decision was in some manner arbitrary, capricious, or an abuse of discretion. *Stokes v. District of Columbia*, 502 A.2d 1006, 1010 (DC 1985). The District of Columbia courts have made clear that when reviewing administrative action under this standard, it is not the job of the reviewing tribunal to weigh the evidence and determine the facts; rather, its job is to determine whether the agency's findings are supported by substantial evidence and whether its conclusions of

²⁰ Award 5.

²¹ Award 14-15.

²² Award 12-13.

²³ Award 14.

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law follow rationally from its findings. *Spackman v. District of Columbia Department of Employment Services*, 590 A.2d 515, 516 (DC 1991).²⁴

The Department relies upon the above statement and the cases the Arbitrator cites therein for its arguments against the Arbitrator's decisions on the charges and the penalty. After quoting the statement, the Department objects that the Arbitrator appears to have re-weighed the evidence in determining that the record did not contain substantial evidence in support of the last two sentences of Charge No. 1, Specification No. 1. The Department maintains that the record did contain substantial evidence for the entirety of that specification. "Since the Arbitrator was prohibited from re-weighing the evidence," the Department asserts, "she exceeded her authority in doing so."²⁵

The case of *Stokes v. District of Columbia*,²⁶ cited by the Arbitrator, establishes the deferential standard by which the Office of Employee Appeals is to review penalties that agencies impose upon employees. The other case cited by the Arbitrator, *Spackman v. District of Columbia Department of Employment Services*,²⁷ announces the D.C. Court of Appeals' standard for reviewing decisions of the Department of Employment Services. The Arbitrator may choose to regard *Stokes* and *Spackman* as guides in delineating her role as an "appellate tribunal" under article 12, but the Board will not police how well she adhered to her interpretation of article 12 by trying to assay whether she gave evidence the same weight as the Panel. The CMPA does not authorize the Board to overturn an award based on the weight attributed to the evidence.²⁸

The Arbitrator was not even obliged to interpret article 12 as applicable to the arbitration at all. An arbitrator could instead reasonably conclude that article 12 concerns only the Department's internal disciplinary proceedings and that by "further appeal" article 12 is referring to an appeal of the Panel's decision to the Chief.²⁹

There is then no basis in the Board's precedent for the premise of the Department's conclusion that "[s]ince the Arbitrator was prohibited from re-weighing the evidence, she exceeded her authority in doing so." Nothing prohibited the Arbitrator from re-weighing the evidence. Assessing the weight and significance of evidence is within the jurisdiction of an arbitrator.³⁰

²⁴ Award 14-15.

²⁵ Department's Mem. in Support of Arbitration Review Req. 9.

²⁶ 502 A.2d 1006, 1010 (D.C. 1985).

²⁷ 590 A.2d 515 (D.C. 1991).

²⁸ *AFSCME Dist. Council 20, Local 2743 v. D.C. Dep't of Consumer & Regulatory Affairs*, 38 D.C. Reg. 5076, Slip Op. 281 at 4 n.3, PERB Case No. 09-A-12 (1991).

²⁹ *D.C. Metro. Police Dep't v. F.O.P./Metro. Police Dep't Labor Comm. (on behalf of Garcia)*, 63 D.C. Reg. 4573, Slip Op. No. 1561 at 7, PERB Case No. 14-A-09 (2016). *See also D.C. Metro. Police Dep't v. F.O.P./Metro. Police Dep't (on behalf of Jacobs)*, 60 D.C. Reg. 3060, Slip Op. No. 1366 at 6, PERB Case No. 12-A-04 (2013) (holding that an arbitrator's decision to look beyond the record established in an adverse action panel hearing arguably arose from an interpretation that article 12 does not apply to arbitrations).

³⁰ *D.C. Metro. Police Dep't v. F.O.P./Metro. Police Dep't Labor Comm.*, 59 D.C. Reg. 6124, Slip Op. No. 1015 at 13, PERB Case No. 09-A-06 (2010).

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Again asserting that the charges of misconduct were supported by substantial evidence, the Department argues that the Chief's determination of the appropriate penalty must be upheld. The Department contends that the Arbitrator analyzed *de novo* whether the Panel recommended a fair and appropriate penalty under the circumstances. The Department claims that the Arbitrator's *de novo* consideration of the penalty exceeded her authority. In the alternative, the Department argues that if the Arbitrator found the penalty unreasonable, especially in light of her finding that some of the charged misconduct was not supported by the evidence, then the Arbitrator's proper recourse was to remand the matter back to the Department to select a different penalty.³¹

The Department supports its arguments with an extensively altered quotation from *Stokes v. District of Columbia*,³² one of the cases cited by the Arbitrator. The quotation from *Stokes* was, in turn, taken from *Douglas v. Veterans Administration*.³³ In *Douglas*, the Merit Systems Protection Board discussed the standard by which it reviews penalties imposed by federal agencies upon their employees.³⁴ In *Stokes*, the D.C. Court of Appeals quoted that discussion in connection with a petition for review of a decision of the Office of Employee Appeals, substituting OEA in brackets for "the Board," i.e., the Merit Systems Protection Board. The Department, in its version of the quotation, replaces OEA and the Board with "the hearing examiner" in brackets even though this case does not involve a hearing examiner.³⁵

Whatever words are substituted, the standard that *Stokes* directs OEA to use in reviewing a penalty does not apply to arbitrations because an arbitrator's authority arises out of the parties' contractual agreement to submit the case to arbitration rather than the statutes creating OEA interpreted in *Stokes*.³⁶

Another important distinction that the Board noted in a similar case³⁷ is that, unlike the parties in *Stokes*, the parties to this case authorized the Arbitrator to address the question of

³¹ Department's Mem. in Support of Arbitration Review Req. 9-11.

³² 502 A.2d 1006, 1010 (D.C. 1985).

³³ 5 M.S.P.B. 313 (1981).

³⁴ "The Board's role in this process is not to insist that the balance be struck precisely where the Board would choose to strike it if the Board were in the agency's shoes in the first instance; such an approach would fail to accord proper deference to the agency's primary discretion in managing its workforce. Rather, the Board's review of an agency-imposed penalty is essentially to assure that the agency did conscientiously consider the relevant factors and did strike a responsible balance within tolerable limits of reasonableness. Only if the Board finds that the agency failed to weigh the relevant factors, or that the agency's judgment clearly exceeded the limits of reasonableness, is it appropriate for the Board then to specify how the agency's decision should be corrected to bring the penalty within the parameters of reasonableness." *Id.* at 332-33.

³⁵ However, the Department altered part of the quotation to include an arbitrator by saying "the [hearing examiner, or in this case Arbitrator's] role in this process is not to insist that the balance [of *Douglas* factors] be struck precisely where the [hearing examiner] would choose to strike it if the [hearing examiner] were in the agency's shoes in the first instance. . . ." Department's Mem. in Support of Arbitration Review Req. 10.

³⁶ *AFGE Local 872 v. D.C. Water & Sewer Auth.*, 63 D.C. Reg. 6477, Slip Op. No. 1566 at 7, PERB Case No. 15-A-09 (2016); *D.C. Metro. Police Dep't v. F.O.P./Metro. Police Dep't (on behalf of Suggs)*, Slip Op. No. 933 at 7-8, PERB Case No. 07-A-08 (Mar. 12, 2008); *Metro. Police Dep't v. Nat'l Ass'n of Gov't Employees, Local R3-5 (on behalf of Burrell)*, 59 D.C. Reg. 2983, Slip Op. No. 785 at 5, PERB Case No. 03-A-08 (2006).

³⁷ *D.C. Metro. Police Dep't v. F.O.P./Metro. Police Dep't Labor Comm. (on behalf of Garcia)*, 63 D.C. Reg. 4573, Slip Op. No. 1561, PERB Case No. 14-A-09 (2016). Although the Department relies on *Stokes*, it fails to address this case or the cases cited in footnote 36.

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whether termination is the appropriate penalty. In its brief to the Arbitrator, the Union wrote that the issues presented are “[w]hether the evidence presented by the Department was sufficient to support the alleged charges” and “[w]hether termination is an appropriate penalty.”³⁸ The Department did not include a list of issues in its brief to the Arbitrator.³⁹ The Arbitrator stated:

Although the parties did not submit a stipulated issue to the Arbitrator, it is clear from their briefs and submissions that they agree on the issues they are asking the Arbitrator to decide. These issues may be phrased as follows:

- Was the demand for arbitration timely filed? If so:
- Were the Panel’s findings that the grievant was guilty of all of the charges and specifications supported by substantial evidence in the record?
- Is termination an appropriate penalty in this case?⁴⁰

The Department acceded to this conclusion by stating in its memorandum that the issues presented to the Arbitrator were:

1. Whether the demand for arbitration was timely filed?
2. Whether sufficient evidence exists to support the alleged charges and specifications?
3. Whether termination is an appropriate penalty?⁴¹

Where, as here, the parties present an arbitrator with the issue of whether termination is appropriate, the arbitrator may reasonably reexamine the *Douglas* factors.⁴² An objection that the reexamination was *de novo* is insufficient to show that the arbitrator exceeded her authority unless a provision of the CBA restricts the arbitrator’s exercise of remedial power.⁴³ If the arbitrator determines that termination is not appropriate, it then becomes reasonable for the arbitrator to determine what the appropriate penalty should be. The arbitrator does not have to remand the case to the agency to determine what the penalty should be unless the parties directed the arbitrator to do that.⁴⁴ In the present case, neither the CBA nor stipulations of the parties restricted the Arbitrator’s exercise of remedial power or directed the Arbitrator to remand to the Department in this situation. Determining the appropriate penalty was therefore within the arbitrator’s discretion.⁴⁵

³⁸ Union’s Opp’n to Arbitration Review Req. Ex. 2 at 1.

³⁹ Union’s Opp’n to Arbitration Review Req. Ex. 4.

⁴⁰ Award 3-4.

⁴¹ Department’s Mem. in Support of Arbitration Review Req. 4.

⁴² *F.O.P./Metro. Police Dep’t Labor Comm. (on behalf of Garcia)*, Slip Op. No. 1561 at 5.

⁴³ See *D.C. Metro. Police Dep’t v. F.O.P./Metro. Police Dep’t (on behalf of Jacobs)*, 60 D.C. Reg. 3060, Slip Op. No. 1366 at 5-7, PERB Case No. 12-A-04 (2013).

⁴⁴ *F.O.P./Metro. Police Dep’t Labor Comm. (on behalf of Garcia)*, Slip Op. No. 1561 at 4-5.

⁴⁵ *D.C. Metro. Police Dep’t v. F.O.P./Metro. Police Dep’t Labor Comm. (on behalf of Kennie)*, 61 D.C. Reg. 12364, Slip Op. No. 1493 at 7, PERB Case No. 14-A-06 (2014).

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Accordingly, the Department's claims that the Arbitrator re-weighed the evidence, conducted a *de novo* reexamination of the *Douglas* factors, and failed to remand the penalty issue to the Department are not grounds for finding that the Arbitrator exceeded her authority.

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is denied. The Award is sustained.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairman Charles Murphy and Members Ann Hoffman, Barbara Somson, and Douglas Warshof.

Washington, D.C.

August 12, 2016

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 15-A-16 is being transmitted via File & ServeXpress to the following parties on this the 23d day of August 2016.

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