

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council passes Resolution 21-737, Sense of the Council on the Official Snowfall Measurement Site for the District of Columbia Emergency Resolution of 2016
- D.C. Council passes Resolution 21-740, Emergency Medical Services Regulations Emergency Approval Resolution of 2016
- Department of Health schedules a public hearing on the Preventive Health and Health Services Block Grant
- Department of Housing and Community Development notifies public of the level of assistance for the Home Purchase Assistance Program
- Office of the State Superintendent of Education announces funding availability for the Fiscal Year 2017 DC Environmental Literacy Summer Institute Grant (ELSI)
- D.C. Zoning Commission makes technical corrections to the Zoning Regulations of 2016 (Case No. 08-06G)

# DISTRICT OF COLUMBIA REGISTER

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## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 21-174

**"Law Enforcement Career Opportunity  
Temporary Amendment  
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-851 on first and second readings September 20, 2016, and October 11, 2016, respectively. Following the signature of the Mayor on October 27, 2016, as required by Section 404(e) of the Charter, the bill became Act 21-508 and was published in the November 4, 2016 edition of the D.C. Register (Vol. 63, page 13569). Act 21-508 was transmitted to Congress on November 3, 2016 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-508 is now D.C. Law 21-174, effective December 17, 2016.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November 3, 4, 7, 8, 9, 10, 14, 15, 16, 17, 18, 21, 22, 23, 25, 28, 29, 30

December 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 21-175

**"Senior Law Enforcement Officer  
Temporary Amendment  
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-853 on first and second readings September 20, 2016, and October 11, 2016, respectively. Following the signature of the Mayor on October 27, 2016, as required by Section 404(e) of the Charter, the bill became Act 21-509 and was published in the November 4, 2016 edition of the D.C. Register (Vol. 63, page 13571). Act 21-509 was transmitted to Congress on November 3, 2016 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-509 is now D.C. Law 21-175, effective December 17, 2016.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November 3, 4, 7, 8, 9, 10, 14, 15, 16, 17, 18, 21, 22, 23, 25, 28, 29, 30

December 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16

## COUNCIL OF THE DISTRICT OF COLUMBIA

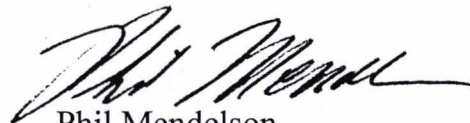
## NOTICE

## D.C. LAW 21-176

**"Real Property Tax Appeals Commission  
Review Clarification Temporary  
Amendment Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-873 on first and second readings September 20, 2016, and October 11, 2016, respectively. Following the signature of the Mayor on October 27, 2016, as required by Section 404(e) of the Charter, the bill became Act 21-510 and was published in the November 4, 2016 edition of the D.C. Register (Vol. 63, page 13573). Act 21-510 was transmitted to Congress on November 3, 2016 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-510 is now D.C. Law 21-176, effective December 17, 2016.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November 3, 4, 7, 8, 9, 10, 14, 15, 16, 17, 18, 21, 22, 23, 25, 28, 29, 30

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## COUNCIL OF THE DISTRICT OF COLUMBIA

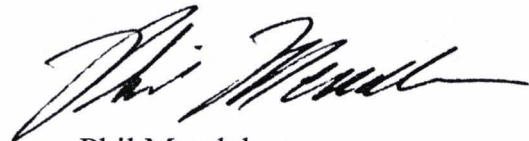
## NOTICE

## D.C. LAW 21-177

**"Ward 5 Paint Spray Booth Conditional  
Moratorium Temporary Amendment  
Act of 2016"**

As required by Section 412(a) of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 21-875 on first and second readings September 20, 2016, and October 11, 2016, respectively. Following the signature of the Mayor on October 27, 2016, as required by Section 404(e) of the Charter, the bill became Act 21-518 and was published in the November 4, 2016 edition of the D.C. Register (Vol. 63, page 13590). Act 21-518 was transmitted to Congress on November 3, 2016 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 21-518 is now D.C. Law 21-177, effective December 17, 2016.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

November 3, 4, 7, 8, 9, 10, 14, 15, 16, 17, 18, 21, 22, 23, 25, 28, 29, 30

December 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16

## ENROLLED ORIGINAL

## A RESOLUTION

21-737

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 20, 2016

To declare, on an emergency basis, the sense of the Council on urging the Federal Aviation Administration and the National Weather Service to designate a location within the boundaries of the District of Columbia as the official measurement site of snowfall for the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council on the Official Snowfall Measurement Site for the District of Columbia Emergency Resolution of 2016”.

Sec. 2. The Council of the District of Columbia finds that:

(1) The Federal Aviation Administration (“FAA”) and the National Weather Service (“NWS”) take official snowfall measurements for the District of Columbia at a snow plot located at the Ronald Reagan Washington National Airport (“National Airport”), which is located not in the District of Columbia, but in Arlington, Virginia.

(2) The choice of an official measuring site for the District of Columbia at a location outside its boundaries is disrespectful to the District and its residents.

(3) The District typically receives more snow, and thus has higher snow measurements, than National Airport, resulting in inaccurate snow data for the District.

(4) The Capital Weather Gang, a team of forecasters and writers who cover local weather for the Washington Post and are widely considered the area experts regarding District weather, has written many times about the discrepancies between measurements at National Airport and measurements within the District of Columbia.

(5) Matt Ross, the Capital Weather Gang’s seasonal forecaster, stated in an October 25, 2016 public hearing that National Airport is a poor place to measure snowfall because it does not represent most of the District, given its location at an altitude near seal level and surrounded by the warmer waters of the Potomac River.

(6) These conditions mean that National Airport has a relatively warm micro-climate that, according to the Capital Weather Gang, does not favor heavy snow accumulations, particularly compared to nearby elevated locations – such as the District of Columbia – thereby skewing the accuracy of the snow data.

(7) The inaccuracy of snow data can negatively impact the District of Columbia’s applications for federal disaster aid.

**ENROLLED ORIGINAL**

(8) Accurate snow measurement data are not only important for weather tracking, but also for weather preparedness and weather responsiveness. Effective use of snow data can result in more efficient decision-making that affects many sectors of the economy; snow data are also used by climate researchers and resiliency planners, water resource managers, construction engineers, and many others.

(9) The location of a snow plot at National Airport is a poor measuring spot. According to FAA's own criteria: The ideal snow plot is one with exposure that would eliminate all turbulence; where it is uniformly protected in all directions; where it is situated over relative flat terrain with natural ground cover away from foot or road traffic; and where the area is not subject to drifting. The snow plot at National Airport is instead near an active terminal and runway.

(10) The NWS standards for an official measurement site include dedicated weather observers 24 hours a day, 7 days a week. There are a number of locations within the District that could provide full-time access and more accurate measurement, such as the White House, the Arboretum, the National Zoo, and the Naval Observatory.

(11) With this resolution, the Council joins the efforts of Congresswoman Eleanor Holmes Norton, who also requested a change in the District's official snow measurement site in a recent letter to the NWS.

Sec. 3. It is the sense of the Council that measuring snowfall for the District of Columbia should occur within the District's own boundaries, and the Council urges the FAA and NWS to identify a site as soon as possible to ensure accuracy in this winter's snow data.

Sec. 4. The Council shall transmit a copy of this resolution, upon its adoption, to the Federal Aviation Administration, the National Weather Service, and the Delegate to the House of Representatives from the District of Columbia.

Sec. 5. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

21-740

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 20, 2016

To approve, on an emergency basis, proposed rules submitted to the Council pursuant to the Emergency Medical Services Act of 2008 to provide for termination of resuscitation in the field by paramedics and remote pronouncement of death by certain medical doctors following termination of resuscitation by a certified 911 paramedic.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Emergency Medical Services Regulations Emergency Approval Resolution of 2016”.

Sec. 2. Pursuant to section 24(b) of the Emergency Medical Services Act of 2008, effective March 25, 2009 (D.C. Law 17-357; D.C. Official Code § 7-2341.23(b)), the Mayor, on November 22, 2016, transmitted to the Council proposed rules to provide for termination of resuscitation in the field by paramedics and remote pronouncement of death by certain medical doctors following termination of resuscitation by a certified 911 paramedic. The Council approves the proposed rules, published on September 23, 2016, at 63 DCR 011660, to amend section 526 of Chapter 5 of Title 29 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Director of the Department of Health, and the Administrator of the Office of Documents and Administrative Issuances.

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This 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](http://www.dccouncil.us).

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

- PR22-7            Director of the Office of Returning Citizens Affairs Brian Ferguson  
Confirmation Resolution of 2016 (*Previously PR21-910*)
- Intro. 9-20-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing & Neighborhood Revitalization
- 
- PR22-8            Alcoholic Beverage Control Board Donald L. Isaac, Sr.  
Confirmation Resolution of 2016 (*Previously PR21-929*)
- Intro. 9-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
- 
- PR22-9            Homeland Security Commission Akosua Ali Confirmation  
Resolution of 2016 (*Previously PR21-932*)
- Intro. 9-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
-

PR22-10 Commission on Re-Entry and Returning Citizens Affairs Marcus Bullock Confirmation Resolution of 2016 (*Previously PR21-973*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing & Neighborhood Revitalization

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PR22-11 Commission on Re-Entry and Returning Citizens Affairs Tanisha L. Murden Confirmation Resolution of 2016 (*Previously PR21-974*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing & Neighborhood Revitalization

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PR22-12 Commission on Re-Entry and Returning Citizens Affairs Paula Thompson Confirmation Resolution of 2016 (*Previously PR21-975*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing & Neighborhood Revitalization

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PR22-13 Commission on Re-Entry and Returning Citizens Affairs Alan Hanson Confirmation Resolution of 2016 (*Previously PR21-976*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing & Neighborhood Revitalization

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PR22-14 Commission on Re-Entry and Returning Citizens Affairs Corwin Knight Confirmation Resolution of 2016 (*Previously PR21-977*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing & Neighborhood Revitalization

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PR22-15 Commission on Re-Entry and Returning Citizens Affairs Stenise Rolle Sanders Confirmation Resolution of 2016 (*Previously PR21-978*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing & Neighborhood Revitalization

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PR22-16 Commission on Re-Entry and Returning Citizens Affairs Clarence  
Johnson Confirmation Resolution of 2016 (*Previously PR21-979*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Housing & Neighborhood Revitalization

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PR22-17 Commission on Re-Entry and Returning Citizens Affairs Esther Ford  
Confirmation Resolution of 2016 (*Previously PR21-980*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Housing & Neighborhood Revitalization

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PR22-18 Commission on Re-Entry and Returning Citizens Affairs Tony D.  
Lewis Confirmation Resolution of 2016 (*Previously PR21-981*)

Intro. 10-11-16 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Housing & Neighborhood Revitalization

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PR22-19 Department of Consumer and Regulatory Affairs Construction Codes  
Exemption Harmonization Approval Resolution of 2016 (*Previously  
PR21-997*)

Intro. 10-24-16 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee of the Whole

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PR22-20 Board of Nursing Elizabeth Lamme Confirmation Resolution of  
2016 (*Previously PR21-1027*)

Intro. 11-16-16 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Health

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PR22-21 Board of Nursing Meedie Bardonille Confirmation Resolution of  
2016 (*Previously PR21-1028*)

Intro. 11-16-16 by Chairman Mendelson at the request of the Mayor and  
referred to the Committee on Health

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- PR22-22 Board of Pharmacy Benjamin E. Miles Confirmation Resolution of 2016 (*Previously PR21-1029*)
- Intro. 11-16-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
- 
- PR22-23 Board of Industrial Trades Terrence Hughes Confirmation Resolution of 2016 (*Previously PR21-1030*)
- Intro. 11-16-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
- 
- PR22-24 Emergency Medical Services Regulations Amendment Approval Resolution of 2016 (*Previously PR21-1037*)
- Intro. 11-22-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
- 
- PR22-25 Marijuana for Medical Treatment Possession Limits Increase Rulemaking Approval Resolution of 2016 (*Previously PR21-1038*)
- Intro. 11-22-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health with comments from the Committee on Judiciary and Public Safety
- 
- PR22-26 Board of Barber and Cosmetology Mr. Jared Scott Confirmation Resolution of 2016 (*Previously PR21-1053*)
- Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
- 
- PR22-27 Board of Barber and Cosmetology Mr. Anwar Saleem Confirmation Resolution of 2016 (*Previously PR21-1054*)
- Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
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- PR22-28 Board of Barber and Cosmetology Mr. Mark Wills Confirmation Resolution of 2016 (*Previously PR21-1055*)
- Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
- 
- PR22-29 Board of Barber and Cosmetology Ms. Sharon Young Confirmation Resolution of 2016 (*Previously PR21-1056*)
- Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development
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- PR22-30 Board of Zoning Adjustment Ms. Lesylleé White Confirmation Resolution of 2016 (*Previously PR21-1057*)
- Intro. 11-30-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR22-31 Department of Corrections Good Time Credits Approval Resolution of 2016 (*Previously PR21-1078*)
- Intro. 12-8-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
- 
- PR22-32 Board of Professional Counseling Victoria Sardi-Brown Confirmation Resolution of 2016 (*Previously PR21-1087*)
- Intro. 12-13-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
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- PR22-33 Board of Nursing Vera Mayer Confirmation Resolution of 2016 (*Previously PR21-1089*)
- Intro. 12-13-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health
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- PR22-34 Signs Appendix Amendment Approval Resolution of 2016 (*Previously PR21-990*)
- Intro. 10-18-16 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Placard Posting Date: January 6, 2017  
Protest Petition Deadline: February 21, 2017  
Roll Call Hearing Date: March 6, 2017  
Protest Hearing Date: May 3, 2017

License No.: ABRA-105008  
Licensee: City Corner, Inc.  
Trade Name: City Corner Mart  
License Class: Retailer's Class "B" 25 % Grocery  
Address: 2601 Sherman Avenue, N.W.  
Contact: H. Raymond Dorafshan: (202) 679-1300

WARD 1

ANC 1B

SMD 1B03

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on March 6, 2017 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. **The Protest Hearing date** is scheduled on **May 3, 2017 at 4:30 p.m.**

**NATURE OF OPERATION**

New Class "B" 25% Grocery store selling food, beer and wine.

**HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES**

Sunday 10 am – 9 pm, Monday through Thursday 10 am - 10 pm, Friday and Saturday 10 am - 11 pm

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

Placard Posting Date: January 6, 2017  
Protest Petition Deadline: February 21, 2017  
Roll Call Hearing Date: March 6, 2017  
Protest Hearing Date: May 3, 2017

License No.: ABRA-105006  
Licensee: Justin Ventures, LLC  
Trade Name: Highland's Liquor  
License Class: Retailer's Class "A" Liquor Store  
Address: 4704 14<sup>th</sup> Street, N.W.  
Contact: Deryeh Alexander: (240) 602-4542

WARD 4

ANC 4C

SMD 4C02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on March 6, 2017 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **May 3, 2017 at 1:30 p.m.**

**NATURE OF OPERATION**

A Retailer's Class "A" Liquor store that will sell beer, wine, and spirits. Also requesting a Tasting Permit.

**HOURS OF OPERATION**

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

**HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE**

Sunday through Saturday 8:00 am – 12:00 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: January 6, 2017
Protest Petition Deadline: February 21, 2017
Roll Call Hearing Date: March 6, 2017
Protest Hearing Date: May 3, 2017

License No.: ABRA-105091
Licensee: Yard House USA, Inc.
Trade Name: Yard House Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 812 7th Street, N.W.
Contact: Stephen J. O'Brien, Esq.: 202-625-7700

WARD 2

ANC 2C

SMD 2C01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing date on March 6, 2017 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing date is scheduled on May 3, 2017 at 1:30 p.m.

NATURE OF OPERATION

An American Restaurant & Brew House that serves lunch and dinner, including a large variety of local draft beers. Seating Capacity of 338, Total Occupancy Load of 538, and a Sidewalk Cafe with 40 seats. Dancing and Entertainment.

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

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

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

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



**D.C. DEPARTMENT OF HEALTH****Community Health Administration  
Preventive Health and Health Services  
Block Grant Public Advisory Committee**

Announces

**SPECIAL PUBLIC HEARING  
Preventive Health and Health Services Block Grant**

The D.C. Department of Health (DOH), Community Health Administration (CHA) and the Preventive Health and Health Services Block Grant Advisory Committee are conducting a special public hearing on the revision of the Preventive Health and Health Services Block Grant (PHHSBG) FY 2016 work plan activities for submission to the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS), U.S. Public Health Service.

This public hearing is being held to ensure that all citizens have the opportunity to present their views concerning proposed changes in the activities in the FY 2016 PHHSBG Work Plan. In order to align with the DOH Strategic Priorities and increase the reach of the PHHSBG, the CHA proposes to change the approach to addressing the previously selected priority focus area of asthma management. In addition, the proposed revision in the work plan will support the collection of quality data related to Healthy People 2020 to measure the impact of program activities. During this meeting, DOH will outline the proposed changes and solicit comments from community members.

**The meeting will be held on Tuesday, January 17, 2017 from 4:00 pm to 7:00 pm at 899 North Capitol Street, NE, Community Health Administration, 3<sup>rd</sup> Floor Conference Room (306).**

Please note that the Annual Public Hearing to discuss recommendations for the FY 2017 work plan will be held by March 2017.

Those who wish to present testimony are requested to provide a name, address, telephone number and organization name (when applicable) prior to the public hearing. Written testimonies no longer than 1 page single-spaced may be submitted for the record until 4:45 p.m. on Monday, January 16, 2017 at 899 North Capitol Street, N.E., 3rd Floor. All oral presentations are limited to five minutes. An electronic copy of all oral testimonies and/or written submissions is also requested. Contact LaVerne Jones at (202) 442-9151 or e-mail [laverne.jones@dc.gov](mailto:laverne.jones@dc.gov) and/or Angela Carole at (202) 442-8994 or email [angela.carole@dc.gov](mailto:angela.carole@dc.gov).

Parking is available under the building at a cost. There is limited neighborhood parking. Check WMATA <http://www.wmata.com/> for other transportation options. The nearest Metro stop is Union Station.

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
WEDNESDAY, FEBRUARY 22, 2017  
441 4<sup>TH</sup> STREET, N.W.  
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH  
WASHINGTON, D.C. 20001**

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

**TIME: 9:30 A.M.**

**THIS APPLICATION WAS POSTPONED FROM THE PUBLIC HEARING OF  
DECEMBER 7, 2016 AT THE APPLICANT’S REQUEST:**

**WARD FIVE**

19377            **Application of The Boundary Companies and The Missionary Society  
ANC-5E            of St Paul the Apostle**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the theoretical lot subdivision requirements of Subtitle C § 305.1, and the RA-new residential use requirements of Subtitle U § 421, and a variance from the vehicular access requirements of Subtitle C § 305.3, to construct 12 new buildings with approximately 78 one-family dwelling units in the RA-1 Zone at premises 3015 4th Street N.E. (Square 3648, Lot 915).

**WARD FIVE**

19429            **Application of BNY-Development**, 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, to renovate and expand a one-family dwelling into a flat in the RF-1 Zone at premises 1530 3rd Street N.W. (Square 521, Lot 39).

**WARD SEVEN**

19430            **Application of S2 21st Street NE LLC**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the penthouse requirements of Subtitle C §§ 1502.1(d) and 1504.1, and variances from the FAR requirements of Subtitle G § 402.1, and the height requirements of Subtitle G § 403.1, to replace a one-family dwelling with a 31-unit apartment building in the MU-4 Zone at premises 2101 Benning Road N.E. (Square 4516, Lots 159 and 160).

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**WARD FOUR**

19436  
ANC-4C            **Application of CCA Randolph L.P. and Petworth Station LP**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, and Subtitle C § 703, for a special exception under the parking requirements of Subtitle C §§ 701.5 and 705, and a variance from the density requirements of Subtitle E § 201.4, to add 13 units in three existing apartment buildings in the RF-1 Zone at premises 930-960 Randolph Street N.W. (Square 2905, Lot 812).

**WARD TWO**

19437  
ANC-2A            **Application of United Unions, Inc.**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the Downtown-use requirements of Subtitle I § 303.1(b), to permit an eating and drinking establishment on the ground floor of an existing office building in the D-2 Zone at premises 1750 New York Avenue N.W. (Square 171, Lot 33).

**WARD FIVE**

19439  
ANC-5E            **Application of 311 P Street 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 an existing two-story, one-family dwelling into a three-story, three-unit apartment house in the RF-1 Zone at premises 311 P Street N.W. (Square 521, Lot 834).

**WARD FIVE**

19440  
ANC-5E            **Application of 311 P Street LLC**, pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the lot frontage requirements of Subtitle C § 303.2, the lot dimension requirements of Subtitle E § 201.1, the front setback requirements of Subtitle E § 305.1, and the rear yard requirements of Subtitle E § 306.1, to permit the construction of a new one-family dwelling on a vacant lot in the RF-1 Zone at premises 1502 3rd Street N.W. (Square 521, Lot 833).

**PLEASE NOTE:**

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

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board will impose time limits on the

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FEBRUARY 22, 2017  
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testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

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

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

**Do you need assistance to participate?**

Amharic

ለመከተሉ ዕርዳታ ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጓሚ)

ካስፈለገዎት እባክዎን ከስብሰባው አጭነት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-

0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese

您需要有人帮助参加活动吗?

如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件

[Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov)。这些是免费提供的服务。

French

Avez-vous besoin d’assistance pour pouvoir participer ? Si vous avez besoin d’aménagements spéciaux ou d’une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

Korean

참여하시는데 도움이 필요하세요?

특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면,

회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 로

이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish

¿Necesita ayuda para participar?

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Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

*Vietnamese*

Quý vị có cần trợ giúp gì để tham gia không?

Nếu quý vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

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

**FREDERICK L. HILL, CHAIRPERSON**  
**ANITA BUTANI D'SOUZA, VICE CHAIRPERSON**  
**CARLTON HART, NATIONAL CAPITAL PLANNING COMMISSION**  
**A PARTICIPATING MEMBER OF THE ZONING COMMISSION**  
**CLIFFORD W. MOY, SECRETARY TO THE BZA**  
**SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING**

## DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Behavioral Health (“the Department”), pursuant to the authority set forth in Sections 5113, 5115, 5117 and 5118 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06 and 7-1141.07 (2012 Repl. & 2016 Supp.)), hereby gives notice of the adoption of an amendment to Chapter 34 (Mental Health Rehabilitation Services Provider Certification Standards) of Subtitle A (Mental Health) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rule is to amend Section 3410 to eliminate the progress note that providers are currently required to complete monthly for each consumer. The requirement for the progress note was to ensure clinical oversight of the services provided to the consumer; while clinical oversight is still critical, it is now satisfied through compliance with the Department’s policy on supervision (DBH Policy #710.3B, Standards in Supervision of Community-Based Mental Health and Substance Use Disorder Treatment Services), which clarifies the regulatory requirements for supervision.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on September 23, 2016 at 63 DCR 011659. No comments were received and no changes have been made. The Director adopted this rule as final on October 24, 2016 and it shall become effective on the date of publication of this rulemaking in the *D.C. Register*.

**Chapter 34, MENTAL HEALTH REHABILITATION SERVICES PROVIDER CERTIFICATION STANDARDS of Title 22-A DCMR, MENTAL HEALTH, is amended as follows:**

**Subsection 3410.17 of Section 3410, MHRS PROVIDER QUALIFICATIONS - GENERAL, is amended to read as follows:**

3410.17 Each provider shall comply with the Department’s policy on supervision, including requirements for the documentation of supervision.

## ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKINGANDZ.C. ORDER NO. 08-06G

## Z.C. Case No. 08-06G

## (Text Amendment - 11 DCMR)

## (Technical Corrections to Z.C. Order 08-06A)

December 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 amendments to Subtitles B (Definitions, Rules of Measurement, and Use Categories); C (General Rules); D (Residential House (R) Zones); E (Residential Flat (RF) Zones); F (Residential Apartment (RA) Zones); G (Mixed-Use (MU) Zones); H (Neighborhood Mixed-Use (NC) Zones); I (Downtown (D) Zones); J (Production, Distribution, and Repair (PDR) Zones); K (Special Purpose Zones); U (Use Permissions); X (General Procedures); Y (Board of Zoning Adjustment Rules of Practice and Procedure); and Z (Zoning Commission Rules of Practice and Procedure) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR), to make minor modifications and technical corrections to the amendments made by Z.C. Order No. 08-06A (Order). The Order, which took the form of a Notice of Final Rulemaking, adopted comprehensive amendments to the Zoning Regulations that became effective on September 6, 2016.

The Commission on September 12, 2016 authorized the publication of a Notice of Proposed Rulemaking for these amendments, which was published in the *D.C. Register* on November 11, 2016 at 63 DCR 013940 for a thirty (30) day comment period. Through a memorandum dated September 12, 2016, but not filed until the next day, the Committee of 100 for the Federal City filed expressed its concern over the procedural deficiencies in prior technical corrections to the Order, none of which were germane to this proceeding.

After the notice was published, several comments were received, all of which pertained to the proposed technical correction to the definition of "Continuing Care Retirement Community." No comments were received from the Committee of 100.

The Commission considered whether to take final action to adopt the amendments at a public meeting on December 12, 2016. The only change to the text as published on November 11, 2016 was the removal of the proposed technical correction to the definition. At the public meeting, the Office of Planning indicated that it would soon be proposing additional text amendments concerning the use. The Commission decided that it would consider any changes to the definition at the same time as it consider the other Office of Planning proposals.

The amendments shall become effective upon publication of this notice in the *D.C. Register*.

**The following amendments to the 2016 Regulations (11 DCMR) are adopted:**

**Title 11-B DCMR, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES is amended as follows:**

**Chapter 3, GENERAL RULES OF MEASUREMENT, is amended as follows:**

**Subsection 318.7 of § 318, RULES OF MEASUREMENT FOR REAR YARDS, is amended to read as follows:**

318.7 In the case of a corner lot in the MU-1, MU-2, MU-8, MU-9, MU-15, MU-16, MU-20, MU-21, MU-23, NC-13, and CG-3 zones, a court complying with the width requirements for a closed court as applicable for each zone may be provided in lieu of a rear yard. For the purposes of this section, the required court shall be provided above a horizontal plan beginning not more than twenty feet (20 ft.) above the curb grade opposite the center of the front of the building and the width of the court shall be computed for the entire height of court.

**Title 11-C DCMR, GENERAL RULES, is amended as follows:**

**Chapter 7, VEHICLE PARKING, is amended as follows:**

**Subparagraph (2) of paragraph (b) of § 701.8 of § 701, MINIMUM VEHICLE PARKING REQUIREMENTS, is amended to read as follows:**

701.8 Required parking spaces shall be located either:  
...<sup>1</sup>  
(b) On another lot, subject to the following provisions:  
...  
(2) The off-site location may be located within a different zone, except that the off-site parking location for a use within any zone other than an R or RF zone shall not be located within an R or RF zone, except parking for Transportation Infrastructure uses as permitted by Subtitle U § 202.1(q); and  
...

**Subsection 714.1 of § 714, SCREENING REQUIREMENTS FOR SURFACE PARKING, is amended to read as follows:**

714.1 Screening shall be required for any external surface parking spaces except:

<sup>1</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.



- (a) On a property located in a PDR zone that does not abut property that is not within a PDR zone; or
- (b) On a property devoted to residential uses with a maximum of three (3) dwelling units.

**Chapter 10, INCLUSIONARY ZONING, is amended as follows:**

**A new § 1002.6 is added to § 1002, BONUSES AND ADJUSTMENTS TO INCENTIVIZE INCLUSIONARY UNITS, is to read as follows:**

1002.6 A development exempted by Subtitle C § 1001.6(a) may, nevertheless, utilize the bonus density and zoning modifications provided for in this section.

**Chapter 15, PENTHOUSES, is amended as follows:**

**Subsection 1500.3 of § 1500, PENTHOUSE GENERAL REGULATIONS, is amended to read as follows:**

- 1500.3 A penthouse may house mechanical equipment or any use permitted within the zone, except as follows:
- (a) Penthouse habitable space on a detached dwelling, semi-detached dwelling, rowhouse, or flat shall be limited pursuant to Subtitle C § 1500.4;
  - (b) Within residential zones in which the building is limited to thirty-five feet (35 ft.) or forty feet (40 ft.) maximum, the penthouse use shall be limited to penthouse mechanical space and ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop unenclosed and uncovered deck, terrace, or recreation space;
  - (c) A nightclub, bar, cocktail lounge, or restaurant use shall only be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9; or
  - (d) Penthouse habitable space is not permitted on any building within an area bound by I Street, N.W. to the north; Constitution Avenue, N.W. to the south; 19<sup>th</sup> Street, N.W. to the west, and 13<sup>th</sup> Street, N.W. to the east.

A new § 1501.5 is added to § 1501, PENTHOUSE HEIGHT, to read as follows:

1501.5 A chimney or smokestack may be erected to a height in excess of that authorized in the district in which it is located when required by other municipal law or regulation.

Subparagraph (2) of paragraph (c) of § 1502.1 of § 1502, PENTHOUSE SETBACKS, is amended as follows:

1502.1 Penthouses, screening around unenclosed mechanical equipment, rooftop platforms for swimming pools, roof decks, trellises, and any guard rail on a roof shall be setback from the edge of the roof upon which it is located as follows:

...  
(c) A distance equal to its height from the side building wall of the roof upon which it is located if:

...  
(2) In the R-1 through R-F zones, it is on any building not described in Subtitle C § 1502.1(c)(1) that is:

...

Chapter 16, PUBLIC EDUCATION, RECREATION OR LIBRARY BUILDINGS OR STRUCTURES, is amended as follows:

Subsection 1604.2 of § 1604, DENSITY – GROSS FLOOR AREA (GFA) AND FLOOR AREA RATIO (FAR), is amended by correcting a reference in the appended table to zone name from M-3 to MU-3, to read as follows:

1604.2 Public education buildings and structures, public recreation and community centers, and public libraries shall be permitted a maximum floor area ratio as set forth in the following table:

TABLE C § 1604.2: FAR FOR PUBLIC EDUCATION BUILDINGS AND STRUCTURES, PUBLIC RECREATION AND COMMUNITY CENTERS, AND PUBLIC LIBRARIES

| Zone | Structure                   | Max. FAR             |
|------|-----------------------------|----------------------|
| ...  |                             |                      |
| MU-3 | Public school buildings and | 1.8                  |
|      | All other structures        | As permitted by zone |
| ...  |                             |                      |

Title 11-D DCMR, RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

Chapter 2, GENERAL DEVELOPMENT STANDARDS (R), is amended as follows:

Subsection 202.2 of § 202, LOT OCCUPANCY, is repealed.

Subsection 203.1 of § 203, COURT, is amended to read as follows:

203.1 Where a court is provided, the court shall have the following minimum dimensions:

TABLE D § 203.1: MINIMUM COURT DIMENSIONS

| Type of Structure    | Min. Width Open Court  | Min. Width Closed Court  | Min. Area Closed Court  |
|----------------------|--|--|---|
| Single dwelling unit | Not applicable   | Not applicable   | Not applicable  |
| All other structures | 2.5 inches per 1 ft. of height of court, but not less than 6 ft. | 2.5 inches per foot of height of court, but not less than 12 ft. | Twice the square of the required width of court dimension based on the height of the court, but not less than 250 sq. ft. |

Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, is amended as follows:

Section 304, LOT OCCUPANCY, is amended as follows:

Subsection 304.1 is amended to read as follows:

304.1 The maximum permitted lot occupancy in the R-1-A, R-1-B, R-2, and R-3 zones shall be as set forth in the following table:

TABLE D § 304.1: MAXIMUM LOT OCCUPANCY

| <u>Zone</u>  | <u>Structure</u>            | <u>Maximum Percentage of Lot Occupancy</u> |
|--------------|-----------------------------|--|
| <u>R-1-A</u> | <u>Places of Worship</u>    | <u>60%</u>                                 |
|              | <u>All Other Structures</u> | <u>40%</u>                                 |
| <u>R-1-B</u> | <u>Places of Worship</u>    | <u>60%</u>                                 |
|              | <u>All Other Structures</u> | <u>40%</u>                                 |
| <u>R-2</u>   | <u>Places of Worship</u>    | <u>60%</u>                                 |
|              | <u>All Other Structures</u> | <u>40%</u>                                 |
| <u>R-3</u>   | <u>Attached Dwellings</u>   | <u>60%</u>                                 |
|              | <u>Places of Worship</u>    | <u>60%</u>                                 |

|  |                             |            |
|--|-----------------------------|------------|
|  | <u>All Other Structures</u> | <u>40%</u> |
|--|-----------------------------|------------|

Subsection 304.2 is repealed.

Section 308, PERVIOUS SURFACE, is amended by standardizing the language in §§ 308.1-308.3, to read as follows:

308.1 The minimum required percentage of pervious surface of a lot in the R-1-A or R-1-B zones shall be fifty percent (50%).

308.2 The minimum required percentage of pervious surface of a lot in the R-2 zone shall be thirty percent (30%).

308.3 The minimum required percentage of pervious surface of a lot in the R-3 zone shall be twenty percent (20%).

Section 309, SPECIAL EXCEPTION, is deleted in its entirety.

Chapter 4, TREE AND SLOPE PROTECTION RESIDENTIAL HOUSE ZONES - R-6 AND R-7, is amended as follows:

Subsection 404.1 of § 404, LOT OCCUPANCY, is amended to read as follows:

404.1 The maximum permitted lot occupancy in the R-6 and R-7 zones shall be as set forth in the following table:

TABLE D § 404.1: MAXIMUM LOT OCCUPANCY

| Zone | Structure      | Maximum Percentage of Lot Occupancy |
|------|----------------|-------------------------------------|
| R-6  | All Structures | 30%                                 |
| R-7  | All Structures | 30%                                 |

Section 406, REAR YARD, §§ 406.2 and 406.3 are repealed (the provisions are stated in 11-D DCMR § 205).

Section 410, SPECIAL EXCEPTION, is repealed.

Chapter 5, FOREST HILLS TREE AND SLOPE RESIDENTIAL HOUSE ZONES - R-8, R-9, AND R-10, is amended as follows:

Subsection 504.1 of § 504, LOT OCCUPANCY, is amended to read as follows:

504.1 The maximum permitted lot occupancy in the R-8, R-9, and R-10 zones shall be as set forth in the following table:

TABLE D § 504.1: MAXIMUM LOT OCCUPANCY

| Zone | Structure      | Maximum Percentage of Lot Occupancy |
|------|----------------|-------------------------------------|
| R-8  | All Structures | 30%                                 |
| R-9  | All Structures | 30%                                 |
| R-10 | All Structures | 30%                                 |

Section 510, SPECIAL EXCEPTION, is repealed.

Chapter 6, NAVAL OBSERVATORY/TREE AND SLOPE RESIDENTIAL HOUSE ZONE - R-11, is amended as follows:

Subsection 604.1 of § 604, LOT OCCUPANCY, is amended to read as follows:

604.1 The maximum permitted lot occupancy in the R-11 zone shall be as set forth in the following table:

TABLE D § 604.1: MAXIMUM LOT OCCUPANCY

| Zone | Structure      | Maximum Percentage of Lot Occupancy |
|------|----------------|-------------------------------------|
| R-11 | All Structures | 30%                                 |

Section 610, SPECIAL EXCEPTION is repealed.

Chapter 7, NAVAL OBSERVATORY RESIDENTIAL HOUSE ZONES - R-12 AND R-13, is amended as follows:

Section 704, LOT OCCUPANCY, is amended as follows:

Subsection 704.1 is amended to read as follows:

704.1 The maximum permitted lot occupancy in the R-12 and R-13 zones shall be as set forth in the following table:

TABLE D § 704.1: MAXIMUM LOT OCCUPANCY

| Zone | Structure            | Maximum Percentage of Lot Occupancy |
|------|----------------------|-------------------------------------|
| R-12 | Places of Worship    | 60%                                 |
|      | All Other Structures | 40%                                 |

|      |                      |     |
|------|----------------------|-----|
| R-13 | Attached Dwellings   | 60% |
|      | Places of Worship    | 60% |
|      | All Other Structures | 40% |

Subsection 704.2 is repealed.

Section 709, SPECIAL EXCEPTION, is deleted in its entirety.

Chapter 8, WESLEY HEIGHTS RESIDENTIAL HOUSE ZONES - R-14 AND R-15, is amended as follows:

Section 804, LOT OCCUPANCY, is amended as follows:

Subsection 804.1 is amended to read as follows:

- 804.1 The maximum permitted lot occupancy in the R-14 and R-15 zones shall be thirty percent (30%); except that:
- (a) Structures on lots between five thousand square feet (5,000 sq. ft.) and six thousand six hundred and sixty-seven square feet (6,667 sq. ft.) may occupy up to two thousand square feet (2,000 sq. ft.); and
  - (b) Structures on lots less than five thousand square feet (5,000 sq. ft.) may occupy up to forty percent (40%) of the area of the lot.

Subsections 804.2 and 804.3 are repealed.

Chapter 9, SIXTEENTH STREET HEIGHTS RESIDENTIAL HOUSE ZONE - R-16, is amended as follows:

Subsection 904.1 of § 904, LOT OCCUPANCY, is amended to read as follows:

- 904.1 The maximum permitted lot occupancy in the R-16 zone shall be as set forth in the following table:

TABLE D § 904.1: MAXIMUM LOT OCCUPANCY

| Zone | Structure            | Maximum Percentage of Lot Occupancy |
|------|----------------------|-------------------------------------|
| R-16 | Places of Worship    | 60%                                 |
|      | All Other Structures | 40%                                 |

Chapter 10, FOGGY BOTTOM RESIDENTIAL HOUSE ZONES - R-17, is amended as follows:

**Subsection 1004.1 of § 1004, LOT OCCUPANCY, is amended to read as follows:**

1004.1 The maximum permitted lot occupancy in the R-17 zone shall be as set forth in the following table:

**TABLE D § 1004.1: MAXIMUM LOT OCCUPANCY**

| Zone | Structure            | Maximum Percentage of Lot Occupancy |
|------|----------------------|-------------------------------------|
| R-17 | Attached Dwellings   | 60%                                 |
|      | Places of Worship    | 60%                                 |
|      | All Other Structures | 40%                                 |

**Chapter 12, GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20, is amended as follows:**

**Section 1204, LOT OCCUPANCY, is amended as follows:**

**Subsection 1204.1 is amended to read as follows:**

1204.1. The maximum permitted lot occupancy in the R-19 and R-20 zones shall be as set forth in the following table:

**TABLE D § 1204.1: MAXIMUM LOT OCCUPANCY**

| Zone | Structure            | Maximum Percentage of Lot Occupancy |
|------|----------------------|-------------------------------------|
| R-19 | Places of Worship    | 60%                                 |
|      | All Other Structures | 40%                                 |
| R-20 | Attached Dwellings   | 60%                                 |
|      | Places of Worship    | 60%                                 |
|      | All Other Structures | 40%                                 |

**Subsection 1204.2 is repealed.**

**A new § 1207.5 is added to § 1207, SIDE YARD, to read as follows:**

1207.5 In the R-20 zone, when a single dwelling unit, flat, or multiple dwelling unit development is erected that does not share a common division wall with an existing building, or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

**Title 11-E DCMR, RESIDENTIAL FLAT (RF) ZONES, is amended as follows:**

**Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), is amended as follows:**

**Subsection 203.1 of § 203, COURT, is amended to read as follows:**

203.1 Where a court is provided, the court shall have the following minimum dimensions:

**TABLE E § 203.1: MINIMUM COURT DIMENSIONS**

| Type of Structure   | Minimum Width Open Court   | Minimum Width Closed Court   | Minimum Area Closed Court   |
|---|--|--|---|
| Detached Dwellings<br>Semi-Detached Dwellings<br>Attached Dwellings and Flats | Not applicable   | Not applicable   | Not applicable  |
| All other structures  | 2.5 inches per 1 ft. of height of court, but not less than 6 ft. | Width: 2.5 inches per 1 ft. of height of court, but not less than 12 ft. | Twice the square of the required width of court dimension based on the height of the court, but not less than 250 ft. |

**Chapter 3, RESIDENTIAL FLAT ZONE – RF-1, is amended as follows:**

**Subsection 304.1 of § 304, LOT OCCUPANCY, is amended as to read as follows:**

304.1 The maximum permitted lot occupancy in the RF-1 zone shall be as set forth in the following table:

**TABLE E § 304.1: MAXIMUM LOT OCCUPANCY**

| STRUCTURE   | MAXIMUM PERCENTAGE OF LOT OCCUPANCY                                  |
|---|--|
| Detached dwellings;<br>Semi-detached dwellings;<br>Attached dwellings and flats;<br>Places of worship | 60%  |
| Conversion of a building or structure to an apartment house   | The greater of 60% or the lot occupancy as of the date of conversion |
| An apartment house that existed prior to 1958 and has been in continuous use as an apartment house    | 60%  |
| All other structures  | 40%  |



Section 308, SPECIAL EXCEPTION, is repealed.

Chapter 4, DUPONT CIRCLE RESIDENTIAL FLAT ZONE – RF-2, is amended as follows:

Subsection 404.1 of § 404, LOT OCCUPANCY, is amended to read as follows:

404.1 The maximum permitted lot occupancy in the RF-2 zone shall be as set forth in the following table:

TABLE E § 404.1: MAXIMUM LOT OCCUPANCY

| STRUCTURE   | MAXIMUM PERCENTAGE OF LOT OCCUPANCY                              |
|---|--|
| Detached dwellings;<br>Semi-detached dwellings;<br>Attached dwellings and flats;<br>Places of worship | 60%  |
| Conversion of a building or structure to an apartment house   | Greater of 60% or the lot occupancy as of the date of conversion |
| An apartment house that existed prior to 1958 and has been in continuous use as an apartment house    | 60%  |
| All other structures  | 40%  |

Section 408, SPECIAL EXCEPTION, is repealed.

Chapter 5, CAPITOL PRECINCT RESIDENTIAL FLAT ZONE – RF-3, is amended as follows:

Subsection 504.1 of § 504, LOT OCCUPANCY, is amended to read as follows:

504.1 The maximum permitted lot occupancy in the RF-3 zone shall be as set forth in the following table:

TABLE D § 504.1: MAXIMUM LOT OCCUPANCY

| STRUCTURE | MAXIMUM PERCENTAGE OF LOT OCCUPANCY |
|-----------|-------------------------------------|
|-----------|-------------------------------------|

| STRUCTURE  | MAXIMUM PERCENTAGE OF LOT OCCUPANCY                              |
|--|--|
| Detached dwellings;<br>Semi-detached dwellings;<br>Row dwellings and flats;<br>Places of worship   | 60%  |
| Conversion of a building or structure to an apartment house  | Greater of 60% or the lot occupancy as of the date of conversion |
| An apartment house that existed prior to 1958 and has been in continuous use as an apartment house | 60%  |
| All other structures   | 40%  |

**Section 508, SPECIAL EXCEPTION, is repealed.**

**Chapter 6, RESIDENTIAL FLAT ZONE –RF-4 AND RF-5, is amended as follows:**

**Section 608, SPECIAL EXCEPTION, is repealed.**

**Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RF ZONES, is amended as follows:**

**A new § 5000.3 is added to § 5000, GENERAL PROVISIONS, to read as follows:**

5000.3           A private garage permitted in an RF zone as a principal use on a lot other than an alley lot, shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within twelve feet (12 ft.) of the center line of the alley upon which it opens.

**Title 11-F DCMR, RESIDENTIAL APARTMENT (RA) ZONES, is amended as follows:**

**Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, is amended as follows:**

**Section 306, SIDE YARD, is amended as follows:**

**Subsections 306.1 and 306.2 are amended to read as follows:**

306.1           An eight-foot (8 ft.) side yard shall be provided for a detached or semi-detached dwelling.

306.2           For all other buildings:

- (a) In the RA-1 zone, one (1) side yard shall be provided unless the building contains three (3) or more dwelling units per floor, in which case two (2) side yards shall be provided, each with the minimum distance equal to three inches (3 in.) per foot of building height but not less than eight feet (8 ft.); and
- (b) In the RA-2, RA-3, RA-4, and RA-5 zones, no side yard shall be required; however, if a side yard is provided, it shall be no less than four feet (4 ft.).

**Section 308, SPECIAL EXCEPTION, is repealed.**

**Chapter 4, NAVAL OBSERVATORY RESIDENTIAL APARTMENT ZONE – RA-6, is amended as follows:**

**Section 408, SPECIAL EXCEPTION, is repealed.**

**Chapter 5, CAPITOL PRECINCT RESIDENTIAL APARTMENT ZONE - RA-7, is amended as follows:**

**Section 508, SPECIAL EXCEPTION, is repealed.**

**Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONE – RA-8, RA-9, AND RA-10, is amended as follows:**

**Section 608, SPECIAL EXCEPTION, is repealed.**

**Subtitle 11-G DCMR, MIXED-USE (MU) ZONES, is amended as follows:**

**Chapter 1, INTRODUCTION TO MIXED-USE (MU) ZONES, is amended as follows:**

**Subsection 101.5 of Section 101, DEVELOPMENT STANDARDS, is amended to read as follows:**

101.5 The development standards may be varied or waived by the Board of Zoning Adjustment as a variance or, when permitted in this title, as a special exception. Relief from the development standards for Height and FAR shall be required as a variance. Additional zone-specific special exception criterion, if applicable, shall be considered by the Board and are referenced in this subtitle.

**Chapter 4, MIXED-USE ZONES – MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, AND MU-10, is amended as follows:**

**Subsection 402.3 of § 402, DENSITY - FLOOR AREA RATIO (FAR), is amended to read as follows:**

402.3 In the MU-10 zone, combined lot development is permitted for the purposes of allocating gross floor area devoted to residential and non-residential uses in accordance with the provisions of Subtitle C Chapter 12. Both lots shall be located within the same square, and shall be zoned MU-10.

**Subsection 404.1 of § 404, LOT OCCUPANCY, is amended as follows:**

404.1 The maximum permitted lot occupancy for residential use in the MU-3 through MU-10 zones shall be as set forth in the following table:

**TABLE G § 404.1: MAXIMUM PERMITTED LOT OCCUPANCY**

| Zone             | Maximum Lot Occupancy for Residential Use |
|------------------|---|
| MU-3             | 60%                                       |
|                  | 60% (IZ)                                  |
| MU-4             | 60%                                       |
|                  | 75% (IZ)                                  |
| MU-5-A<br>MU-5-B | 80%                                       |
|                  | 80% (IZ)                                  |
| MU-6             | 80%                                       |
|                  | 90% (IZ)                                  |
| MU-7             | 75%                                       |
|                  | 80% (IZ)                                  |
| MU-8             | N/A                                       |
| MU-9             | N/A                                       |
| MU-10            | 75%                                       |
|                  | 80% (IZ)                                  |

**Chapter 6, DUPONT CIRCLE MIXED-USE ZONES – MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21, AND MU-22, is amended as follows:**

**Subsection 604.1 of § 604, LOT OCCUPANCY, is amended to read as follows:**

604.1 The maximum permitted lot occupancy for residential use in the MU-15-through MU-22 zones shall be as set forth in the following table:

**TABLE G § 604.1: MAXIMUM PERMITTED LOT OCCUPANCY**

| Zone | Maximum Lot Occupancy for Residential Use |
|------|---|
|------|---|

| Zone  | Maximum Lot Occupancy for Residential Use |
|-------|---|
| MU-15 | 80%                                       |
| MU-16 | 80%                                       |
|       | 90% (IZ)                                  |
| MU-17 | 60%                                       |
|       | 75% (IZ)                                  |
| MU-18 | 80%                                       |
| MU-19 | 80%                                       |
|       | 90% (IZ)                                  |
| MU-20 | 100%                                      |
| MU-21 | 100%                                      |
| MU-22 | 75%                                       |
|       | 80% (IZ)                                  |

**Subsection 609.1 of § 609, SPECIAL EXCEPTION, is amended to read as follows:**

609.1 The special exception criteria of Subtitle G, Chapter 12 shall apply to all MU-15 through MU-22 zones.

**Chapter 7, CAPITOL INTEREST AND CAPITOL HILL COMMERCIAL MIXED-USE ZONES –MU-23, MU-24, MU-25, AND MU-26, is amended as follows:**

**Subsection 702.1 of § 702, DENSITY - FLOOR AREA RATIO (FAR), is amended to read as follows:**

702.1 The maximum permitted FAR of buildings in the MU-23 through MU-26 zones shall be as set forth in the following table:

**TABLE G § 702.1: MAXIMUM PERMITTED FLOOR AREA RATIO**

| Zone  | Maximum FAR     |                             |
|-------|-----------------|-----------------------------|
|       | Total Permitted | Maximum Non-Residential Use |
| MU-23 | 1.8             | N/A                         |
|       | 2.16 (IZ)       |                             |
| MU-24 | 1.8             | 1.5                         |
|       | 2.16 (IZ)       |                             |
| MU-25 | 3.0             | 3.0                         |
|       | 3.0 (IZ)        |                             |
| MU-26 | 2.5             | 2.5                         |
|       | 2.5 (IZ)        |                             |

**Subsection 704.1 of § 704, LOT OCCUPANCY, is amended to read as follows:**

704.1 The maximum permitted lot occupancy for residential use in the MU-23 through MU-26 zones shall be as set forth in the following table: shall be eighty percent (80%) in the MU-23 zone and seventy-five percent (75%) in the MU-24, MU-25, and MU 26 zones.

**TABLE G § 704.1: MAXIMUM PERMITTED LOT OCCUPANCY**

| <b>Zone</b> | <b>Maximum Lot Occupancy for Residential Use</b> |
|-------------|--|
| MU-23       | 80%  |
|             | 90% (IZ)   |
| MU-24       | 60%  |
|             | 75% (IZ)   |
| MU-25       | 60%  |
|             | 75% (IZ)   |
| MU-26       | 60%  |
|             | 75% (IZ)   |

**Chapter 9, FORT TOTTEN MIXED-USE ZONES – MU-28 AND MU-29, is amended as follows:**

**Section 909, SPECIAL EXCEPTION, is amended by re-designating this text as new § 910, SPECIAL EXCEPTION, and § 909 is amended to include new text, so that both sections read as follows:**

**909 PLAZA**

909.1 Within the MU-29 zone, a plaza comprising eight percent (8%) of the lot area shall be provided for development on a lot of greater than ten thousand square feet (10,000 sq. ft.), in accordance with the provisions of Subtitle C, Chapter 17.

909.2 Where preferred use space is required under this chapter and provided, the requirement to provide plaza space shall not apply.

**910 SPECIAL EXCEPTION**

910.1 The special exception criteria of Subtitle G, Chapter 12 shall apply to all the MU 28 and MU-29 zones.

**Subtitle 11-H DCMR, NEIGHBORHOOD MIXED-USE (NC) ZONES, is amended as follows:**

**Chapter 9, H STREET NORTHEAST NEIGHBORHOOD MIXED-USE ZONES - NC-9 THROUGH NC-17, is amended as follows:**

**A new § 905.2 is added to § 905, REAR YARD, to read as follows:**

905.2 In the NC-13-zone, rear yards shall be measured as follows:

- (a) A horizontal plane may be established at twenty-five feet (25 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards;
- (b) Where a lot abuts an alley:
  - (1) For that portion of the structure below a horizontal plane described in Subtitle G § 905.2(a), rear yard shall be measured from the center line of the alley to the rear wall of the portion; and
  - (2) For that portion of the structure above the horizontal plane described in Subtitle G § 905.2(a), rear yard shall be measured from the rear lot line to the rear wall of that portion immediately above the plane; and
- (c) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

**Chapter 11, USE PERMISSIONS FOR NC ZONES, is amended as follows:**

**Section 1101, DESIGNATED AND RESTRICTED USES, is amended as follows:**

**Paragraph (a) of § 1101.2 is amended to read as follows:**

1101.2 The NC zone designated uses, for the purposes of this subtitle, are those permitted in the following use groups subject to any conditions of this section:

- (a) Animal care or animal boarding; ...

**Paragraph (g) of § 1101.4 is amended to read as follows:**

- (g) In all NC zones, animal care or animal boarding as a matter-of-right designated use shall be limited to:

...

- (3) An animal boarding use located in a basement or cellar space subject to the following:
  - (A) The use shall not be located within twenty-five feet (25 ft.) of a lot within an R, RF, or RA zone. The twenty-five feet

(25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within an R, RF, or RA zone. Shared facilities not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use;

- (B) There shall be no residential use on the same floor as the use or on the floor immediately above the animal boarding use;
- (C) Windows and doors of the space devoted to the animal boarding use shall be kept closed and all doors facing a residential use shall be solid core;
- (D) No animals shall be permitted in an external yard on the premises;
- (E) Animal waste shall be placed in a closed waste disposal containers and shall be collected by a licensed waste disposal company at least weekly;
- (F) Odors shall be controlled by means of an air filtration or an equivalently effective odor control system; and
- (G) Floor finish materials and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor shall be impervious and washable.

**Subsection 1105.1 of § 1105, SPECIAL EXCEPTION USES (NC-USE GROUP A), is amended as follows:**

**Paragraph (a) is amended to read as follows:**

- (a) Animal care uses, not meeting the conditions of Subtitle H § 1101.4(g), subject to the following:

**A new paragraph (h) is added to read as follows:**

- (h) Animal boarding uses not meeting the conditions of Subtitle H § 1101.4 (g)(3), subject to the following:



- (1) The animal boarding use shall take place entirely within an enclosed building;
- (2) Buildings shall be designed and constructed to mitigate noise to limit negative impacts on adjacent properties, including residential units located in the same building as the use. Additional noise mitigation shall be required for existing buildings not originally built for the boarding of animals, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;
- (3) The windows and doors of the space devoted to the animal boarding use shall be kept closed, and all doors facing a residential use shall be solid core;
- (4) No animals shall be permitted in an external yard on the premises;
- (5) Animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;
- (6) Odors shall be controlled by means of an air filtration system or an equivalently effective odor control system;
- (7) Floor finish material, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;
- (8) The Board of Zoning Adjustment may impose additional requirements pertaining to the location of buildings or other structures, entrances and exits; buffers, banners, and fencing, soundproofing, odor control, waste storage and removal (including frequency), the species and/or number of animals; or other requirements, as the Board deems necessary to protect adjacent or nearby property; and
- (9) External yards or other exterior facilities for the keeping of animals shall not be permitted.

**Paragraph (c) of § 1106.1 of § 1106, MATTER-OF-RIGHT USES (NC-USE GROUP B), is amended to read as follows:**

1106.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

...

- (c) Animal care and boarding uses subject to the conditions of Subtitle H § 1101.4(g);

...

**Title 11-I DCMR, DOWNTOWN (D) ZONES, is amended as follows:**

**Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES, is amended as follows:**

**Subsection 203.1 of § 203, FRONT BUILD-TO LINE, is amended to read as follows:**

203.1 In the D-1-R, D-3, D-4-R, D-5, D-5-R, D-6, D-6-R, and D-7 zones, at least seventy-five percent (75%) of each newly constructed building wall fronting a street shall be constructed to or within four feet (4 ft.) of the property line between the subject lot and the abutting street right-of-way, to a height of at least fifteen feet (15 ft.) above the higher of the building’s measuring point or the level of the curb from which the building is drawing its height, provided the building wall:

...

**Subsection 207.2 of § 207, COURT REQUIREMENTS, is repealed.**

**Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, is amended as follows:**

**Subsection 517.2 of § 517, HEIGHT (D-3), is amended to read as follows:**

517.2 The maximum permitted building height, not including the penthouse, in the D-3 zone, shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

**Paragraph (c) of § 524.2 of § 524, DENSITY - FLOOR AREA RATIO (FAR) (D-4), is amended to read as follows:**

524.2 The maximum permitted FAR for a building in the D-4 zone shall be 7.8, which can be achieved:

...

- (c) If conditions (a) or (b) are not satisfied, through the use of credits pursuant to Subtitle I, Chapters 8 and 9.

**Subsection 531.3 of § 531, DENSITY - FLOOR AREA RATIO (FAR) (D-4-R), is amended to read as follows:**

531.3 The residential requirement in Subtitle I § 531.2 shall not apply to the following:

- (a) A building on Square 342, Lot 810 that has been used as a hostel since April 7, 2006, that remains in hostel use, and which may be expanded or rebuilt to a maximum 9.5 FAR without a housing requirement;
- (b) A building in the D-4-R zoned portion of Square 485; and
- (c) A building on any lot in Square 370 shall be exempt from minimum residential requirements as long as it has a valid construction permit or certificate of occupancy for a hotel.

**Chapter 8, GENERATION AND CERTIFICATION OF CREDITS, is amended as follows:**

**Section 800, INTRODUCTION TO THE CREDIT SYSTEM, amended as follows:**

**Subsections 800.3 and 800.4 are amended to read as follows:**

800.3 Properties that generated allocable gross floor area, either as Transferable Development Rights (“TDR”) or Combined Lot Development (“CLD”) rights under Chapter 17 of the 1958 Zoning Regulations as the result of the recordation of a covenant required by that chapter, may have those CLD or TDR Rights converted to credits pursuant to Subtitle I § 806 to the extent the Rights were not allocated prior to the effective date of this title to another lot or, also in the case of TDR Rights, to an entity or individual for future re-transfer (“Unallocated TDR/CLD Rights”). To be recognized as an Unallocated TDR/CLD Right, the TDR or CLD covenant must have included a declaration binding present and future owners to reserve and maintain in perpetuity the square footage of the uses that generated the TDR/CLD Rights for which conversion is sought.

800.4 Any CLD Right allocated to a lot by a recorded CLD covenant or any TDR Right allocated to a lot or to an entity or individual pursuant to a certificate of transfer of transferrable development rights made pursuant to the 1958 Regulations (“Allocated TDR/CLD Rights”) is fully vested and may be used for the purposes authorized the 1958 Zoning Regulations; provided that the recordation of the covenant or certificate occurred prior to the effective date of this title.

**Subsection 800.5 is amended by re-designating and correcting its text as § 800.6 and adding new text to § 800.5 so that both subsections read as follows:**

800.5 Notwithstanding Subtitle I § 800.4, an entity or individual owning Allocated TDR Rights transferred for its use or re-transfer through one or more certificates of transfer of development rights made pursuant to the 1958 Zoning Regulation may,

as to each certificate, elect to have all of those rights treated as Unallocated TDR Rights that may be converted to credits pursuant to Subtitle I § 806 if:

- (a) The entity or individual purchased the Allocated TDR Rights for resale for use on a receiving lot as permitted by § 1709.9 of the 1958 Zoning Regulations and the Allocated TDR Rights were not transferred to a lot; or
- (b) The entity or individual purchased the Allocated TDR Rights for use on their property and either:
  - (1) The Allocated TDR Rights were not used to increase development rights on the property; or
  - (2) The Allocated TDR Rights were used to increase development rights on the property and the building that utilized the development rights is destroyed or demolished; provided that property shall be divested of the development rights attributable to the TDR Rights converted to credits.

800.6 Rules governing the use of credits are set forth in Subtitle I § 900.

**Paragraphs 801.1(d) and (e) of § 801, ACTIONS THAT GENERATE CREDITS, are amended to read as follows:**

801.1 In the D-3 through D-8 zones, credits shall be generated by:

...

- (d) The conversion of unallocated transferable development rights (as described in Subtitle I § 800.3), pursuant to Subtitle I § 806;
- (e) The conversion of unallocated combined lot development rights (as described in Subtitle I § 800.3), pursuant to Subtitle I § 806; and

...

**Section 802, GENERATION OF CREDITS BY RESIDENTIAL DEVELOPMENT, is amended as follows:**

**The introductory paragraph of § 802.1 is amended to read as follows:**

802.1 Except as provided in Subtitle I § 802.3, credits may be generated by a residential use in a building for which construction began after January 18, 1991 located in a D-4-R, D-5-R, or D-6-R zone to the extent the residential use did not generate

Unallocated or Allocated CLD Rights as described in Subtitle I §§ 800.3 and 800.4, respectively; or by a residential use developed on or after the effective date of this title in a new or existing buildings in all other I zones except D-1-R or D-2 zones, where properties may not generate credits.

...

**Subsection 802.2 is amended to read as follows:**

802.2 One (1) credit shall be generated for each square foot of eligible residential gross floor area (GFA) constructed, except that two (2) credits, rather than one (1) credit, shall be generated for each square foot of eligible GFA in each of the following circumstances:

- (a) For each square foot of eligible GFA reserved for low-income households in projects subject to Subtitle C, Chapter 10, Inclusionary Zoning;
- (b) For each square foot of eligible GFA reserved for moderate-income households in projects not subject to Subtitle C, Chapter 10, Inclusionary Zoning;
- (c) For each square foot of non-residential use converted to residential use in historic landmarks or contributing buildings in historic districts;
- (d) For a building south of Massachusetts Avenue located on a property zoned D-4-R or D-5-R and within Squares 247, 283, 284, 316, 317, 342, 343, 371, 372, 374, 427, 428, 452, 453, 485, 486, 517, or 529; or for the commercial and underdeveloped properties in Square 247 with an approved plan unit development on or before January 18, 1991, for so long as the planned unit development approval remains valid; and
- (e) For a building south of H Street zoned D-6-R and within Squares 377 (Lots 36, 37, 42, 806, 828, 829, 847, and 848), 406, 407, 408, 431, 432, 454, 455, 456, 457, 458, 459, 460, and 491.

**Paragraphs 803.2(d) and (e) of § 803, GENERATION OF CREDITS BY ARTS USES, are amended to read as follows:**

803.2 One (1) credit shall be generated for each square foot of eligible arts GFA or FAER and an additional credit shall be generated for:

...

- (d) Each square foot of arts uses listed in Subtitle U §§ 700.1(a), (h) or (i); and

- (e) Each square foot of arts uses listed in Subtitle U §§ 700.1(c)(5) through (c)(7), (f), or (h), in excess of forty thousand gross square footage (40,000 gsf.) and located on a single record lot.

**Section 806, GENERATION AND CERTIFICATION OF CREDITS FOR TDR OR CLD CONVERSION, is amended as follows:**

**Subsection 806.1 is amended to read as follows:**

806.1 Any Unallocated TDR or CLD Rights as described in Subtitle I § 800.3, or as considered such under Subtitle I § 800.5 shall convert to credits at a rate of one-to-one (1:1).

**Paragraphs (a) and (e) of Subsection 806 are amended to read as follows:**

806.3 A Certificate of Credit Conversion may be requested in writing by the individual or entity that owns the Unallocated TDR or CLD Rights. The request shall be accompanied by:

- (a) A copy of the recorded TDR covenant or CLD covenants that acknowledges the generation of the unallocated rights, or in the case of an Unallocated TDR Rights recognized by Subtitle I § 800.4, the certificate of transfer that acknowledged the transfer of the TDRs sought to be converted;

...

- (e) For TDR's to be converted from a covenant, any certificates of transfer or re-retransfer made pursuant to the covenant and a sworn certification that no other allocations have been made other than as described in the certificates;

...

**Chapter 9, USE OF CREDITS, is amended as follows:**

**Subsection 900.3 of § 900, GENERAL REQUIREMENTS AND RESTRICTIONS, is amended to read as follows:**

900.3 Credits generated and acknowledged pursuant to Subtitle I, Chapter 8 may be used for the purposes and within the trade areas identified in the following table.

TABLE I § 900.3: CREDIT-GENERATION, PURPOSES, AND AREAS OF USE

| Action Generating Credit  | Section in Subtitle I, Chapter 8 Governing the Generation of the Credit | Purpose for which Credit May be Used   | Area(s) in which Credit may be used (see Figure I § 900.2)                              |
|---|---|--|---|
| Development of residential gross floor area where it is not required or that exceeds a minimum residential requirement of Subtitle I, Chapter 5.      | § 802   | Construct non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones  | Same trade area in which the credits were generated.                                    |
|   |   | Reduce the residential requirements of the D-4-R, D-5-R, or D-6-R zones.   | Same trade area in which the credits were generated.                                    |
| Development of arts or arts-related space that exceeds the minimum area requirements of Subtitle I § 607 for such uses in the Downtown Arts Sub-Area. | § 803   | Reduce the Arts sub-area requirements of Subtitle I § 607  | Downtown Arts Sub-Area (Subtitle I § 607) of trade area 2                               |
|   |   | Construct up to 0.5 FAR non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones  |   |
| Historic Preservation rehabilitation  | § 807   | Construct non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones up to the limits of Subtitle I, §§ 200.2 and 200.3. Credits cannot reduce residential requirements of the D-4-R, D-5-R, or D-6-R zones | In any trade area   |
| Conversion of transferrable development rights (TDRs)   | § 806   | Construct non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones. Credits cannot reduce residential requirements of the D-4-R, D-5-R, or D-6-R zones  | In any trade area   |
| Conversion of unallocated combined lot development (CLD) gross floor area   | § 806   | Construct non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones  | Same trade area within which the project that generated the unallocated CLD is located. |
|   |   | Reduce the residential requirements of the D-4-R, D-5-R, or D-6-R zones  |   |
| Development of child development center, child development home or certified business enterprise in the Downtown Retail Core,                         | § 804   | Construct up to 0.5 FAR non-residential gross floor area in excess of the base permitted non-residential density of the D-3 through D-8 zones  | Same trade area in which the credits were generated                                     |

| Action Generating Credit                                       | Section in Subtitle I, Chapter 8 Governing the Generation of the Credit | Purpose for which Credit May be Used | Area(s) in which Credit may be used (see Figure I § 900.2) |
|--|---|--------------------------------------|--|
| Downtown Arts or Chinatown sub-areas of Subtitle I, Chapter 6. |   |                                      |  |

**Title 11-J DCMR, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is amended as follows:**

**Chapter 2, DEVELOPMENT STANDARDS, is amended as follows:**

**Subsection 202.1 of § 202, DENSITY - FLOOR AREA RATIO (FAR), is amended to read as follows:**

202.1 The maximum permitted FAR in the PDR zones shall be as set forth in the following table:

**TABLE J § 202.1: MAXIMUM PERMITTED FLOOR AREA RATIO**

| Zone  | Maximum FAR Restricted Uses | Maximum FAR Permitted |
|-------|-----------------------------|-----------------------|
| PDR-1 | 2.0                         | 3.5                   |
| PDR-2 | 3.0                         | 4.5                   |
| PDR-3 | 4.0                         | 6.0                   |
| PDR-4 | 1.0                         | 6.0                   |
| PDR-5 | 1.8                         | 3.5                   |
| PDR-6 | 2.0                         | 3.5                   |
| PDR-7 | 1.0                         | 6.0                   |

**Subsection 207.3 of § 207, TRANSITION SETBACK REGULATIONS, is amended to read as follows:**

207.3 Any setback required by this section shall be located on the PDR-zoned lot and shall be extended as a vertical plane, parallel to the PDR-zoned lot line.

**Title 11-K DCMR, SPECIAL PURPOSE ZONES, is amended as follows:**

**Chapter 2, SOUTHEAST FEDERAL CENTER ZONES - SEFC-1 THROUGH SEFC-4, is amended as follows:**

**Subsection 203.1 of § 203, HEIGHT (SEFC-1), is amended to read as follows:**



203.1 The maximum permitted building height, not including the penthouse, in the SEFC-1 zone shall be one hundred and ten feet (110 ft.), except as set forth below:

- (a) A site that has frontage on any portion of New Jersey Avenue, S.E., that is south of and within three hundred twenty-two feet (322 ft.) of M Street, S.E., is permitted a maximum height of one hundred thirty feet (130 ft.); and
- (b) For a site within Parcels A, F, G, or H utilizing the bonus density permitted pursuant to Subtitle K § 202.1, the maximum permitted building height shall be that permitted by the Act to Regulate the Height Act.

**Chapter 5, CAPITOL GATEWAY ZONES - CG-1 THROUGH CG-7, is amended as follows:**

**Subsection 502.6 of § 502, DEVELOPMENT STANDARDS (CG-2), is amended to read as follows:**

502.6 The maximum permitted lot occupancy for residential use in the CG-2 zone shall be eighty percent (80%), or ninety percent (90%) with Inclusionary Zoning.

**Section 504, DEVELOPMENT STANDARDS (CG-4), is amended as follows:**

**Subsection 504.3(a) is amended to read as follows:**

504.3 The permitted FAR in the CG-4 zone is as follows:

- (a) The maximum permitted FAR in the CG-4 zone shall be 6.0 or 7.2 FAR with IZ, with a maximum non-residential FAR of 3.0;

...

**Subsection 504.6 is amended to read as follows:**

504.6 The maximum permitted lot occupancy for residential use in the CG-4 zone shall be seventy-five percent (75%), or eighty percent (80%) with Inclusionary Zoning.

**A new § 505.12 is added to § 505, DEVELOPMENT STANDARDS (CG-5), to read as follows:**

505.12 The maximum permitted lot occupancy for residential use in the CG-5 zone shall be seventy-five percent (75%).

**Title 11-U DCMR, USE PERMISSIONS, is amended as follows:**

**Chapter 2, USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES, is amended as follows:**

**Subsection 202.1(l) of § 202, MATTER-OF-RIGHT USES – R-USE GROUPS A, B, AND C, is amended to read as follows:**

202.1 The following uses shall be permitted as a matter of right in R-Use Groups A, B, and C subject to any applicable conditions:

- ...
- (1) Private garage, as a principal use, designed to house no more than two (2) motor vehicles and not exceeding four hundred fifty square feet (450 sq. ft.) in area and subject to the requirements of Subtitle D, Chapter 50;

...

**Subsection 251.1(b)(3) of § 251, HOME OCCUPATION USES (R), is amended to read as follows:**

251.1 The following uses shall be permitted as home occupations. The uses listed under this subsection shall include similar uses in each category subject to the same conditions and requirements of this chapter:

- ...
- (b) The following daytime care uses:

...

- (3) Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age less may be permitted as a special exception by the Board of Zoning Adjustment under Subtitle X and subject to the provisions of Subtitle U § 251.6; provided a minimum of thirty-five square feet (35 sq. ft.) of floor area per individual is provided including the basement but excluding any accessory structure;

...

**Chapter 5, USE PERMISSIONS MIXED-USE (MU) ZONES, is amended as follows:**

**A new § 506.8 is added to § 506, SPECIAL EXCEPTION USES (MU-USE GROUP B), to read as follows:**

506.8 Any use listed in Subtitle C § 509, USES NOT PERMITTED (MU-USE GROUPS B AND C), shall not be permitted by special exception.

**The introduction paragraph of § 507.1 of § 507, MATTER-OF-RIGHT USES (MU-USE GROUP C), is amended to read as follows:**

507.1 In addition to the uses permitted by Subtitle U § 501, and unless specifically prohibited by Subtitle U § 509, the following uses shall be permitted in MU-Use Group C as a matter of right subject to any applicable conditions:

...

**Section 509, USES NOT PERMITTED (MU-USE GROUP C), is amended as follows:**

**The title of § 509 is amended to read as follows:**

**509 USES NOT PERMITTED (MU-USE GROUPS B AND C)**

**The introductory paragraph of § 509.1 is amended to read as follows:**

509.1 The following uses shall not be permitted in MU-Use Groups B and C as a matter of right or as a special exception:

...

**Subsection 510.1(a) of § 510, MATTER-OF-RIGHT USES (MU-USE GROUP D), is amended to read as follows:**

510.1 The following uses shall be permitted in MU-Use Group D as a matter-of-right subject to any applicable conditions:

- (a) Any use permitted as a matter of right in any R, RF, or RA zone and any use permitted as a matter of right for MU-Use Group A;

...

**Subsection 512.1(a) of § 512, MATTER-OF-RIGHT USES (MU-USE GROUP E), is amended to read as follows:**

512.1 The following uses shall be permitted in MU-Use Group E as a matter of right subject to any applicable conditions:

- (a) Uses permitted as a matter of right in any R, RF, and RA zones, and all uses permitted as a matter of right for MU-Use Group D of this chapter, unless otherwise modified by Subtitle U §§ 513 and 514;

...

**Title 11-X, GENERAL PROCEDURES, is amended as follows:**

**Chapter 6, DESIGN REVIEW, is amended as follows:**

**Subsection 604.1 of § 604, DESIGN REVIEW STANDARDS, is amended to read as follows:**

604.1 The Zoning Commission will evaluate and approve or disapprove a design review application according to the standards of this section and, if applicable to the zone, standards set forth in Subtitle K.

**Title 11-Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended as follows:**

**Chapter 4, PRE-HEARING AND HEARING PROCEDURES: APPLICATIONS, is amended as follows:**

**Subsection 401.2 of § 401, EXPEDITED REVIEW, is amended to read as follows:**

- 401.2 An eligible application is an application for:
- (a) A modification to a theoretical subdivision resulting from an addition to a one (1) dwelling unit building pursuant to Subtitle C § 305.8;
  - (b) An addition to a dwelling or flat or new or enlarged accessory structures pursuant to Subtitle D § 5201 or Subtitle E § 5201; or
  - (c) A park, playground, swimming pool, or athletic field pursuant to Subtitle U § 203.1(d).

**Title 11-Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is amended as follows:**

**Chapter 7, APPROVALS AND ORDERS, is amended as follows:**

**Subsection 702.1 of § 702, VALIDITY OF APPROVALS AND IMPLEMENTATION, is amended to read as follows:**

702.1 A first-stage approval of a planned unit development (PUD) by the Commission shall be valid for a period of one (1) year, unless a longer period is established by the Commission at the time of approval.

**Subsection 703.17(c) of § 703, CONSENT CALENDAR – MINOR MODIFICATION, MODIFICATION OF CONSEQUENCE, AND TECHNICAL CORRECTIONS TO ORDERS AND PLANS, is amended to read as follows:**

703.17 The Commission may take one (1) of the following actions at a public meeting:

...

(c) For a modification of consequence:

(1) Determine that the request is actually for a modification of significance in which case an application for such a modification must be filed and a hearing held pursuant to Subtitle Z § 704; or

(2) Establish a timeframe for the parties in the original proceeding to file responses in opposition to or in support of the request and for the applicant to respond thereto; and schedule the request for deliberations.

**Subsection 705.8 of § 705, TIME EXTENSIONS, is amended as follows:**

705.8 In the event an appeal is filed in a court of competent jurisdiction from an order of the Commission, the time limitations of Subtitle Z §§ 702.2 and 702.3 shall run from the decision date of the court's final determination of the appeal. Unless stayed by the Commission or a court of competent jurisdiction, an applicant may proceed pursuant to the order of the Commission prior to any such final determination.

**Chapter 8, SUA SPONTE REVIEW, is amended as follows:**

**Subsection 800.2 of § 800, SUA SPONTE REVIEW BY ZONING COMMISSION, is amended to read as follows:**

800.2 Within ten (10) days after the decision and order of the Board of Zoning Adjustment has become final as provided in Subtitle Y § 604.7, the Commission may, *sua sponte*, determine to review any final decision and order of the Board of Zoning Adjustment and stay the effect of the decision and order pending completion of its review.

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on January 6, 2017.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM


Mayor's Order 2016-201  
December 27, 2016

**SUBJECT:** Appointment — 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) (2016 Repl.), and pursuant to Mayor's Order 2014-139, dated June 11, 2014, as amended by Section 4 of Mayor's Order 2014-236, dated October 10, 2014, it is hereby **ORDERED** that:

1. **MELISSA BRADLEY**, is appointed as a faculty member from a university within the District of Columbia which has an active high-technology business development program member of the District of Columbia Innovation and Technology Inclusion Council, replacing Corey Griffin, for a term to end September 22, 2018.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST: 

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LAUREN C. VAUGHAN  
SECRETARY OF THE DISTRICT OF COLUMBIA

**DISTRICT OF COLUMBIA COMMISSION ON  
SELECTION AND TENURE OF  
ADMINISTRATIVE LAW JUDGES OF  
THE OFFICE OF ADMINISTRATIVE HEARINGS**

**NOTICE SEEKING COMMENTS REGARDING REAPPOINTMENT OF  
ADMINISTRATIVE LAW JUDGE**

The Commission on Selection and Tenure of Administrative Law Judges (“Commission”) seeks comments regarding the potential reappointment of Administrative Law Judge Jesse P. Goode.

This is to notify members of the District of Columbia Bar and the general public, pursuant to section 3705.7 of Title 6 of the District of Columbia Municipal Regulations (“DCMR”), that the Commission has begun reviewing Administrative Law Judge Goode’s qualifications for reappointment to the District of Columbia Office of Administrative Hearings. Administrative Law Judge Goode has filed a statement with the Commission requesting reappointment to a six-year term upon the expiration of his six-year term on June 20, 2017.

Section 3705.21 of Title 6 of the DCMR provides:

In deciding whether to reappoint an Administrative Law Judge, the Commission shall consider all information it has received concerning the reappointment, and the voting members shall give significant weight to the recommendation of the Chief Administrative Law Judge, unless they determine that the recommendation is not founded on substantial evidence. The Commission shall reappoint the Administrative Law Judge if it finds that the Administrative Law Judge has satisfactorily performed the responsibilities of his or her office and is likely to continue to do so.

In addition to the specific qualifications contained in Section 3703 of Title 6 of the DCMR (*Appointment, Reappointment, Discipline and Removal of Administrative Law Judges by the Commission on Selection and Tenure of Administrative Law Judges*), applicable to all Administrative Law Judges, Section 3703.5 of Title 6 of the DCMR states: “An Administrative Law Judge shall possess judicial temperament, judgment, expertise and analytical and other skills necessary and desirable for an Administrative Law Judge.”

The Commission hereby requests that members of the Bar and other attorneys, litigants, interested organizations, and members of the public submit any information bearing on Administrative Law Judge Goode’s qualifications, which they believe will aid the Commission in deciding whether to reappoint this Administrative Law Judge. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting information shall be kept confidential unless expressly authorized by the person submitting the information.

All communications must be received by the Commission on or before January 30, 2017. All communications must be mailed or delivered in a sealed envelope marked “Confidential – ALJ Reappointments,” addressed to:

Commission on Selection and Tenure of Administrative Law Judges  
Office of Administrative Hearings  
District of Columbia Government  
441 4<sup>th</sup> Street, N.W.  
Suite 450N  
Washington, D.C. 20001

The members of the Commission are:

The Honorable Yvonne Williams  
Chief Administrative Law Judge Eugene A. Adams  
James W. Cooper, Esq.  
Nadine C. Wilburn, Esq.  
Joseph N. Onek, Esq.



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, JANUARY 11, 2017  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson  
Members: Nick Alberti, Mike Silverstein,  
James Short, Mafara Hobson, Jake Perry

- Protest Hearing (Status)** **9:30 AM**  
**Case # 16-PRO-00106;** Zewdie, Inc., t/a Dukem Ethiopian Restaurant & Market/Apple Lounge, 1114-1118 U Street NW, License #72469, Retailer CR ANC 1B  
**Substantial Change (Request for a Summer Garden endorsement with seating for 48)**
- Protest Hearing (Status)** **9:30 AM**  
**Case # 16-PRO-00102;** Shallamar Enterprises, LLC, t/a Capitol Hill Tandor and Grill, 419 8th Street SE, License #60689, Retailer CR, ANC 6B  
**Application to Renew the License**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 16-CMP-00492;** Equinox SC D.C. Inc., t/a Equinox Sports Club, 1170 22nd Street NW, License #96730, Retailer CR, ANC 2A  
**No ABC Manager on Duty**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 16-CMP-00471;** Ratnakrupa, LLC, t/a Peacock Liquors, 1625 New York Ave NE, License #96105, Retailer A, ANC 5D  
**Selling Serving, or Permitting the Consumption of Alcoholic Beverages after Hours**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 16-CC-00104;** Stop & Go, LLC, t/a Stop and Go Market, 3001 Sherman Ave NW, License #71763, Retailer B, ANC 1A  
**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age**

Board's Calendar

January 11, 2017

**Show Cause Hearing (Status) 9:30 AM**

**Case # 16-CC-00068;** P & C Market, LLC, t/a P & C Market, 1023 East Capitol Street SE, License #80716, Retailer B, ANC 6B

**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age, No ABC Manager on Duty**

**Show Cause Hearing (Status) 9:30 AM**

**Case # 16-CMP-00751;** Po Boy Jim, LLC, t/a Po Boy Jim, 709 H Street NE License #87903, Retailer CR, ANC 6C

**No ABC Manager on Duty**

**Motion Hearing\* 9:30 AM**

**Case # 16-PRO-00097;** Manhattan Laundry DC, LLC, t/a Franklin Hall, 1346 Florida Ave NW, License #103899, Retailer CT, AN C1B

**Oral Argument**

**Fact Finding Hearing\* 10:30 AM**

Jason D. Williams; **Manager Application**

**Fact Finding Hearing\* 11:00 AM**

2461 Corporation, t/a Mr. Henry's, 1836 Columbia Road NW, License #17006 Retailer CR, ANC 1C

**Request to Extend Safekeeping**

**Show Cause Hearing\* 11:00 AM**

**Case # 16-CMP-00614;** Lauriol Plaza, Inc., t/a Lauriol Plaza, 1835 18th Street NW, License #24814, Retailer CR, ANC 2B, **No ABC Manager on Duty**

*This hearing is cancelled due to the dismissal of the case by the Government. See Board Order No. 2016-719*

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA**

**1:00 PM**

**Protest Hearing\* 1:30 PM**

**Case # 16-PRO-00101;** E and K, Inc., t/a Champion Kitchen, 7730 Georgia Ave NW, License #103055, Retailer CR, ANC 4A

**Application for a New License**

*This hearing has been continued to January 25, 2017 at 1:30 pm., at the request of the Parties.*

**Show Cause Hearing\* 1:30 PM**

**Case # 16-CMP-00645;** Queen of Sheba, Inc., t/a Queen of Sheba, 1503 9th Street NW, License #73644, Retailer CR, ANC 6E

**No ABC Manager on Duty**

Board's Calendar  
January 11, 2017

**Show Cause Hearing\*** **2:30 PM**  
**Case # 16-CMP-00634;** Miso Hungry, Inc., t/a Sushi Go Round & Tapas, 705  
7th Street NW, License #71110, Retailer CR, ANC 2C  
**No ABC Manager on Duty**

**Fact Finding Hearing\*** **3:30 PM**  
Quality Inn; 1600 New York Ave NE, Retailer G, ANC 5C  
**Temporary License Venue**

**Fact Finding Hearing\*** **4:30 PM**  
Neutral Ground Kitchen; 300 Morse Street NE, Retailer G, ANC 5D  
**Temporary License Venue**

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
INVESTIGATIVE AGENDA

WEDNESDAY, JANUARY 11, 2017  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On Wednesday, January 11, 2017 at 4:00 pm., the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case# 16-AUD-00066, Ruth’s Chris Steak House, 2017 S Street N.W., Retailer CR, License # ABRA-060469

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2. Case# 16-AUD-00074, Vapiano, 623 H Street N.W., Retailer CR, License # ABRA-076727

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3. Case# 16-AUD-00085, Beau Thai, 3162 Mount Pleasant Street N.W., Retailer CR, License ABRA-090308

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4. Case# 16-AUD-00086, Zorba’s Café, 1612 20<sup>th</sup> Street N.W., Retailer DR, License # ABRA-007428

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5. Case# 16-251-00263, Green Island Café/Heaven and Hell, 2327 18<sup>th</sup> Street N.W., Retailer CT, License # ABRA-074503

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6. Case# 16-AUD-00087, Al Dente, 3201 New Mexico Avenue N.W., Retailer CR, License # ABRA-087728

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7. Case# 16-AUD-00089, Rosa Mexicano, 573 7<sup>th</sup> Street N.W., Retailer CR, License # ABRA-060757

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8. Case#16-AUD-00075, Two Amy’s, 3715 Macomb Street N.W., Retailer CR, License # ABRA0060352

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9. Case# 16-AUD-00078, Mi Cuba Café, 1424 Park Road N.W., Retailer CR, License # ABRA-096613

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10. Case# 16-251-00260, Stadium Club, 2127 Queens Chapel Road N.E., Retailer CN, License # ABRA-094244

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11. Case# 16-251-00261, 1831, 1831 M Street N.W., Retailer CT, License # ABRA-099805

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12. Case# 16-CC-00157, Argyle Market, 3220 17<sup>th</sup> Street N.W., Retailer B, License # ABRA-093257

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
LICENSING AGENDA

WEDNESDAY, JANUARY 11, 2017 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 2B. SMD 2B05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Doubletree Washington DC*, 1515 Rhode Island Avenue NW, Retailer CH, License No. 102437.

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2. Review Request to Extend Safekeeping of License – First Request. Original Safekeeping Date: 9/1/2008. No Location. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *TBD (Zenebe Shewayene)*, No Location, Retailer B, License No. 100620.

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3. Review Request to Extend Safekeeping of License – Second Request. Original Safekeeping Date: 9/19/2014. ANC 2F. SMD 2F05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Casa Blanca Restaurant*, 1014 Vermont Avenue NW, Retailer DR, License No. 020067.

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4. Review Request to Remove License from Safekeeping Status, as the Establishment is resuming operations. ANC 8C. SMD 8C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *MLK Deli*, 3113 Martin Luther King Jr. Avenue SE, Retailer B, License No. 013885.

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5. Review Request for Change of Hours. *Approved Hours of Operation and Alcoholic Beverage Sales and Consumption*: Monday-Friday 10:30am to 9pm (Closed Saturday and Sunday). *Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption*: Saturday-Sunday 11am to 6pm, Monday-Friday 10:30am to 9pm. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. *Roti Mediterranean Grill*, 1311 F Street NW, Retailer DR, License No. 102598.

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6. Review Request for Change of Hours to begin earlier Sunday hours of alcoholic beverage service. **Approved Hours of Operation:** Sunday-Thursday 6am to 2am, Friday-Saturday 6am to 3am. **Approved Hours of Alcoholic Beverage Sales and Consumption:** Sunday 10am to 2am, Monday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. **Approved Hours of Live Entertainment:** Sunday-Thursday 6pm to 2am, Friday-Saturday 6pm to 3am. **Proposed Hours of Alcoholic Beverage Sales and Consumption:** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ANC 5D. SMD 5D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Ari's Diner**, 2003 Fenwick Street NE, Retailer CT, License No. 101456.
- 
7. Review letter and supporting documents regarding merging of Fenwick MRG LLC and Hecht MRG LLC into the sole entity Hecht MRG LLC along with the consolidation of these entities at the address 2003 Fenwick Street NE. ANC 5D. SMD 5D01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Ari's Diner**, 2003 Fenwick Street NE, Retailer CT, License No. 101456.
- 
8. Review Request for Change of Hours. **Approved Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday-Saturday 10am to 12am. **Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption:** Sunday-Thursday 8am to 2am, Friday-Saturday 8am to 3am. ANC 5B. SMD 5B02. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **Gin Rummy**, 3522 12<sup>th</sup> Street NE, Retailer CT, License No. 087727.
- 
9. Review Application for Summer Garden with seating for 49 patrons. **Proposed Hours of Operation and Alcoholic Beverage Sales and Consumption for Summer Garden:** Sunday-Thursday 10:30am to 2am, Friday-Saturday 10:30am to 3am. ANC 6E. SMD 6E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Cloakroom**, 476 K Street NW, Retailer CN, License No. 087875.
- 
10. Review Request to Extend Safekeeping of License – Second Request. Original Safekeeping Date: 10/8/2014. ANC 6E. SMD 6E05. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Cloakroom**, 476 K Street NW, Retailer CN, License No. 087875.
-

11. Review Application for Tasting Permit. ANC 4B. SMD 4B03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. *Georgia Avenue Food Barn*, 6205 Georgia Avenue NW, Retailer Class A, License No. 104374.
- 

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



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
VACATED CEASE AND DESIST ORDERS AGENDA

WEDNESDAY, JANUARY 11, 2017  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

The ABC Board is vacating the following Order to Cease and Desist previously issued on 4/27/2016:

ABRA-092155 – **Equinox** – Retail – Caterer – 818 CONNECTICUT AVENUE NW  
[The Licensee renewed on May 16, 2016.]

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## DISTRICT OF COLUMBIA COMMISSION ON THE ARTS AND HUMANITIES

## NOTICE OF PUBLIC MEETING

## Board of Commissioners

The Board of Commissioners of the District of Columbia Commission on the Arts and Humanities (DCCAH) will be holding a meeting on Thursday, January 26, 2017 at 3:30 p.m. The meeting will be held in the DCCAH Large Conference Room at 200 I Street, SE, Suite 1400, Washington, DC. Below is the draft agenda for this meeting. A final agenda will be posted to the DCCAH website at <http://dcarts.dc.gov/page/commissioner-meetings>.

For further information, please contact the front desk at (202) 724-5613.

## DRAFT AGENDA

- |     |                                |                           |
|-----|--------------------------------|---------------------------|
| 1.  | Public Comment Period          |                           |
| 2.  | Call to Order                  | Chairperson               |
| 3.  | Adoption of the Agenda         | All Commissioners Present |
| 4.  | Adoption of Minutes            | All Commissioners Present |
| 5.  | Open Meeting Acts Training     | BEGA                      |
| 6.  | Ethics Training                | BEGA                      |
| 7.  | Chairperson's Report           | Chairperson               |
| 8.  | Executive Director's Report    | Executive Director        |
| 9.  | Committee Reports              | Respective Committees     |
| 10. | Office of the Poet Laureate    | Poet Laureate             |
| 11. | Unfinished Business            | All Commissioners Present |
| 12. | New Business and Announcements | All Commissioners Present |
| 13. | Adjournment                    | Chairperson               |

**CITY ARTS & PREP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

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:

- Research-Backed Survey Firms

Please send an email to [bids@cityartspcs.org](mailto: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, Monday, January 16, 2017.

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

Bid Administrator  
[bids@cityartspcs.org](mailto:bids@cityartspcs.org)

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

## NOTICE OF FUNDING AVAILABILITY (NOFA)

## FISCAL YEAR 2017

## DC Environmental Literacy Summer Institute Grant (ELSI)

**Announcement Date: Jan. 6, 2017****Request for Applications (RFA) Release Date: Jan. 23, 2017**

The Office of the State Superintendent of Education (OSSE), Division of Health and Wellness, is soliciting applications for the District of Columbia Environmental Literacy Summer Institute Grant pursuant to the Environmental Literacy Program Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Code § 38-825.02(d)(3)). The Act establishes an environmental literacy program within OSSE to provide training, support, and assistance for environmental literacy programs in District schools. The purpose of the grant is to coordinate the planning and facilitation of a teacher training summer institute for environmental literacy, which will allow summer cadre teachers to integrate the connections between environmental and sustainability concepts and Next Generation Science Standards and to develop exemplar teaching tools that can be utilized across environmental science courses at all District schools.

**Eligibility:** OSSE will make this grant available through a competitive process. Eligible applicants must be nonprofits or CBOs with 501(c)(3) status.

**Award Period:** The grant period begins March 1, 2017 and ends on September 30, 2017.

**Available Funding for Award:** The total funding available for this award period is \$60,000.

An external review panel or panels will be convened to review, score, and rank each application. The review panel(s) will be composed of neutral, qualified, professional individuals selected for their expertise, knowledge or related experiences. The application will be scored against a rubric and application will have multiple reviewers to ensure accurate scoring. Upon completion of its review, the panel(s) shall make recommendations for awards based on the scoring rubric(s). OSSE's Division of Health and Wellness will make all final award decisions.

For additional information regarding this grant competition, please contact:

Grace Manubay  
Environmental Literacy Coordinator  
Division of Health and Wellness  
Office of the State Superintendent of Education  
[Grace.Manubay@dc.gov](mailto:Grace.Manubay@dc.gov)

The RFA and all supporting documents will be available on <http://grants.osse.dc.gov> or by contacting Grace Manubay at [Grace.Manubay@dc.gov](mailto:Grace.Manubay@dc.gov).

## BOARD OF ELECTIONS

**CERTIFICATION OF ANC/SMD VACANCY**

The District of Columbia Board of Elections hereby gives notice that there are vacancies in seven (7) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

**VACANT: 2B04, 3G01, 3G05, 7B03, 7F07, 8D05 and 8D06**

Petition Circulation Period: **Monday, January 9, 2017 thru Monday, January 30, 2017**

Petition Challenge Period: **Thursday, February 2, 2017 thru Wednesday, February 8, 2017**

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

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

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

**DEPARTMENT OF ENERGY AND ENVIRONMENT****NOTICE OF FILING OF AN APPLICATION  
TO PERFORM VOLUNTARY CLEANUP****1333 M Street, SE**

Pursuant to § 636.01(a) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 et seq., as amended April 8, 2011, DC Law 18-369 (herein referred to as the “Act”)), the Voluntary Cleanup Program in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch, is informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The applicant for real property located at 1333 M Street SE, Washington, DC, 20003 is 1333 M Street S.E., LLC, 6290 Montrose Road, Rockville MD 20852. The application identifies the presence of organic compounds, coal ash/cinders and probable metals and polycyclic aromatic hydrocarbons (PAH) in soil and groundwater. The applicant’s preliminary intention is to redevelop the subject property into several mixed use multi-story buildings over a number of phases.

Pursuant to § 636.01(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-6B) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program  
Department of Energy and Environment (DOEE)  
1200 1<sup>st</sup> Street, N.E., 5<sup>th</sup> Floor  
Washington, DC 20002

Interested parties may also request a copy of the application by contacting the Voluntary Cleanup Program at the above address or by calling (202) 535-2289. An electronic copy of the application may be viewed at <http://doee.dc.gov/service/vcp-cleanup-sites>.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty one (21) days from the date of this publication. DOEE is required to consider all relevant public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Please refer to Case No. VCP2016-047 in any correspondence related to this application.

**DEPARTMENT OF ENERGY AND ENVIRONMENT****NOTICE OF FILING OF A REQUEST FOR A  
CERTIFICATE OF COMPLETION****2600 Connecticut Avenue, NW**

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000, D. C. Law 13-312, D.C. Official Code §§ 8-631 *et seq.*, as amended April 8, 2011, D.C. Law 18-369 (herein referred to as the “Act”), the Voluntary Cleanup Program in the District Department of the Environment (DDOE), Land Remediation and Development Branch (LRDB), is informing the public that it has received a Site Completion Report and a request for a Certificate of Completion to support a Voluntary Cleanup Program (VCP) application. The applicant for real property addressed as 2600 Connecticut Avenue, NW, Case No. VCP 2014-025, is Grosvenor Urban Retail, L.P. 1701 Pennsylvania Avenue, NW, Suite 1050, Washington, DC 20006.

The application identified sources of indoor air and sub-slab contamination associated with chlorinated organic solvents. A Cleanup Action Plan (CAP) for this site was approved by the Program on May 23, 2014. The applicant has installed an active vapor mitigation system, known as a sub-slab depressurization system, and has submitted an operation and maintenance plan for the system to ensure proper operation in the future while the property will remain as a commercial establishment. Based on the cleanup oversight and review of the site completion report, the Voluntary Cleanup Program has determined the issuance of a Certificate of Completion is warranted.

Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC 3C) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program  
Department of Energy and Environment (DOEE)  
1200 First Street, NE, Fifth Floor  
Washington, DC 20002

Interested parties may also request a copy of the Site Completion Report and related documents for a charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-2600.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty one (21) days from the date of this publication. DOEE is required to consider all public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Please refer to Case No. VCP 2014-025 in any correspondence related to this notice.

**DEPARTMENT OF HEALTH****PUBLIC NOTICE**

The District of Columbia Board of Massage Therapy (“Board”) hereby gives notice of its regular meetings for the calendar year 2017, 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.)).

In 2017, the Board will continue to meet on a bi-monthly basis on the third Thursday of each bi-monthly period on the following dates:

Thursday, January 19, 2017  
Thursday, March 16, 2017  
Thursday, May 18, 2017  
Thursday, July 20, 2017  
Thursday, September 21, 2017  
Thursday, November 16, 2017

The meeting will be held from 1:30 PM to 4:30PM and will be open to the public from 1:30 PM to 2:00PM to discuss various agenda items and any comments and/or concerns from the public. In accordance with § 575(b) of the Open Meetings Act of 2010 (D.C. Official Code § 2-575(b)(2012 Repl.)), the meeting will be closed from 2:00PM until 4:30PM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health Events link at <http://doh.dc.gov/events> for additional information.



**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
HOME PURCHASE ASSISTANCE PROGRAM (HPAP)  
Effective for HPAP Loans Closed after January 31, 2017**

**Below is the HPAP Homebuyer Assistance Table. Please note that closing cost assistance for all eligible households will be up to \$4,000.**

**The per client gap financing assistance will cap at \$80,000. The closing cost assistance is distinct from, and in addition to, gap financing assistance which is shown below.**

| Maximum Assistance                                 | Household Size |          |           |           |           |           |           |           |
|--|----------------|----------|-----------|-----------|-----------|-----------|-----------|-----------|
|  | 1              | 2        | 3         | 4         | 5         | 6         | 7         | 8         |
| <b>Per household income less than or equal to:</b> |                |          |           |           |           |           |           |           |
| <b>Very low income households</b>                  |                |          |           |           |           |           |           |           |
| <b>\$80,000</b>                                    | \$38,000       | \$43,450 | \$48,900  | \$54,300  | \$58,650  | \$63,000  | \$67,350  | \$71,700  |
| <b>Low income households</b>                       |                |          |           |           |           |           |           |           |
| <b>\$64,000</b>                                    | \$49,150       | \$56,150 | \$63,150  | \$70,150  | \$74,550  | \$78,900  | \$83,300  | \$87,700  |
| <b>\$56,000</b>                                    | \$52,200       | \$59,700 | \$67,150  | \$74,600  | \$79,250  | \$83,900  | \$88,600  | \$93,250  |
| <b>\$40,000</b>                                    | \$60,800       | \$69,500 | \$78,200  | \$86,900  | \$92,300  | \$97,750  | \$103,150 | \$108,600 |
| <b>Moderate income households</b>                  |                |          |           |           |           |           |           |           |
| <b>\$32,000</b>                                    | \$74,500       | \$85,150 | \$95,800  | \$106,400 | \$113,100 | \$113,100 | \$113,100 | \$113,100 |
| <b>\$16,000</b>                                    | \$83,600       | \$95,550 | \$107,500 | \$119,450 | \$126,900 | \$126,900 | \$126,900 | \$126,900 |

The amount of financial assistance provided to a very low-, low- or moderate-income household shall be the combined total of Gap Financing Assistance and Closing Costs Assistance.

The income limits established shall be periodically reviewed and revised as needed by the Department of Housing and Community Development to stay current with the incomes of households in the Washington, DC area. The review and revisions will be done periodically, provided that the current median income established by the Secretary of the U.S. Department of Housing and Urban Development for the Washington, DC Metropolitan Statistical Area is available.

**D.C. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT****NOTICE OF LEVEL OF ASSISTANCE FOR THE  
HOME PURCHASE ASSISTANCE PROGRAM**

The D.C. Department of Housing and Community Development, pursuant to the authority in Chapter 25, Title 14, DCMR, Section 2503 and Section 2510 of the rules for the Home Purchase Assistance Program (HPAP), hereby gives notice that it has established the income limits and homebuyer assistance for participation of very low income, low income and moderate income households in the HPAP.

The income limits have been determined based on the area median income of \$108,600 established by the Secretary of the U.S. Department of Housing and Urban Development for 2016, for the Washington, DC Metropolitan Statistical Area. The amounts have been calculated based on Section 2510 of the HPAP Program rules. The first time Homebuyer Assistance Table reflects the amount of assistance for home purchases through gap financing for first time homebuyers in an amount up to \$80,000 plus \$4,000 for closing cost assistance. The assistance provided is based on household income and size.

The Assistance Table shall be effective for HPAP loans closed after January 31, 2017. All new applications and applicants that currently hold an active Notice of Eligibility, also known as NOE, are eligible for the new assistance for loans that close after the effective date. To share concerns and questions, contact a Community Based Organization. Contact information can be found on [www.dhcd.dc.gov](http://www.dhcd.dc.gov)

Government of the District of Columbia  
Public Employee Relations Board

|                                     |   |                        |
|-------------------------------------|---|------------------------|
| _____                               | ) |                        |
| In the Matter of:                   | ) |                        |
|                                     | ) |                        |
| Candi Peterson,                     | ) |                        |
|                                     | ) | PERB Case Nos. 12-S-01 |
| Complainant,                        | ) |                        |
|                                     | ) | Opinion No. 1596       |
| v.                                  | ) |                        |
|                                     | ) |                        |
| Washington Teachers’ Union, Local 6 | ) |                        |
|                                     | ) |                        |
| Respondent.                         | ) |                        |
| _____                               | ) |                        |

**DECISION AND ORDER**

This matter is before the Public Employee Relations Board (“PERB”) following the reversal and remand of an earlier PERB decision by the Superior Court of the District of Columbia.

**I. Statement of the Case**

On December 2, 2011, Candi Peterson, (“Peterson”) filed a standards of conduct complaint (“Complaint”) with the Public Employee Relations Board (“PERB”). The Complaint alleges that Peterson is an employee of the D.C. Public Schools and a member of the Washington Teachers’ Union, Local 6 (“Union”). The Complaint alleges that she was elected general vice president of the Union and took office December 1, 2010. On July 26, 2011, Nathan Saunders, the president of the Union, gave Peterson a letter stating that she had been removed from the Union’s payroll for failure to perform her duties.<sup>1</sup>

Without informing Peterson, Saunders scheduled a special meeting of the Union’s Executive Board on August 4, 2011.<sup>2</sup> At the August 4, 2011 meeting, the Executive Board adopted a resolution which stated:

GVP Peterson’s status is restricted in the performance of her duties and obligations as the WTU GVP for a period of six months from the date of the adoption of this resolution, as stated below, at which

<sup>1</sup> Complaint ¶ 9.  
<sup>2</sup> Complaint ¶¶ 10, 11.

Decision and Order  
PERB Case Nos. 12-S-01  
Page 2

time a review by the Executive Board will take this matter under review.

- A. GVP Peterson shall retain her title as General Vice President;
- B. GVP Peterson shall have no supervisory authority over field representatives or other employees;
- C. GVP Peterson shall immediately resume her normal work schedule and;
- D. WTU shall not continue to pay the additional compensation for the duties of General Vice President. . . .<sup>3</sup>

Peterson alleges that the Union terminated her compensation and responsibilities as general vice president of the Union in violation of the Union's constitution, its by-laws, and D.C. Official Code § 1-617.03(a)(1). The Union filed an answer and moved to dismiss the Complaint on the ground that it was not filed within 120 days from the date the alleged violation(s) occurred as required by Rule 544.4.

PERB found that the alleged standards of conduct violation occurred July 26, 2011, when Saunders hand delivered to Peterson a letter removing her from the Union payroll. Because the Complaint was filed more than 120 days after July 26, 2011, PERB granted the Union's motion to dismiss the Complaint on the ground that it was not filed within the time allowed by PERB Rule 544.4.<sup>4</sup>

Peterson moved for reconsideration, arguing that Saunders had no authority to discipline her on July 26, 2011. Peterson asserted that her cause of action did not arise until the Executive Board adopted its resolution on August 4, 2011. PERB denied Peterson's motion for reconsideration, stating that it was based on a "mere disagreement" with PERB's decision.<sup>5</sup>

On review, the Superior Court found that PERB's decision erroneously disregarded disputes in the record as to the timeliness issue, in particular, whether Saunders had authority to discipline Peterson as he purported to do in the July 26 letter and whether he or the Union actually implemented the discipline announced in the letter. The court remanded the case to PERB for an evidentiary hearing pursuant to the terms of its order.<sup>6</sup>

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<sup>3</sup> Complaint ¶ 15.

<sup>4</sup> *Peterson v. Washington Teachers' Union*, 59 D.C. Reg. 7234, Slip Op. No. 1242 at 3, PERB Case No. 12-S-01 (2012).

<sup>5</sup> *Peterson v. Washington Teachers' Union*, Slip Op. No. 1254, PERB Case No. 12-S-01 (Mar. 28, 2012).

<sup>6</sup> *Peterson v. D.C. Pub. Emp. Relations Bd.*, No. 2012 CA 003140, slip op. at 17 (D.C. Super. Ct. May 26, 2015).

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In accordance with the court's order, PERB vacated its prior decisions and referred this matter to a Hearing Examiner to develop a factual record and make appropriate recommendations.<sup>7</sup>

The Hearing Examiner conducted an evidentiary hearing December 3, 2015. In a Report and Recommendations ("Report") submitted to PERB, the Hearing Examiner set forth the issues, made findings of fact, analyzed the issues, and reached conclusions of law. The Report is attached hereto and incorporated herein. The facts of the case are well stated in the Report and will not be repeated in detail here. To the extent the facts are relevant to our ruling, they are discussed below.

The Hearing Examiner found that the Complaint was timely.<sup>8</sup> He found that the Union's membership elected Peterson as the Union's general vice president and that she took office December 1, 2010.<sup>9</sup> The Union's officers are elected every three years.<sup>10</sup> The Hearing Examiner found that Peterson showed by a preponderance of the evidence that the Union violated its constitution and by-laws by suspending her pay and refusing to permit her to perform her duties as general vice president of the Union. He concluded that by this conduct the Union violated D.C. Official Code § 1-617.03(a)(1).<sup>11</sup>

The Hearing Examiner recommended that PERB order the Union to (1) cease and desist from violating the Comprehensive Merit Personnel Act ("CMPA"); (2) cease and desist from failing to adopt, subscribe, or comply with the standards of conduct prescribed by the CMPA; (3) rescind both the action of the Union's president on July 26, 2011, removing Peterson from her official duties and the Union's payroll and the disciplinary resolution of its Executive Board adopted August 4, 2011, against Peterson, and reinstate her as the Union's general vice president; (4) make Peterson whole for any loss of pay and benefits she might have suffered as a result of the Executive Board's action on August 4 and the Union's termination of her leave of absence from her employment with the D.C. Public Schools; and (5) in accordance with the federal Back Pay Act<sup>12</sup> reimburse Peterson for her attorneys' fees.<sup>13</sup>

On February 26, 2016, the Union timely filed Exceptions to the Hearing Examiner's Report. Peterson timely filed her Opposition to those exceptions. The Complaint, the Report, and the Union's Exceptions are before PERB for disposition.

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<sup>7</sup> *Peterson v. Washington Teachers' Union*, 62 D.C. Reg. 14675, Slip Op. No. 1542, PERB Case No. 12-S-01 (2015).

<sup>8</sup> Report 12.

<sup>9</sup> Report 3.

<sup>10</sup> Constitution and By-Laws of the Washington Teachers' Union Local 6, Respondent's Ex. A at 4, 12.

<sup>11</sup> Report 13.

<sup>12</sup> 5 U.S.C. § 5596(b)(1)(A)(ii).

<sup>13</sup> Report 13.

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## II. Discussion

In its Exceptions, the Union objects to the Hearing Examiner's findings that the Complaint was timely and was not barred by *res judicata* as well as to "a number of other unsupported conclusions" allegedly rebutted in the Union's post-hearing brief. As the Union does not apprise us of what those other conclusions might be, the only issues properly raised in the Exceptions are the Hearing Examiner's findings on timeliness and *res judicata*. PERB has reviewed the entire record in this matter including the issues raised by the Union in its Exceptions and, to the extent consistent herewith, concurs with the Hearing Examiner's Report.

### A. Timeliness

The Complaint alleges that the Union violated the standards of conduct prescribed by the CMPA by doing the following:

- A. Conducting an Executive Board meeting without appropriate notice to all members of the Executive Board;
- B. Failing to give General Vice President Peterson adequate notice that a discipline resolution would be on the agenda and depriving her of any opportunity to respond to the allegations against her. . . ;
- C. Denying General Vice President Peterson due process by permitting President Saunders to charge her with misconduct and to vote on the Resolution finding her guilty of such misconduct and imposing a penalty for the same;
- D. Disciplining her for violating the WTU Constitution and By-Laws without following the provisions of Article III governing the official filing of charges against members;
- E. Refusing to permit her to perform the duties specified in the By-Laws for her position without the filing of formal charges against her and without an opportunity to respond; and
- F. Reducing her gross salary in the mid-term of her office to punish her for alleged misconduct;
- G. Disenfranchising the voting members of the WTU who elected Ms. Peterson to her position.<sup>14</sup>

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<sup>14</sup> Complaint ¶ 22.

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The Hearing Examiner found “that Ms. Peterson’s cause of action arose on August 4, when the WTU’s Executive Board promulgated its resolution disciplining General Vice President Candi Peterson, which President Saunders effectuated on September 19 by returning her to DCPS.”<sup>15</sup> As the Complaint was filed December 2, 2011, the Hearing Examiner found that the Complaint “was timely filed, well before the expiration of the 120 day period of limitation imposed by PERB Rule 544.4.”<sup>16</sup>

In excepting to this finding, the Union points to the immediate consequences of the July 26 letter cutting Peterson’s salary.<sup>17</sup> The immediate consequences make the case untimely because, the Union asserts, “the D.C. Superior Court ruled in this case that ‘if Saunders . . . implemented the purported discipline’ on July 26, 2011, then Peterson’s claim would be untimely.”<sup>18</sup>

The Superior Court said something very different, however. The court said that if Saunders implemented the discipline that the July 26 letter purported to impose, then that letter, even if it was *ultra vires*, “could nevertheless constitute an adverse claim that triggers the limitations period.”<sup>19</sup> The court said that if Saunders either had the authority to discipline Peterson or actually implemented the discipline despite a lack of authority, then a cause of action could have accrued July 26. But if he neither had authority nor implemented the discipline, then no cause of action could accrue until August 4.<sup>20</sup> The court indicated that a separate adverse action took place on August 4. The Union’s Executive Board found additional offenses by Peterson that occurred after July 26. It imposed on Peterson different disciplinary measures and additional requirements.<sup>21</sup> Further, the court stated that “Ms. Peterson’s Complaint plainly asserts that the adverse action at issue is the August 4 Resolution, as implemented by the Executive Board separate and apart from Mr. Saunders’ empty threat of disciplinary action in the July 26 Letter.”<sup>22</sup>

The Hearing Examiner’s findings are consistent with the Court’s observations. He found that neither the president nor the Executive Board had authority to discipline Peterson, and he found that the sanctions imposed by the Executive Board’s August 4 resolution were different in character and in stringency than those stated in Saunders’s July 26 letter.<sup>23</sup> While Saunders had told Peterson “you will not be paid until you meet with me and this situation is rectified,”<sup>24</sup> the punishment imposed on August 4 was unconditional. “[T]he Executive Board’s edict,” the Hearing Examiner wrote, “did not provide Ms. Peterson any leeway to escape the discipline

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<sup>15</sup> Report 12.

<sup>16</sup> Report 12.

<sup>17</sup> Respondent’s Exceptions 2.

<sup>18</sup> Respondent’s Exceptions 2.

<sup>19</sup> *Peterson v. D.C. Pub. Emp. Relations Bd.*, No. 2012 CA 003140, slip op. at 14 (D.C. Super. Ct. May 26, 2015).

<sup>20</sup> *Id.* at 14-15

<sup>21</sup> *Id.* at 15-16.

<sup>22</sup> *Id.* at 16.

<sup>23</sup> Report 10-11.

<sup>24</sup> Report 4.

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imposed.”<sup>25</sup> In addition, he found that the discipline imposed on August 4 was substantially harsher than the discipline imposed July 26. The Hearing Examiner found that Saunders implemented the discipline September 19, 2011, the date on which he ended Peterson’s leave of absence from the D.C. Public Schools.<sup>26</sup> Based on the foregoing, the Hearing Examiner found that Peterson’s cause of action arose August 4 and her Complaint was timely filed less than 120 days later.<sup>27</sup>

As the Superior Court observed, the Complaint alleges that a standards of conduct violation occurred August 4.<sup>28</sup> Thus, the Complaint was filed within 120 days “from the date the alleged violation(s) occurred” as provided in Rule 544.4. Peterson’s timely filing concerning the August 4 violation does not become untimely because she might also have had a cause of action for events that occurred July 26, 2011, if had she filed a complaint within 120 days of that date. A complaint untimely as to one action taken against a complainant may be timely as to another taken at a later stage of proceedings against the complainant.<sup>29</sup> The Hearing Examiner’s finding that the Complaint was timely as it was filed within 120 days of August 4, 2011, is reasonable, supported by the record, and consistent with PERB’s precedent.

One of the Hearing Examiner’s recommendations, however, is not consistent with these findings. Although the Hearing Examiner found that the cause of action arose August 4, he recommended that PERB order the Union to rescind not only the August 4 resolution but also the Union president’s July 26 action removing Peterson as general vice president from her official duties and from the payroll.<sup>30</sup> As there is no finding that a cause of action arose July 26 and was timely presented to PERB, we do not adopt the latter recommendation.

## **B. Claim Preclusion**

### **1. Hearing Examiner’s Report and Recommendations**

The Hearing Examiner took notice of an arbitration between the parties to this case on a related contractual issue. The compensation agreement for Peterson adopted by the Executive Board (“Agreement”) provides, “Any disputes concerning compensation shall be arbitrable using the American Arbitration Association.”<sup>31</sup> Peterson filed a demand for arbitration with the American Arbitration Association the same day she filed the instant complaint. Peterson alleged that the Union violated the Agreement, and the Arbitrator agreed. The Arbitrator awarded

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<sup>25</sup> Report 11.

<sup>26</sup> Report 11-12.

<sup>27</sup> Report 12.

<sup>28</sup> Paragraph 22 of the Complaint, particularly subparagraphs (A), (B), and (C), (*supra* p. 4) directly addresses the Executive Board meeting held August 4.

<sup>29</sup> See *AFGE Local 1403 v. D.C. Hous. Auth.*, 60 D.C. Reg. 12085, Slip Op. No. 1404, PERB Case No. 13-U-16 (2013).

<sup>30</sup> Report 13 ¶ 3.

<sup>31</sup> Respondent’s Ex. B ¶ 8.



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Peterson \$71,065.82, the total amount he determined that she lost from July 26, 2011, to the date of the trial of the arbitration, which took place August 24 and 30, 2012.<sup>32</sup>

The Hearing Examiner stated, “It is well settled that an arbitration award is conclusive not only as to the substance of the grievance but also as to underlying material issues resolved along with the grievance. Elkouri & Elkouri, *How Arbitration Works*, Sixth Edition, 2003, at pp. 577-78.”<sup>33</sup> The Union objects that the Hearing Examiner treats the award as conclusive of the material issues but not of the substance of the grievance. The Hearing Examiner concurred with the Arbitrator’s finding that neither Saunders nor the Executive Board had authority for the actions they took against Peterson.<sup>34</sup> But he did not find that Peterson’s claim in this matter was *res judicata* as a result of the Award:

Ms. Peterson in the instant proceeding is seeking relief under a remedial statute governing the Union’s treatment of individual members such as the Complainant. General Vice President Peterson[’s] Complain[t] seeks a remedy that extends beyond her pecuniary loss covered in the arbitration award. Accordingly, I find that the instant case is not barred by the doctrine of *res judicata*.<sup>35</sup>

In the Union’s view, this conclusion of the Hearing Examiner contradicts his finding that the Award establishes critical facts. “Either the arbitration award has a preclusive effect, or it does not,” the Union argues.<sup>36</sup> The Union contends that the Award precludes Peterson’s claim for the relief she seeks in the present case—lost compensation from 2012 to 2013—because she could have sought that relief in the arbitration, as the Superior Court held in a third case that Peterson brought against the Union.<sup>37</sup>

The doctrine of *res judicata* or claim preclusion prevents relitigation of the same claim between the same parties. It bars not only claims that were raised in the first action but also claims arising out of the same transaction that could have been raised in the first action.<sup>38</sup>

The Hearing Examiner seems to be saying that the claims in the arbitration and in the instant case are not the same because the instant case is brought under the CMPA, which affords Peterson remedies “beyond her pecuniary loss covered in the arbitration award.” His recommendations include remedies beyond her pecuniary loss, i.e., cease and desist orders,

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<sup>32</sup> Joint Ex. F at 4, 16, 28.

<sup>33</sup> Report 9.

<sup>34</sup> Report 9.

<sup>35</sup> Report 12.

<sup>36</sup> Respondent’s Exceptions 4.

<sup>37</sup> *Peterson v. Washington Teachers’ Union*, Civ. Action No. 2015 CA 09629, slip op. at 6 (D.C. Super. Ct. Feb. 4, 2016) (granting motion to dismiss), *appeal docketed*, No. 16-CV-143 (D.C. Feb. 13, 2016).

<sup>38</sup> *Calomiris v. Calomiris*, 3 A.3d 1186, 1190 (D.C. 2010).

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rescission of adverse actions, and reinstatement. However, he also recommends a remedy for Peterson's pecuniary loss already covered in the award:

WTU shall make Candi Peterson whole for any loss of pay and benefits she may have suffered as a result of WTU's Executive Board's action on August 4, and WTU's termination of her leave of absence from her employment at the District of Columbia Public Schools effective September 19, 2011.<sup>39</sup>

As the Union correctly points out, "the fact that Peterson is now suing under a statute rather than a contract, may allow her to seek various forms of statutory relief not available under her already-litigated contract claim—but does not help her recover compensation that arises solely under a contract, and which she could have sought in prior litigation."<sup>40</sup> The duplication under the CMPA of a remedy already awarded under the Agreement is at odds with the principle "that damages for the same injury may be recovered only once, even though recoverable under two theories or for two wrongs, for a plaintiff is not entitled to be made more than whole unless punitive damages are warranted."<sup>41</sup>

## 2. Prospective Wages

Peterson's position seems to be that she has not been made whole because the Arbitrator awarded her compensation for her lost pay only up to the date of the arbitration hearing and did not award her prospective wages, specifically, the wages that she would have earned after the date of the hearing. Peterson contends that she should be made whole by being paid damages of \$51,000 per annum from the start of the arbitration proceeding (August 24, 2012) to the end of her term (July 31, 2013).<sup>42</sup>

Peterson claims that the Agreement did not authorize the Arbitrator to award prospective wages. Because arbitrators only have the authority that the parties agree to give them, *res judicata* does not apply to arbitrations generally and does not apply to this arbitration in particular. Peterson contends that jurisprudence on the preclusive effect of the judgments of courts is inapposite to arbitrations.

The D.C. Court of Appeals, however, has recognized that a final arbitration award is *res judicata* in a subsequent action involving the same parties and facts, adding that an arbitration award is final if it shows an intention to resolve the issues submitted and has been confirmed by the Superior Court.<sup>43</sup> Both elements of finality are present here. The Arbitrator stated that his

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<sup>39</sup> Report 13.

<sup>40</sup> Respondent's Exceptions 3.

<sup>41</sup> *Franklin Inv. Co. v. Smith*, 383 A.2d 355, 358 (D.C. 1978).

<sup>42</sup> Opp'n to Exceptions 16.

<sup>43</sup> *Shore v. Groom Law Group*, 877 A.2d 86, 95-96 (D.C. 2005).

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award resolved all claims and counterclaims of Peterson and the Union except attorneys' fees and costs,<sup>44</sup> which he awarded separately.<sup>45</sup> The Superior Court confirmed the Award.<sup>46</sup>

The principles defining *res judicata* address Peterson's objection that the jurisdiction of an arbitrator is limited to what the parties agree to submit to him, making *res judicata* inapplicable. Limited jurisdiction is not unique to arbitrators. The Second Restatement of Judgments says that claim preclusion does not extinguish a claim in a second action for a remedy that was not available in the first action because of limitations on the subject matter jurisdiction of the court.<sup>47</sup> This is a specific application of the general principle that claim preclusion bars relitigation not only of claims that were previously raised but also of claims arising out of the same transaction that *could have been raised*.<sup>48</sup>

Peterson quotes from paragraph 12 of the Agreement in support of her contention that the parties did not agree to arbitrate any issue involving prospective wages.<sup>49</sup> Paragraph 12 states, "Non-payment of compensation will accrue as a WTU liability and is not waived. Non-payment of compensation shall create a priority wage lien due in full at the end of Peterson'[s] term."<sup>50</sup> In addition, Peterson argues that she could not have raised a claim for prospective wages because such a claim was not ripe.<sup>51</sup> Neither of those two arguments leads to the conclusion that a claim for prospective wages could not have been presented to the Arbitrator.

First, the parties agreed in paragraph 8 of the Agreement that "[a]ny disputes concerning compensation shall be arbitrable using the American Arbitration Association."<sup>52</sup> Agreeing with Peterson, who had argued in her pre-hearing memorandum that "any disputes concerning compensation" should be broadly construed,<sup>53</sup> the Arbitrator emphatically stated, "The arbitration broadly covers 'any disputes concerning compensation.'" The operative word is 'any.'<sup>54</sup> He did not say that paragraph 12 makes an exception to the Agreement's broad coverage of any disputes concerning compensation. Nothing in the text of paragraph 12 suggests that it does. It may also be noted that the claim Peterson submitted to the Arbitrator was no narrower than the claim she submitted to PERB. In her Statement of Claim she requested that the Arbitrator "[d]irect the WTU to pay General Vice President Peterson the salary and benefits unlawfully withheld from her under the Compensation Resolution, with interest."<sup>55</sup> The wording

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<sup>44</sup> Joint Ex. F at 29.

<sup>45</sup> Joint Ex. G.

<sup>46</sup> Joint Ex. E.

<sup>47</sup> Restatement (Second) of Judgments § 26(1)(c) (2016).

<sup>48</sup> *Henley v. D.C. Dep't of Emp't Servs.*, 49 A.3d 1195, 1207 (D.C. 2012).

<sup>49</sup> Opp'n to Respondent's Exceptions 12.

<sup>50</sup> Respondent's Ex. B at 2.

<sup>51</sup> Opp'n to Respondent's Exceptions 15.

<sup>52</sup> Respondent's Ex. B at 1.

<sup>53</sup> Respondent's Ex. G at 5.

<sup>54</sup> Joint Ex. F at 20.

<sup>55</sup> Respondent's Ex. F at 6.

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of her request to PERB is identical except for the omission of the words “under the Compensation Resolution.”<sup>56</sup>

Second, a claim for prospective wages would have been ripe at the arbitration. The measure of an employee’s damages in an action against his employer for breach of an employment agreement includes the compensation that would have been paid to the employee during the remainder of the term of employment discounted to present value and reduced by any income the employee received in a substitute job.<sup>57</sup>

The Arbitrator did not say that a claim for prospective wages was unripe or beyond his authority. He said that his award “resolves all claims and counterclaims submitted by Peterson and the WTU to arbitration except Peterson’s pending claim for attorneys’ fees and costs.”<sup>58</sup>

The adjudication of a claim for identical relief arising out of the same transaction precludes Peterson from recovering on that claim again in this forum.

### **C. Restoration of Powers and Duties Established for the General Vice President**

The Hearing Examiner recommended that Peterson be reinstated as the Union’s general vice president.<sup>59</sup> Peterson did not request that PERB order her reinstatement, and such a request would be moot at this time anyway because, as Peterson acknowledges, her term ended in 2013.<sup>60</sup> Peterson requested that PERB direct the Union “to restore the full range of duties and powers established for the General Vice President in the WTU Constitution and By-Laws.”<sup>61</sup> An order that the Union adhere to the provisions of the Union’s constitution and by-laws concerning the full range of duties and powers established therein for the office of general vice president is an appropriate remedy for the Union’s violation.

### **D. The Back Pay Act**

The Hearing Examiner also recommended that PERB order the Union to reimburse Peterson for her attorneys’ fees in accordance with the Federal Back Pay Act (“the Act”). The Act provides in pertinent part:

An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective

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<sup>56</sup> Complaint at p. 6.

<sup>57</sup> *Washington Welfare Ass’n v. Wheeler*, 496 A.2d 613, 617 (D.C. 1985); *D.C. v. Jones*, 442 A.2d 512, 524 (D.C. 1982).

<sup>58</sup> Joint Ex. F at 29.

<sup>59</sup> Report 13.

<sup>60</sup> Opp’n to Respondent’s Exceptions 16

<sup>61</sup> Complaint at p. 6.

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bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee--

(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect . . .

(ii) reasonable attorney fees related to the personnel action. . . .<sup>62</sup>

Peterson is not entitled to attorneys' fees pursuant to the Act. The Act defines "agency" to include the government of the District of Columbia.<sup>63</sup> It does not define "agency" to include a labor union. Peterson was not an employee of an agency for purposes of the Act and for purposes of this action because as general vice president of the Union she was not engaged in the performance of a function of the District government or subject to the supervision of an appointing authority of the District government.<sup>64</sup>

### III. Conclusion

For the reasons set forth above, we do not accept the Hearing Examiner's recommendations that PERB order the Union to rescind the actions of July 26, 2011, to make Peterson whole for any loss of pay and benefits, to reinstate her as general vice president, or to reimburse her for her attorneys' fees in this case. Pursuant to D.C. Official Code § 1-605.2(9) and Board Rule 544.14, PERB has reviewed the findings, conclusions, and recommendations of the Hearing Examiner and finds them, in all other respects, to be reasonable, persuasive and supported by the record. We therefore adopt the Hearing Examiner's recommendations to the extent consistent with this Decision and Order.

### ORDER

#### IT IS HEREBY ORDERED THAT:

1. Complainant's Standards of Conduct Complaint is granted.
2. The Union and its officers and agents shall cease and desist from violating D.C. Code § 1-617.03(a)(1) by denying fair and equal treatment under the governing rules of the Union and fair process in disciplinary proceedings to the Complainant and to other members of the Union by bringing disciplinary charges against them, removing them from membership in the Union, or from elective office in the Union, or by terminating their pay and benefits as elective officers of the Union without complying with the Union's constitution and by-laws, or by otherwise

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<sup>62</sup> 5 U.S.C. § 5596(b)(1)

<sup>63</sup> 5 U.S.C. § 5596(a)(5).

<sup>64</sup> *Cf. Lambert v. United States*, 4 Cl. Ct. 303, 305 (1984).

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violating the CMPA's standards of conduct for labor organizations as codified in D.C. Official Code 1-617.03(a)(1).

3. The Union and its officers and agents shall cease and desist from failing to adopt, subscribe, or comply with the standards of conduct for labor organizations prescribed under the CMPA in any like or related manner.
4. The Union shall immediately rescind the disciplinary resolution of its Executive Board adopted on August 4, 2011, against Peterson.
6. The Union shall adhere to the provisions of the Union's current constitution and by-laws concerning the full range of duties and powers established therein for the general vice president.
7. The Union shall conspicuously post a notice that the Board will furnish to the Union. The notice shall be posted where the Union's notices to its members are normally posted. The notice shall be posted within ten (10) days from Respondent's receipt of the notice and shall remain posted for thirty (30) consecutive days.
8. The Union shall notify PERB, in writing, within fourteen (14) days from the issuance of this Decision and Order that this Order has been complied with and that the notice has been posted as ordered.
9. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

Washington, D.C.

October 20, 2016

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order with attachment in PERB Case No. 12-S-01 was transmitted via File & ServeXpress to the following parties on this the 10th day of November 2016.

Charles E. Wagner  
Wagner & Associates  
P.O. Box 1472  
Silver Spring, Maryland 20911

**VIA FILE & SERVEXPRESS**

Lee W. Jackson  
Daniel M. Rosenthal  
James & Hoffman, P.C.  
1130 Connecticut Avenue, NW, Suite 950  
Washington, DC 20036

**VIA FILE & SERVEXPRESS**

/s/ Najibah Almahdi  
Program Analyst

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD**

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**In the Matter of:** )  
 )  
 )  
**CANDI PETERSON,** )  
 )  
 **Complainant,** )  
 **v.** )  
 )  
**WASHINGTON TEACHERS UNION,** )  
 )  
 **Respondent.** )  
 )  
 )

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**PERB Case No. 12-S -01**

Charles E. Wagner, Esq. (Wagner & Associates)  
Silver Spring, MD 20911,  
For the Complainant.

and

Lee W. Jackson, Esq. (James & Hoffman, P. C.)  
Washington, D.C. 20036-3975,  
For the Respondent.



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## HEARING EXAMINER'S REPORT AND RECOMMENDATIONS

### I Procedural Statement of the Case

This case arises from a Verified Standards of Conduct Complaint and a Verified Request for Preliminary Relief filed on December 2, 2011<sup>1</sup> by Candi Peterson, the Complainant, against the Washington Teachers' Union, referred to below as "WTU,"<sup>2</sup> alleging that on August 4, WTU violated D.C. Code § 1-617.03 (a)(1) which states:

- (a) Recognition shall be accorded only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. A labor organization must certify to [PERB] that its operations mandate the following:
  - (1) The maintenance of democratic provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings.

Under D.C. Code § 1-605.02(9) the Public Employee Relations Board (PERB) has authority to "[m]ake decisions and take appropriate action on charges of failure to adopt, subscribe, or comply with the internal or national labor organization standards of conduct for labor organizations."

On December 22, WTU filed a response to Ms. Peterson's complaint which included a motion to dismiss the complaint on the ground that it was time barred under PERB Rule 544.4<sup>3</sup> as it was filed more than 120 days after the action for which she was seeking relief. On February 6, 2012, PERB granted WTU's motion in *Peterson v. Washington Teachers Union*, 59 D.C. Reg. 7234, Slip Op. No. 1242, PERB Case No. 12-S-01 (2012). In this decision, PERB found that the 120-day limitations period applicable to standards of conduct complaints began to run on July 26 and that Ms. Peterson filed her complaint more 120 days after that date.<sup>4</sup>

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<sup>1</sup> Unless otherwise stated, henceforth all dates occurred in 2011.

<sup>2</sup> The Complainant and the Respondent, collectively, are referred to below as the "Parties."

<sup>3</sup> PERB Rule 544.4 provides: "A complaint alleging a violation under this section [§ 544 Standards of Conduct Complaints] shall be filed not later than one hundred and twenty (120) days from the date the alleged violation(s) occurred."

<sup>4</sup> *Id.* at 3

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On February 17, 2012, Ms. Peterson filed a Motion for Reconsideration with PERB. Respondent's Opposition followed on March 9, 2012. The Board denied the Complainant's Motion for Reconsideration on March 28, 2012. *Peterson v. Washington Teachers Union*, Slip Op. No. 1254, PERB Case No. 12-S-01 (2012).

Ms. Peterson filed a Petition for Review of PERB's decision in the Superior Court of the District of Columbia Civil Division on April 9, 2012. On May 26, 2015, Superior Court Judge Erik P. Christian ordered "that the case is remanded to Respondent the District of Columbia Public Employee Relations Board for an evidentiary hearing pursuant to the terms of this order." *Peterson v. D.C. Pub. Emp. Relations Bd.*, No. 2012 CA 003140, Slip Op. at 17 (2015).

As PERB recognized in its Decision and Order on Remand, *Peterson v. Washington Teachers Union*, 62 D.C. Reg. 14675, Slip Op. 1254, at page 2, PERB Case No. 12-S-01 (2015):

The court found that the record reflected that there was a factual issue as to whether [WTU President Saunders] had authority to discipline Ms. Peterson on July 26 and, regardless of the scope of his authority, there was a factual issue as to whether Saunders implemented the July 26 letter by removing Ms. Peterson from the Union's payroll or by preventing her from working for the Union. The court also questioned whether the discipline invoked by [WTU's] executive board on August 4 differed from the discipline allegedly imposed by Saunders on July 26.

In this Decision and Order on Remand, PERB vacated its earlier decisions in Opinions Nos. 1242 and 1254 and referred this matter to a hearing examiner for a hearing pursuant to the terms of the court's order and Board Rule 544.9<sup>5</sup> On June 29, 2015, the Board issued a Notice of Hearing designating December 3, 2015, as the date for the hearing in this case.

I held a hearing in this case on December 3, 2015, in Washington, D.C. My findings of fact, conclusions of law and recommendations, based upon the entire record in this proceeding, including the written transcript of the witnesses' testimony, the exhibits received in evidence, the Parties' respective opening statements, my observation of the witnesses' demeanor as they testified and the Parties' respective post-hearing briefs are set forth below.

## **II. Findings of Fact**

### **A. Background**

Ms. Peterson's employment in the District of Columbia Public Schools ("DCPS") began in 1992 as a social worker. At all times material to this case, Ms. Peterson has been a social

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<sup>5</sup> In pertinent part, PERB Rule 544.9 states: "If the investigation [of a standard of conduct complaint] reveals that the pleadings present an issue of fact warranting a hearing, the Board shall issue a Notice of Hearing and serve it upon the parties."

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worker in DCPS, and a member of WTU, the PERB certified exclusive collective-bargaining representative for teachers and other DCPS employees.

In December 2010, WTU's membership elected Ms. Peterson as WTU's General Vice President and Nathan Saunders as WTU's President. Under Article V, Section 2A, of WTU's By-Laws. (Respondent's Exhibit "A") both the President and the General Vice President are members of WTU's Executive Board.

Ms. Peterson took office as WTU's General Vice President on December 1, 2010. (Respondent's Exhibit D, at Page 1) As of December 1, 2010, Ms. Peterson began a paid leave of absence from the District of Columbia Public Schools (DCPS). (Joint Exhibit D, at pages 1 and 2) (See also Respondent's Exhibit H, the Memorandum of Agreement between DCPS and WTU, dated May 24.) Under the Memorandum of Agreement, WTU agreed to reimburse DCPS annually for the latter's portion of the compensation Peterson would receive as General Vice President of the Union. (*Id.* at page 1)

On December 4, 2010, WTU's Executive Board by resolution set out in a document entitled "Compensation for Candi L. Peterson, WTU General Vice President" (Respondent's Exhibit B) her annual salary and benefits as General Vice President of WTU. In paragraph 8, the proposed agreement stated (Respondent's Exhibit B, at page 1; Joint Exhibit F, at pages 2 and 11): "Any disputes concerning compensation shall be arbitrable using the American Arbitration Association."

Ms. Peterson accepted the terms of the proposed agreement and wrote at the top of the document that her annual salary would be \$151,000 (Respondent's Exhibit B, at page 1; Joint Exhibit F, at pages 2 and 10). This salary included Ms. Peterson's annual \$100,000 salary as class-room teacher and \$51,000 per year earned as WTU's General Vice President. On December 4, 2010, WTU's Executive Board, including President Saunders and General Vice President Peterson, voted unanimously to accept the agreement. (Joint Exhibit F, at page 11.)

#### B. General Vice President Peterson's Termination

Late on the morning of July 26, President Saunders, General Vice President Peterson and a group of WTU field representatives held a meeting to discuss how field representatives should deal with discharged teachers. During the discussion, Saunders and Peterson argued heatedly about who was in charge of this matter. They raised their voices while contesting the issue. Peterson thought Saunders was acting disrespectfully toward her and she quickly got up and left the meeting. After the meeting had concluded, Saunders contact Peterson and instructed her to meet with him as soon as possible to discuss their problem. Peterson declined to meet with Saunders, believing that a cooling off period was necessary. (Joint Ex. F, at page 12)

Irrked by Peterson's response which he considered to be insubordination, President Saunders, later on July 26, hand-delivered to General Vice President Peterson a letter stating that: "effective today, July 26, 2011, at 11:50 a.m., you have been removed from the WTU

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payroll for failure to perform the duties associated with your position. To be clear, you will not be paid until you meet with me and this situation is rectified” (*Ibid.*). At the conclusion of his letter, Saunders notified Peterson that, “Until this time, you may not perform any duties on behalf of [WTU] without my explicit consent and written approval” (*Id.* at page 12). “Thus, by the stroke of his pen, Saunders sought to take away from Peterson her duties as General Vice President and the compensation which they previously had agreed upon” (*Id.* at page 12).

In accordance with Saunders’ letter of July 26, WTU cut Peterson’s pay, effective that date, the \$51,000 per annum, which WTU agreed to pay her for her service as General Vice President (Joint Ex. F, at page 13, footnote 2).

Saunders also prevented Peterson from performing her duties as General Vice President. When Peterson sought to return to work on August 1, she found that her computer was shut down and incoming phone calls to her had been diverted. (*Id.* at page 13).

On August 4, Saunders scheduled a special meeting of WTU’s Executive Board to be held at 5:30 p.m. that same day for the purpose of taking formal disciplinary action against Peterson. President Saunders did not inform General Vice President Peterson of the meeting. Peterson learned of the meeting from another source and also understood that its purpose was to discipline her.

At 3:13 p.m. on August 4, Peterson emailed the WTU Executive Board members, including President Saunders, requesting postponement of the meeting to allow her to prepare a defense to the accusations against her. Ms. Peterson’s email pointed out that she was entitled to due process; that she and her attorney had not been notified of the planned meeting, and she requested a postponement to “a mutually agreeable date that [her] attorney would be able to attend.” (Joint Ex. F, at page 15.)

Saunders refused to postpone the Executive Board meeting and presented a resolution he had drafted. Saunders’ resolution recited his version of Ms. Peterson’s alleged misconduct, including acting toward him in a “belligerent manner,” and being “insubordinate” to him. President Saunders’ resolution also complained that she “slandered” him and that Ms. Peterson had used her blog improperly to injure WTU. (*Id.*, at page 14.) Ms. Peterson did not attend the meeting. Saunders did not provide her with a copy of his resolution.

In addition to these charges, President Saunders set out his proposals’ for disciplinary actions to be imposed upon General Vice President Peterson. First, he proposed that her status be restricted in the performance of the duties of her office and her obligations as the Union’s General Vice President for the six months following adoption of his resolution. (*Id.*, at page 14) Saunders specified that during the six month period, Peterson would have no supervisory authority over either field representatives or other employees. (Joint Ex. F, at page 14.) Saunders further proposed that WTU discontinue paying the \$51,000 compensation provided in her agreement with WTU. (*Ibid.*) The Executive Board adopted President Saunders’ resolution in its entirety. (Joint Ex. F, at page 14 and Respondent’s Exhibit D.)

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Article III of WTU's By-Laws in Sections 3, 4, and 5 sets forth procedure for disciplining a Union member for 11 offenses, including willful violation of WTU's Constitution and By-Laws and revealing to non-members of the Union "confidential internal discussions by WTU officers and staff." (Respondent's Exhibit A, at page 7.) Section 4 prescribes procedure for disciplining a member, including a requirement that allegations of misconduct must be in writing and brought to the Executive Board's attention by two or more members with documentation. The same Section requires that at a hearing on the charges before the Executive Board "the accused member shall have the right to examine and question the charges and be represented by a person of his or her choice." (*Ibid.*)

On August 12, President Saunders directed General Vice President Peterson to refrain from scheduling any meetings between 9:00 a.m. and 5:00 p.m. outside of WTU's office without his prior approval. (Joint Ex. F, at page 15.) Further, on September 12, Saunders ordered Ms. Peterson not to communicate with any WTU members without his specific authorization. (*Id.* At pages 15 and 16.) At this point, President Saunders and WTU's Executive Board had stripped General Vice President Peterson of her duties, her salary of \$51,000 and the other benefits to which she was entitled under her agreement with WTU. Thus, she retained only her title. (*Id.* at page 16.) However, WTU's disciplinary action against Ms. Peterson required one more step.

On September 6, Saunders notified the District of Columbia Public Schools that he was returning General Vice President Peterson "to the classroom." (Complainant's Ex. E, and Joint Ex. F, at page 16.) Eight days later DCPS cancelled Peterson's leave to serve as WTU's General Vice President and restored her to employment at DCPS. (*Ibid.*) On Monday, September 19, President Saunders by email to the Union's executive Board, announced that as of that date Ms. Peterson was "back to the classroom." (Complainant Exhibit C.) Thus did WTU essentially erase Peterson's tenure as WTU's General Vice President. (Joint Ex. F, at page 16.)

In a letter dated September 21, President Saunders informed WTU's members on the "issues involving General Vice President Candi Peterson." (Complainant's Exhibit D, at pages 1 and 2.) Saunders' explanation begins: "Here are the facts." (*Id.*, at page 1.) Continuing, he explained:

The GVP was not fired, terminated, nor ousted, and she continues to receive a salary. She was returned to the classroom consistent with provisions in the WTU Collective Bargaining Agreement (CBA) (Article 17.9) and remains the WTU GVP, a WTU officer, and a WTU member. Her return to the classroom, however is the latest of unfortunate but necessary steps taken by WTU to protect itself and its members and an attempt to minimize what have been disruptive and unproductive actions by her.

Turning to WTU's Constitution and By-Laws (Respondent's Exhibit A), I find the duties of the President set out in Article VIII of the By-Laws. That article's Section 1 designates the President as the Union Chief Executive Officer, charged with the duty to administer all the

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affairs and policies of the union “as determined by the membership and the Executive Board.” (*Id.* At page 1.) Article VIII, Section 1. F. authorizes the President to: “Supervise all employees of the organization. (*Ibid.*) However, neither the Constitution nor the By-Laws empowered President Saunders to terminate any employee’s pay or employment. Nor did either of those documents authorize the President to cancel the pay or remove the duties and authority of any elected WTU official such as the elected General Vice President.

According to Article V of the Union’s By-Laws, Section 2.A. (1), the Union’s Executive Board has “sole authority to hire and terminate employees, upon the recommendation of the President.” (Respondent’s Exhibit. A, at page 9.) The last sentence of this provision excludes “elected officers of the Union” from that authority. (*Ibid.*) Thus, neither Saunders, on July 26, nor the Executive Board, on August 4, had authority under the WTU Constitution and By-Laws to remove General Vice President Peterson from the duties of her office and terminate her wages and benefits as set out in her agreement with WTU. (Respondent’s Ex. B.)

Article IX of WTU’s Constitution provides a recall procedure for “any officer or other elected person ...in accord with the provisions set forth in the By-Laws of this organization.” (Respondent’s A, at page 5.) WTU’s By-Laws’ Article IX, Section 1 states:

Petition for the recall of any officer for violation of obligations of their office shall be initiated by a recall petition clearly stating the specific charges and signed by not fewer than thirty percent (30%) of members in good standing. Bases for recall may include neglecting duties of the office as defined by the By-Laws, willful failure to work for objectives of the Union and entering into unauthorized commitments of the Union. (*Id.*, at page 18.)

Under Article IX of the Union’s Constitution, the “recall process shall be the right of the concerned members when there is evidence that such a recall may be justified.” (*Id.*) Here, neither President Saunders nor any member of the Executive Board, nor any Union member ever filed a recall petition against General Vice President Peterson.

On December 2, the same day on which she filed the instant complaint with PERB, Candi Peterson filed a demand for arbitration with the American Arbitration Association (AAA). (Joint Ex. F, at page 2.) At first, Ms. Peterson alleged that WTU’s action against her violated her agreement with the Union, the Union’s Constitution and By-Laws and the Standards of Conduct for labor organizations stated in D.C. Code§1-617.03 (a)(1), set out above, at page 2. (Respondent’s Ex. F, at pages 4-6.) At a conference between WTU and Ms. Peterson, which Arbitrator Stanley Mazaroff conducted, Ms. Peterson narrowed her claim, asserting that the basic issue was whether WTU had violated the contractual provisions of the Compensation Agreement. (*Ibid.*)

Arbitrator Mazaroff issued his Interim Award in *Candi Peterson v. Washington Teachers’ Union*, AAA Case No 16 166 00724 11, on September 24, 2012. At page 27 of his decision (Joint Exhibit F), Arbitrator Mazaroff held that:

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[N]either the letter, nor the spirit of the WTU's Constitution and By-Laws permitted Saunders or the WTU's Executive Board to summarily revoke, without a hearing or due process, the compensation that Peterson was entitled to receive under the terms of the Compensation Agreement.

The arbitrator awarded \$71,065.82 to General Vice President Peterson covering her claim that WTU breached her Compensation Agreement. (Joint Ex. F, at page 28.) The award also made provision for a subsequent award to satisfy Ms. Peterson's claim for attorneys under paragraph 9 of that agreement. (*Id.* At page 29.) On October 10, 2013, the Superior Court of the District of Columbia, Civil Division confirmed this award in *Candi Peterson v. Washington Teachers' Union* Civil Case No 2012CA 007674 B.

### **III. Analysis and Conclusions**

The Complaint alleges that WTU's removal of Ms. Peterson from her position as General Vice President violated D.C. Code § 1-617.03(a)(1), the provision of CMPA entitled "Standards of conduct for labor organizations," which states:

(a) Recognition shall be accorded only to a labor organization that corrupt influences and influences opposed to basic democratic principles. A labor organization must certify to the Board that its operations mandate the following:

(1)The maintenance of democratic provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings.

Under D.C. Code § 1-617 (c), PERB "shall prescribe the rules and regulations needed to effect this section. Any complaint of a violation of this section shall be filed with [PERB]."

According to Ms. Peterson the record evidence leaves little doubt that, as Arbitrator Mazaroff found at page 27 of his Interim Award, neither WTU's President Saunders nor the Union's Executive Board had authority to summarily remove her from her elected Union office of General Vice President or to reduce her salary. Further, Ms. Peterson contends that WTU disciplined her under Article III, Section 4 of the Union's By-Laws without according her the due process required by that Section. Further, noting that Arbitrator Stanley Mazaroff, at page 21 of his Interim Award, (Joint Exhibit F), and continuing to page 28 considered whether the Union's Constitution and By-Laws authorized either President Saunders or the Union's Executive Board to terminate Ms. Peterson's compensation, the Complainant contends that as

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her Verified Complaint raised the same issue, the principle of collateral estoppel requires PERB to adopt the Arbitrator's finding, given that these cases concern the same parties and the same facts.

WTU contends that the Complainant has failed to sustain the burden of proving by a preponderance of the evidence<sup>6</sup> in this proceeding that her complaint was timely filed or that WTU violated DC Code § 1-617.03(a)(1) by refusing to permit her to fulfill her duties as the Union's General Vice President, by terminating her salary and other benefits to which she was entitled under the Compensation Agreement adopted by the Union on December 4, 2010, and by failing to satisfy the due process which the Union's By-Law Article III required in pursuit of these disciplinary actions. The Union also contends that Candi Peterson's cause of action in this case arose on July 26, when President Saunders announced to her that he had removed her from WTU's payroll and stripped her of her duties as General Vice President of the Union. Finally, the Union urges that its Constitution and By-Laws afforded President Saunders, and the WTU's Executive Board full authority to impose the disciplinary action against her on July 26, the disciplinary resolution which the Executive Board imposed upon Ms. Peterson on August 4, and Saunders' rescission of his authorization of Ms. Peterson's leave of absence from her position in the District of Columbia Public Schools.

As PERB recognized in *Candi Peterson v. Washington Teachers' Union*, PERB Case Nos. 12-S-01 slip op. 1542, 62 DC Reg. 14675 (September 22, 2015), at page 2, in remanding this case to PERB, the DC Superior Court, in *Peterson v. D.C. Pub. Emp. Relations Bd.*, No 2012 CA003140 slip op. at 17 (May 26, 2015), designated the issues to be litigated as follows:

The court found that the record reflected that there was a factual issue as to whether [WTU President Saunders] had authority to discipline Ms. Peterson on July 26 and, regardless of the scope of his authority, there was a factual issue as to whether Saunders implemented the July 26 letter by removing Ms. Peterson from the Union's payroll or by preventing her from working for the Union. The court also questioned whether the discipline invoked by [WTU's] executive board on August 4 differed from the discipline allegedly imposed by Saunders on July 26.

The Complainant asserts that these issues were before Arbitrator Stanley Mazaroff in the arbitration proceedings in *Candi Peterson v. Washington Teachers' Union*, American Arbitration Association Case No. 161660072411 (September 24, 2012). Further, Complainant argues that the parties are foreclosed from litigating these issues anew, here, by the principle of collateral estoppel. WTU insists that Ms. Peterson has failed to show by a preponderance of the evidence, as required under PERB Rule 544.11, that she filed her complaint not more than 120 days "from the date the alleged violations occurred" and thus satisfied the time limit imposed by PERB Rule

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<sup>6</sup> Under PERB Rule 544.11 "The party asserting a violation of the CMPA, shall have the burden of proving the allegations of the complaint by a preponderance of the evidence."



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544.4<sup>7</sup> Arbitrator Mazaroff found that General Vice President Peterson's Verified Complaint was timely filed in accordance with PERB Rule 544.11. I concur and find that the Parties and PERB are bound by Arbitrator Mazaroff's findings in his Interim Award as urged by Complainant.

It is well settled that an arbitration award is conclusive not only as to the substance of the grievance but also as to underlying material issues resolved along with the grievance. Elkouri & Elkouri, *How Arbitration Works*, Sixth Edition, 2003, atpp.577-578. Arbitrator Mazaroff's Interim Award involved a contractual dispute growing out of WTU's President Saunders' and Executive Board's stripping Ms. Peterson of her authority as the Union's General Vice President, terminating her salary and benefits under the Parties' compensation agreement, and finally returning her to her daily employment as DCPS class-room social worker. Arbitrator Mazaroff's determination after an evidentiary hearing( Joint Exhibit F, at page 4) that WTU, President Saunders and WTU's Executive Board violated that agreement required that he resolve the underlying material issue of whether Saunders and the Executive Board had authority under the Union Constitution and By-Laws to impose that punishment on Ms. Peterson. (*Id.* At pages 21 and 22.)

The instant case presents the same issues. Also, the same facts and the same parties confronting Arbitrator Mazaroff are present in the instant proceeding. Finally the Parties in both proceedings have enjoyed ample opportunity to fully litigate the issue of whether WTU's Constitution and By-Laws afforded President Saunders and the Executive Board authority to discipline Ms. Peterson. Not only are the Parties precluded from obtaining a different result as parties to a conclusive arbitration proceeding, but also by the principle of collateral estoppel. *San Remo Hotel v. San Francisco*, 545 U. S.323, fn. 16 (2005); *Allen v McCurry*, 449 U.S. 90, 94-96 (1980).

The Arbitrator found that the Union's "President does not have express authority under the Constitution or By-Laws to remove the General Vice President or other elected [Union] officers from their positions. . .or to eliminate their compensation." (Joint Exhibit F, at page 5.) Arbitrator Mazaroff also found that the Union's "Constitution and By-Laws provide only one method for removing an elected officer from his/her position. It is: 'Recall' [under Article IX of the Constitution]."(*Id.* At page 6.) Further, the Arbitrator found that Under the WTU's Constitution and By-Laws, the recall process begins with a petition "clearly stating the specific charges and signed by not fewer than thirty percent (30%) of the members in good standing." (*Ibid.*) At page 22 of his Interim Award, the Arbitrator found:

Thus, the precipitous action taken by Saunders on July 26, 2011 against Peterson in *unilaterally removing her from the WTU payroll and simultaneously ending her*

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<sup>7</sup> PERB Rule 544.4 states: "A complaint alleging a violation under this section [544- Standards of Conduct Complaints] shall be filed not later than one hundred and twenty (120) days from the date the alleged violation(s) occurred."

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*duties* as General Vice President was not authorized by the WTU's governing Constitution or By-Laws.

Continuing, Arbitrator Mazaroff turned his attention to the Executive Board's action against General Vice President Peterson on August 4 and found:

This legally unsupportable action taken by Saunders was not cured by the similar action orchestrated by Saunders and taken during the following week by the Executive Board. Under the Constitution and By-Laws, the Executive Board's authority to discharge or otherwise discipline employees did not extend to Union officers. Article V of the By-Laws expressly provides that the authority of the Executive Board to terminate employees 'shall not apply to officers of the Union.' (Joint Exhibit F, at page 22.)

At the hearing before me, Respondent contended that WTU's Constitution and By-Laws authorized the discipline WTU's President and Executive Board imposed upon Ms. Peterson on July 26, August 4, and on September 19. However, the Union did not point to any provision, neither at the hearing, nor in its brief, supportive of that position.

After reviewing WTU's Constitution and By-Laws, and the Arbitrator's un rebutted findings and conclusions, I find that neither the President nor the Executive Board had authority to discipline Ms. Peterson as recited above.

Article X, Section 1 of WTU's By-Laws mandate the use of *Roberts Rules of Order* for all "deliberations of each unit of organization and of all committees, except as said rules may conflict with[WTU's] Constitution and By-Laws. Arbitrator Mazaroff referring to Article X of the Union's By-Laws examined the procedure the Executive Board, led by President Saunders, followed in disciplining Ms. Peterson. The Arbitrator concluded, based upon Chapter XX of the latest edition of *Roberts Rules of Order*, that the Union's Executive Board failed to provide Ms. Peterson with due process in disciplining her on August 4. (Joint Exhibit F, at pages 23 and 24)

Specifically, the Arbitrator found that contrary to *Roberts Rules of Order*, Chapter XX, the Executive Board did not provide an investigation by "a fair and independent committee to determine if charges were warranted. Nor did the Executive Board give Ms. Peterson formal notification of the charges pending against her. Further, the Arbitrator found that the Executive Board failed to provide Ms. Peterson with:

[A] trial during which "the evidence against the accused is presented," and during which "the accused has the right to be represented by counsel and to speak and produce witnesses in his own defense." (*Id.* At page 24)

In summary, Arbitrator Mazaroff supported his conclusion that WTU's Executive Board failed to satisfy "these basic standards" of due process with findings of fact which spelled out a violation of Article III, Section 4 of the Union's By-Laws which requires that the Union accord a member charged with an offense warranting discipline a hearing "at which the accused member

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shall have the right to examine and question the charges and be represented by a person of his or her choice.”(Respondent’s Exhibit A, at page 7) As shown above, at page 5, WTU denied Ms. Peterson’s request for a postponement of the Executive Board’s disciplinary hearing on President Saunders’ charges against her to enable her to prepare her defense and arrange for the presence of her counsel at the hearing. Accordingly, I find that WTU’s Executive Board violated Article III, Section 4 of the Union’s By-Laws by failing to accord Ms. Peterson due process in its conduct of the disciplinary proceeding on August 4.

The Union contends that Ms. Peterson’s cause of action in this case arose on July 26. On that day, President Saunders, by letter, told her that he was removing her from WTU’s payroll and enjoining her from performing her duties as General Vice President,” until you meet with me and this situation is rectified” (Joint Exhibit D, at Page 3.) According to the WTU, Ms. Peterson untimely filed her Verified Standards of Conduct Complaint against WTU on December 2, more than 120 days after Saunders’ action.

However, on August 4, the Union’s Executive Board, at Saunders’ insistence, imposed further sanctions upon Ms. Peterson. The Board restricted Ms. Peterson in the performance of her duties as General Vice President for six months from August 4, during which time she would have no supervisory authority over the Union’s field representatives or other Union employees. Unlike President Saunders’ letter of July 26, the Executive Board’s edict did not provide Ms. Peterson any leeway to escape the discipline imposed. It was unconditional, for six months..

Finally, the Board decided unconditionally that “WTU shall not continue to pay the additional compensation for the duties of General Vice President above the DCPS portion of her paycheck.” (Joint Exhibit F, at page 14.) President Saunders did not implement this final portion of the Executive Board’s decision until September 6, when he signed the Memorandum of Agreement cancelling Ms. Peterson’s leave of absence from her DCPS position. (*Id.* At page 16.) The cancellation was effective on Monday, September 19, (Complainant’s Exhibit E) As Arbitrator Mazaroff found: “This eliminated any real or apparent authority of Peterson to serve as WTU’s General Vice President and prevented her from completing her three-year term of office.” (Join Exhibit F, at page 16.)

In sum, the discipline which the Executive Board invoked on August 4 was substantially harsher than that contained in President Saunders’ letter of July 26 to Ms. Peterson. From the foregoing facts, I find that Ms. Peterson’s cause of action in the instant case arose on August 4, when the WTU ‘s Executive Board promulgated its resolution disciplining General Vice President Candi Peterson, which President Saunders effectuated on September 19 by returning her to DCPS. Therefore, I further find that her Verified Complaint was timely filed, well before the expiration of the 120 day period of limitation imposed by PERB Rule 544.4.

The Respondent contends that:

Peterson does not allege that the WTU violated any of her rights as a member.  
Rather, Peterson alleges that WTUY violated a contractual obligation with respect

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to Peterson's role as an officer. No precedent supports her claim that the WTU's actions constituted a statutory violation. (WTU's Brief, at page 10)

I find, to the contrary that Candi Peterson in her Verified Standards of Conduct Complaint alleged that WTU violated D.C. Code § 1-617.03(a)(1) by failing to give her notice of the Executive Board's special meeting of August 4; failing to give Ms. Peterson notice that a disciplinary resolution against her would be on the agenda of that meeting; failing to grant her request for a postponement of the August 4 special Executive Board meeting in order to prepare a defense to President Saunders' proposed removal action against her and to arrange for the presence of her attorney at the postponed meeting; reducing Ms. Peterson's salary, and prohibiting her from performing her duties as General Vice President without complying with By-Law Articles III or IX. (Joint Exhibit at pages 3 -6)

Accordingly, I find that Ms. Peterson has alleged that, by the foregoing conduct, WTU violated its duty under D.C. Code § 1-617.03(a)(1)<sup>8</sup> to accord her "fair and equal treatment under the governing rules of the organization" and "fair process in disciplinary proceedings." Thus, Ms. Peterson has raised a cause of action under D.C. Code § 1-605.2(9)<sup>9</sup>. *Clarence E. Mack et al and Ellowese Barganier v. FOP/Dept. of Corrections Labor Committee*, PERB Cases No. 95-S-03 and 95-S-02, Opinion No. 507, 46 DC Reg. 110 (1999).

I also disagree with the Union's contention that the cause of action in this case arises from a breach of contract and thus is "foreclosed by *res judicata*." (WTU's Brief, at page 5.) As shown in the paragraph immediately above, Ms. Peterson in the instant proceeding is seeking relief under a remedial statute governing the Union's treatment of individual members such as the Complainant. General Vice President Peterson Verified Standards of Conduct Complaint seeks a remedy that extends beyond her pecuniary loss covered in the arbitration award. Accordingly, I find that the instant case is not barred by the doctrine of *res judicata*.

I find that Candi Peterson has shown by a preponderance of the evidence recited above that WTU violated its Constitution and By-Laws by suspending her pay and refusing to permit her to perform her duties as General Vice President of the Union. Accordingly, I further find that by this conduct the Respondent, Washington Teachers' Union has violated D.C. Code § 1-617.03(a)(1).

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<sup>8</sup> D.C. Code § 1-617.03(a)(1) was formerly codified as D.C. Code § 1-618.3(a)(1).

<sup>9</sup> Quoted above, at page 2: Under D.C. Code § 1-605.02(9) the Public Employee Relations Board (PERB) has authority to "[m]ake decisions and take appropriate action on charges of failure to adopt, subscribe, or comply with the internal or national labor organization standards of conduct for labor organizations."

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#### **IV. Recommendations**

Based upon my findings of fact and conclusions of law, I recommend the following remedy:

The Respondent, Washington Teachers' Union (WTU), and its officers and agents, should be ordered to:

1. Cease and desist from violating D.C. Code § 1-617.03(a)(1) by denying fair and equal treatment under the governing rules of the WTU and fair process in disciplinary proceedings to Complainant Candi Peterson and other members of the WTU by bringing disciplinary charges against them, removing them from membership in the WTU, or from elective office in the WTU, or by terminating their pay and benefits as elective officers of the WTU without complying with WTU's Constitution and By-Laws, or by otherwise violating the Comprehensive Merit Personnel Act (CMPA) standards of conduct for labor organizations as codified under D.C. Code § 1-617.03(a)(1).

2. Cease and desist from failing to adopt, subscribe, or comply with the standards of conduct for labor organizations prescribed under the CMPA in any like or related manner.

3. WTU shall immediately rescind both the action of its President, Nathan Saunders on July 26 removing Candi Peterson as General Vice President from her official duties and from WTU's payroll and the disciplinary resolution of its Executive Board adopted on August 4, 2011, against Candi Peterson and reinstate her as WTU's General Vice President.

4. WTU shall make Candi Peterson whole for any loss of pay and benefits she may have suffered as a result of WTU's Executive Board's action on August 4, and WTU's termination of her leave of absence from her employment at the District of Columbia Public Schools effective September 19, 2011.

5. WTU shall reimburse Candi Peterson for her attorneys' fees in this case, in accordance with the federal Back Pay Act, 5 U.S.C. § 5596(b)(1)(A)(ii) as enforced in *District of Columbia Department of Consumer and Regulatory Affairs v. AFGE Local 2725*, Slip Op. No. 992, PERB Case No. 09-A-03, 59 DC Reg. 5502 (2009).

6. WTU shall post conspicuously for thirty (30) days, where notices to its members are normally posted, a notice to its members stating that it has violated D.C. Code § 1-617.03(a)(1), that it shall cease and desist from further violations of the D.C. Code, and announcing that it has rescinded the discipline which WTU imposed upon General Vice President Candi Peterson and made her whole by payment to her of the back pay and benefits due to her because of WTU's failure to comply with its Constitution and By-Laws when it terminated her from her duties as General Vice President without according her the due process they required.

Decision and Order  
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Respectfully submitted,

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Leonard M. Wagman  
Hearing Examiner  
February 10, 2016

**SOMERSET PREP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

Somerset Prep Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following service:

- Special Education Speech and Occupational Therapy services for grades 6 - 9.

Please send an email to [sspdc\\_bids@somersetprepdc.org](mailto:sspdc_bids@somersetprepdc.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, Monday, January 16, 2017.

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

Bid Administrator  
[sspdc\\_bids@somersetprepdc.org](mailto:sspdc_bids@somersetprepdc.org)

## DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

## BOARD OF DIRECTORS

## NOTICE OF 2017 MEETING SCHEDULE

## Governance Committee

The regular bi-monthly meetings of the Board of Directors of the District of Columbia Water and Sewer Authority's (DC Water) Governance Committee Meetings are held in open session on the second Wednesday. The following are dates and times for the regular monthly meetings to be held in 2017. All meetings are held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, SW, Washington, D.C. 20032 unless otherwise indicated. Notice of a location of a meeting other than 5000 Overlook Avenue, SW will be published in the *D.C. Register* and posted on the DC Water's website ([www.dcwater.com](http://www.dcwater.com)). A notice will be published in the *D.C. Register* for each meeting with a draft agenda. In addition, a copy of the final agenda will be posted on DC Water's website, and notice of the meeting will be posted at all of DC Water facilities.

|                               |           |
|-------------------------------|-----------|
| Wednesday, January 11, 2017   | 9:00 a.m. |
| Wednesday, March 8, 2017      | 9:00 a.m. |
| Wednesday, May 10, 2017       | 9:00 a.m. |
| Wednesday, July 12, 2017      | 9:00 a.m. |
| (Board recess in August)      |           |
| Wednesday, September 13, 2017 | 9:00 a.m. |
| Wednesday, November 8, 2017   | 9:00 a.m. |



## DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

## BOARD OF DIRECTORS

## NOTICE OF 2017 MEETING SCHEDULE

## Human Resources and Labor Relations Committee

The regular bi-monthly meetings of the Board of Directors of the District of Columbia Water and Sewer Authority's (DC Water) Human Resources and Labor Relations Committee Meetings are held in open session on the second Wednesday of each month. The following are dates and times for the regular monthly meetings to be held in 2017. All meetings are held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, SW, Washington, D.C. 20032 unless otherwise indicated. Notice of a location of a meeting other than 5000 Overlook Avenue, SW will be published in the *D.C. Register* and posted on the DC Water's website ([www.dcwater.com](http://www.dcwater.com)). A notice will be published in the *D.C. Register* for each meeting with a draft agenda. In addition, a copy of the final agenda will be posted on DC Water's website, and notice of the meeting will be posted at all of DC Water facilities.

|                               |            |
|-------------------------------|------------|
| Wednesday, January 11, 2017   | 11:00 a.m. |
| Wednesday, March 8, 2017      | 11:00 a.m. |
| Wednesday, May 10, 2017       | 11:00 a.m. |
| Wednesday, July 12, 2017      | 11:00 a.m. |
| (Board recess in August)      |            |
| Wednesday, September 13, 2017 | 11:00 a.m. |
| Wednesday, November 8, 2017   | 11:00 a.m. |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19363 of Zachary and Robert Bernstein**, as amended<sup>1</sup>, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the penthouse requirements of Subtitle C § 1500.4, the walls of unequal height requirements of Subtitle C § 1500.9, and the setback requirements of Subtitle C § 1502.1(c), to add a roof deck addition to an existing one-family dwelling in the R-3 Zone at premises 35 Franklin Street, N.E. (Square 3501, Lot 31).

**HEARING DATES:** November 16, 2016 and December 14, 2016<sup>2</sup>  
**DECISION DATE:** December 14, 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 – 1958 Regulations), 10 (revised - 2016 Regulations), and 35 (amended).) 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") 5E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. 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 October 18 2016, at which a quorum was present, the ANC voted 10-0-0 to support the application.<sup>3</sup> (Exhibit 30.)

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<sup>1</sup> The application was initially filed under the provisions of the 1958 Zoning Regulations which were repealed as of September 6, 2016. (Exhibits 1 and 5.) The Applicant revised the application to request relief under the 2016 Zoning Regulations that became effective on September 6, 2016. That revision asked for a special exception from Subtitle C § 1500.4, pursuant to 11 DCMR Subtitle X, Chapter 9. (Exhibits 9 and 10.) Subsequently, based on a recommendation by the Office of Planning (OP), the Applicant further amended the application and added a request for special exception relief from Subtitle C § 1500.9 (multiple enclosure wall heights) and Subtitle C § 1502.1 (railing setback). (Exhibit 35.) The caption has been amended accordingly.

<sup>2</sup> The Board continued the public hearing of November 16, 2016, to allow the Applicant to provide supplemental information relating to drawings of different options for the roof hatch to meet the special exception relief.

<sup>3</sup> The ANC's report also indicated that during its public monthly meeting on October 3, 2016, the Stronghold Civic Association voted unanimously to support the application. (Exhibit 30.)

The adjacent residents of 37 Franklin Street, N.E., Washington D.C. submitted a letter of support for the application. (Exhibit 45.)

The Office of Planning (“OP”) submitted a timely report dated November 4, 2016 (Exhibit 34), and testified at the hearing in support of the application. The District Department of Transportation (“DDOT”) submitted a timely report, dated November 2, 2016, expressing no objection to the approval of the application. (Exhibit 32.)

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 special exceptions under the penthouse requirements of Subtitle C § 1500.4, the walls of unequal height requirements of Subtitle C § 1500.9, and the setback requirements of Subtitle C § 1502.1(c), to add a roof deck addition to an existing one-family dwelling in the R-3 Zone. 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, and Subtitle C §§ 1500.4, 1500.9, and 1502.1(c), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR 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 4 – ARCHITECTURAL PLANS AND ELEVATIONS.**

**VOTE:**           **3-0-2** (Frederick L. Hill, Carlton E. Hart, and Michael G. Turnbull to APPROVE; Anita Butani D’Souza not participating or voting; one Board seat vacant).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**ATTESTED BY:** \_\_\_\_\_  
**SARA A. BARDIN**  
**Director, Office of Zoning**

**BZA APPLICATION NO. 19363**  
**PAGE NO. 2**

**FINAL DATE OF ORDER:** December 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 § 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.

**BZA APPLICATION NO. 19363**  
**PAGE NO. 3**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19371 of 14<sup>th</sup> & R Street Enterprises LLC** pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the loading requirements of Subtitle C § 901, the penthouse setback and height requirements of Subtitle C § 1502.1 and Subtitle K § 803.3, the rear yard requirements of Subtitle K § 805, and the side yard requirements of Subtitle K § 806, to construct four additional floors to an existing three-story building in the ARTS-3 District at premises 2213 14<sup>th</sup> Street, N.W. (Square 234, Lot 163).

**HEARING DATE:** November 30, 2016  
**DECISION DATE:** November 30, 2016

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11-Y DCMR § 300.6. (Exhibits 4 and 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") 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. The ANC submitted a report dated November 11, 2016, indicating that at a regularly scheduled and properly noticed public meeting on November 3, 2016, at which a quorum was present, the ANC voted 9-0-0 in support of the application. (Exhibit 34.)

The Office of Planning ("OP") submitted a timely report in support of the application with one condition. (Exhibit 35.) OP's report also indicated that the Applicant may require additional relief from the penthouse setback requirements. At the hearing, OP testified in support of the application and withdrew its interpretation that the applicant required additional penthouse setback relief on the north side of the property. The District Department of Transportation ("DDOT") submitted a report of no objection to the approval of the application, with conditions. (Exhibit 36.) Through written evidence provided by the Applicant, and confirmed by testimony from OP, DDOT revised its proposed conditions for approval. (Exhibit 40.) The Applicant requested flexibility to modify the drawings to conform to design review by the D.C. Historic Preservation Review Board ("HPRB") as a condition of approval.

As directed by 11-X DCMR § 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 C § 1502.1 and Subtitle K § 803.3 from the penthouse setback and height requirements; Subtitle K § 805 from the rear yard requirements; Subtitle K § 806 from the side yard requirements; and Subtitle C § 901 from the loading requirements to add four floors to an existing three-story structure in the ARTS-3 District.

No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11-X DCMR § 901.2, Subtitle C §§ 1502.1 and 901, and Subtitle K §§ 803.3, 805, and 806, 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-Y DCMR § 101.9, the Board has determined to waive the requirement of 11-Y DCMR § 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 EXHIBITS 33B1-33B3 and 39, WITH THE FLEXIBILITY NOTED BELOW, AND WITH THE FOLLOWING CONDITIONS:**

1. As permitted under 11-Y DCMR §604.10, the Applicant shall have the flexibility to modify the drawings to comport with HPRB design review, provided the degree of zoning relief requested is not increased and no new areas of relief are required.
2. The Applicant shall implement the Loading Management Plan as presented in the Gorove/Slade Associates Comprehensive Transportation Report dated October 31, 2016, submitted to the record as Exhibit 31. The Loading Management Plan shall also require that:
  - a. All residential move-in vehicles be less than 24 feet in length, which is consistent with vehicles that are used in moving one- and two-bedroom units; and
  - b. Retail staff shall assist with retail trucks backing into the loading dock through the alley, which will eliminate the need for an on-street curbside loading facility for retail deliveries;

**BZA APPLICATION NO. 19371  
PAGE NO. 2**

3. The Applicant shall relocate the existing alley street lights, per DDOT approval, in order to improve truck ingress and egress for loading, unloading, and trash pick-up.
4. The Applicant shall coordinate with the same trash removal contractor that is currently serving other adjacent properties with trash service in the alley to minimize the number of trash trucks in the alley.

**VOTE:**       **4-0-1** (Frederick L. Hill, Anita Butani D'Souza, Jeffrey L. Hinkle and Anthony J. Hood to APPROVE; one Board seat vacant).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order

**FINAL DATE OF ORDER:** December 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.

**BZA APPLICATION NO. 19371**  
**PAGE NO. 3**

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. 19379 of DC Department of General Services**, as amended<sup>1</sup>, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the off-street parking requirements of Subtitle C § 703.2, and the penthouse requirements of Subtitle D § 5205.1, to replace an existing recreation center with a new recreation center in the R-2 Zone at premises 6201 Banks Place N.E. (Square 189, Lot 22).

**HEARING DATE:** December 14, 2016

**DECISION DATE:** December 14, 2016

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 and 32.) 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") 7C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. The ANC did not submit a report. The Board considered a request submitted by the ANC 7C Chair that the hearing be postponed in order to give the ANC additional time to consider the impacts of the application. The Board decided to proceed with the hearing and decision, but asked the Applicant to testify regarding their outreach to the ANC and the ANC's outstanding issues. The Board also noted that the issues raised by the ANC in the postponement request were not related to the relief requested by the Applicant.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 35.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 36.)

A letter of support for the application was submitted from the Northeast Boundary Civic Association / SMD 7C05. (Exhibit 32B.)

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<sup>1</sup> The application was amended in the Pre-Hearing Statement to remove a request for a special exception under Subtitle C § 802.1 for bicycle parking. (Exhibit 32.) The caption has been changed accordingly.

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 11 DCMR Subtitle X, Chapter 9, for special exceptions under the off-street parking requirements of Subtitle C § 703.2, and the penthouse requirements of Subtitle D § 5205.1, to replace an existing recreation center with a new recreation center in the R-2 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle C § 703.2, and Subtitle D § 5205.1, 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 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 EXHIBITS 32A1-32A2.**

**VOTE:**           **3-0-2** (Frederick L. Hill, Carlton E. Hart, and Michael G. Turnbull, to APPROVE; Anita Butani D'Souza, not participating or voting, and one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** December 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

BZA APPLICATION NO. 19379

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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. 19380 of Jerry Clark**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, to add a two-story rear addition to an existing one-family dwelling in the R-2 Zone at premises 1215 Hamilton Street, N.E. (Square 3903, Lot 29).

**HEARING DATE:** Applicant waived right to a public hearing

**DECISION DATE:** December 21, 2016 (Expedited Review Calendar)

**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.

Pursuant to 11 DCMR Subtitle Y § 401, this application was tentatively placed on the Board's expedited review calendar for decision without hearing as a result of the applicant's waiver of its right to a hearing. (Exhibit 2.)

The Board 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") 5A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5A, which is automatically a party to this application. The ANC neither filed a report nor testified regarding this application. Nonetheless, the ANC commissioner representing the Single Member District ("SMD"), ANC 5A01, in which the Applicant's property is located, submitted a letter in support of the application. (Exhibit 28.)

The Office of Planning ("OP") submitted a timely report dated December 9, 2016 (Exhibit 31), and testified at the hearing in support of the application. The District Department of Transportation ("DDOT") submitted a timely report, dated December 7, 2016, expressing no objection to the approval of the application. (Exhibit 29.)

No objections to expedited calendar consideration were made by any person or entity entitled to do by Subtitle Y §§ 401.7 and 401.8. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR 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 D § 5201, from the lot occupancy requirements of Subtitle D § 304.1, to add a two-story rear addition to an existing one-family dwelling in the R-2 Zone. No parties appeared at the public meeting in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR, Subtitle X § 901.2, and Subtitle D §§ 5201 and 304.1, 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, 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 8 – ARCHITECTURAL PLANS AND ELEVATIONS.**

**VOTE:**       **4-0-1** (Frederick L. Hill, Anita Butani D'Souza, Carlton E. Hart, and Anthony J. Hood to APPROVE; one Board seat vacant).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** December 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

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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.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19387 of Graham Smith and Alexis Diao**, as amended<sup>1</sup> pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the rooftop/upper floor addition requirements of Subtitle E § 206.2, and the height requirements of Subtitle E § 303.3, to permit the renovation of a flat in the RF-1 Zone at premises 3616 11th Street, N.W. (Square 2829, Lot 169).

**HEARING DATE:** December 14, 2016

**DECISION DATE:** December 21, 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 – original, Exhibit 66 - 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") 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 9, 2016, at which a quorum was present, the ANC voted 6-3-0 to support the application. (Exhibit 56.)

The Office of Planning ("OP") submitted a timely report dated December 2, 2016, recommending denial of the originally requested variance relief, but approval of the special

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<sup>1</sup>At the hearing of December 14, 2016, the Applicant amended the application by removing the special exception relief from Subtitle U §§ 320.2 and 320.2(a) related to conversion, and changing it to a special exception under Subtitle E § 206.2 to permit the modification of an existing roof top architectural element and § 303.3 to permit a dwelling 40 feet in height, and by removing from the original request the variance from the 900 square feet per dwelling unit requirements of Subtitle U § 320.2(d), pursuant to 11 DCMR Subtitle X, Chapter 10. (See Applicant's supplemental statement and revised self-certification at Exhibit 66.) The caption has been amended accordingly.

exception relief originally requested under Subtitle U § 320.2. (Exhibit 61.) OP did not file a supplemental report addressing the amended relief.

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 60.)

At the end of the public hearing, the Board requested a post-hearing filing by the Applicant to include a revised self-certification form and updated plans with architectural refinements. The requested information was provided by the Applicant. (See Exhibit 66.)

Twenty-three letters were filed in support of the application. (Exhibits 32-54.)

Two residents from Columbia Heights testified in support of the application. One person testified in opposition to the application.

#### Special Exception Relief

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 special exceptions under the rooftop/upper floor addition requirements of Subtitle E § 206.2, and the height requirements of Subtitle E § 303.3, to permit the renovation of a flat in the RF-1 Zone. 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, and Subtitle E §§ 206.2 and 303.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR 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 66.**

**VOTE: 3-0-2** (Frederick L. Hill, Carlton E. Hart, and Michael G. Turnbull (by absentee ballot) to APPROVE; Anita Butani D’Souza not participating; one Board seat vacant).



**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** December 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.

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**

**Application No. 19389 of 4328 Georgia, LLC**, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the minimum parking requirements of Subtitle C § 701.5, and a variance from the rear yard requirements of Subtitle G § 405.2, to permit the construction of a four-story, mixed-use building in the MU-4 Zone at premises 4328 Georgia Avenue N.W. (Square 2914, Lot 10).

**HEARING DATE:** December 21, 2016

**DECISION DATE:** December 21, 2016

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 9.) 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 timely report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 9, 2016, at which a quorum was present, the ANC voted 4-3-0 to support the application. (Exhibit 33.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 39.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 40.)

**Variance Relief**

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 rear yard requirements of Subtitle G § 405.2, to permit the construction of a four-story, mixed-use building in the MU-4 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 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 Subtitle G § 405.2, 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.

#### Special Exception Relief

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 minimum parking requirements of Subtitle C § 701.5, to permit the construction of a four-story, mixed-use building in the MU-4 Zone. 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, and Subtitle C § 701.5, 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 EXHIBITS 7A-7B AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall install a transit screen in the building lobby.
2. The Applicant shall provide bicycle parking which meets zoning requirements, including secure long-term parking located on-site and short-term parking located around the perimeter of the site.

**VOTE:**       **4-0-1** (Frederick L. Hill, Anita Butani D'Souza, Carlton E. Hart, and Anthony J. Hood, to APPROVE; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** December 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 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.

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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 19392 of Revana, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the MU-use requirements of Subtitle U § 513.1(a), to allow the operation of an animal care and boarding use in the MU-4 Zone at premises 2222-2224 18th Street N.W. (Square 2553, Lot 829).

**HEARING DATE:** December 21, 2016  
**DECISION DATE:** December 21, 2016

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 7.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 1C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1C, which is automatically a party to this application. The ANC submit a report in support of the application. The ANC report indicated that at a duly noticed public meeting on December 7, 2016, at which a quorum was present, the ANC passed a resolution to support the application by a vote of 8-0-0. (Exhibit 50.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application with one condition. (Exhibit 47.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 46.)

Letters in support of the application were submitted to the record from nearby residents and business owners, the Kalorama Terrace Condominium Association, and from current customers of the Applicant's business. (Exhibits 32-34, 37-38.) Cedric Stewart provided testimony in support of the application.

Chris Anderson on behalf of Adams Morgan Neighbors for Action gave testimony in opposition to the application based on an alleged lack of outreach to the community. The Board questioned the Applicant regarding its outreach efforts and the Applicant testified that they had spoken with

both adjacent neighbors as well as other nearby neighbors, all of whom had supported the application. Also, the Applicant testified that the ANC had voted to support the application.

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 11 DCMR Subtitle X, Chapter 9, for a special exception under the MU-use requirements of Subtitle U § 513.1(a), to allow the operation of an animal care and boarding use in the MU-4 Zone. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle U § 513.1(a), 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 13 AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall post in the building and provide information to its customers that they are not to use the commercial loading spaces in 18th Street for pick-up and drop-off of pets.

**VOTE:**           **4-0-1** (Frederick L. Hill, Anita Butani D'Souza, Carlton E. Hart, and Anthony J. Hood, to APPROVE; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** December 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.

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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 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.

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## GOVERNMENT OF THE DISTRICT OF COLUMBIA

**BOARD OF ZONING ADJUSTMENT**

441 4<sup>TH</sup> STREET, N.W.  
SUITE 200-SOUTH  
WASHINGTON, D.C. 20001

**PUBLIC NOTICE OF CLOSED MEETINGS FOR JANUARY 2017**

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, January 9<sup>th</sup> and (Tuesday) January 17<sup>th</sup>*, beginning at 3:00 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 January 11<sup>th</sup> and January 18<sup>th</sup>.

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

**Frederick L. Hill, Chairperson, Anita Butani D'Souza, Vice-Chairperson,  
Jeffrey L. Hinkle, Board seat vacant, 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  
NOTICE OF FINAL RULEMAKING  
AND  
Z.C. ORDER NO. 08-06G  
Z.C. Case No. 08-06G  
(Text Amendment - 11 DCMR)  
(Technical Corrections to Z.C. Order 08-06A)  
December 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*.

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