

District of Columbia

REGISTER

HIGHLIGHTS

- D.C. Council schedules a public hearing on Bill 22-0062, Health Literacy Council Establishment Act of 2017
- D.C. Council schedules a public hearing on Bill 22-106, Defending Access to Women's Health Care Services Amendment Act of 2017
- D.C. Commission on the Arts and Humanities announces funding availability for the FY 2017 Murals DC Program
- Board of Elections schedules a public hearing to consider the proposed initiative “District of Columbia Recovery Act for Living Descendants of American Slaves”
- Department of For-Hire Vehicles solicits grant applications for participation in innovative pilot projects and partnership programs
- Office of the State Superintendent of Education announces funding availability for the FY 2017 Improving School Climate/Safe School Certification Grant
- Office of the State Superintendent of Education solicits public comments on the FFY17 IDEA Part C Draft State Application

DISTRICT OF COLUMBIA REGISTER

Publication Authority and Policy

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

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DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

RM 520 – 441 4th ST, ONE JUDICIARY SQ. - WASHINGTON, D.C. 20001 - (202) 727-5090

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-8

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 21, 2017

To amend, on an emergency basis, section 1 of Chapter 106 of the Acts of the Legislative Assembly to clarify the requirements for protecting a dog from extreme weather conditions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Extreme Weather Protection for Animals Emergency Amendment Act of 2017".

Sec. 2. Section 1 of Chapter 106 of the Acts of the Legislative Assembly, approved August 23, 1871 (D.C. Official Code § 22-1001), is amended by adding a new subsection (a-1) to read as follows:

"(a-1)(1) A dog owner shall provide his or her dog with protection from the weather anytime the Mayor has declared a cold emergency alert. Notwithstanding subsection (a)(1) of this section, failure to provide a dog with protection from the weather shall be an offense punished by a fine not exceeding \$250.

"(2) For the purposes of this subsection, the term "protection from the weather" means providing access to a shelter that is suitable for the age, condition, size, and type of each dog by doing the following:

"(A) Accounting for the space needed for each dog, and ensuring that the space protects the dog from injury, rain, sleet, snow, hail, the adverse effects of cold, physical suffering, and impairment of health; and

"(B) Ensuring that the shelter:

"(i) Is raised at least 4 inches from the ground;

"(ii) Includes a heat-retaining, moisture-wicking substance such as straw; and

"(iii) Has a covered wind block."

Sec. 3. Fiscal impact statement.

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

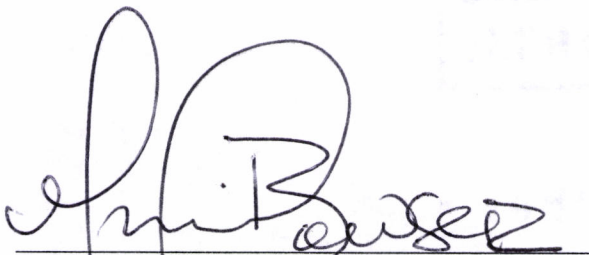
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Sec. 4. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 21, 2017

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-9

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To approve, on an emergency basis, Modification Nos. 4 and 5 to Contract No. DCJM-2014-C-0019 with Georgetown University to advance the Quality Assurance Initiative Project to meet the regulatory and legal requirements under *Evans vs. Gray* and to authorize payment for the goods and services received and to be received under the contract modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Contract No. DCJM-2014-C-0019 with Georgetown University Approval and Payment Authorization Emergency Act of 2017".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 4 and 5 to Contract No. DCJM-2014-C-0019 with Georgetown University to advance the Quality Assurance Initiative Project to meet the regulatory and legal requirements under *Evans vs. Gray*, and authorizes payment in the amount of \$1,214,848 for the goods and services received and to be received under Modification Nos. 4 and 5.

Sec. 3. Fiscal impact statement.


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

Sec. 4. Effective date.

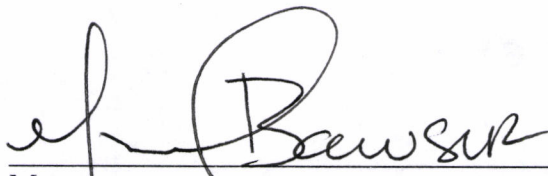
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ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-10

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To approve, on an emergency basis, proposed Modification No. 1 to Contract No. DCJM-2016-E-0002 with Liberty Healthcare Corporation to provide certification reviews of Centers for Medicare and Medicaid Services Home and Community Based Services waiver service providers, and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modification to Contract No. DCJM-2016-E-0002 Approval and Payment Authorization Emergency Act of 2017”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves proposed Modification No. 1 to Contract No. DCJM-2016-E-0002 with Liberty Healthcare Corporation to provide certification reviews of Centers for Medicare and Medicaid Services Home and Community Based Services waiver service providers, and authorizes payment in the total not-to-exceed amount of \$1,672,419 for the goods and services received and to be received under the modification for the period from October 1, 2016, to September 30, 2017.

Sec. 3. Fiscal impact statement.

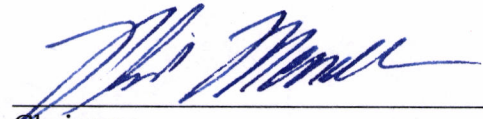
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

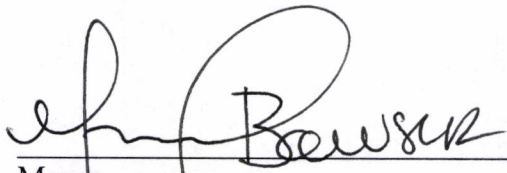
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ENROLLED ORIGINAL

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Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-11

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To approve, on an emergency basis, Modification No. 7 to Contract No. CFOPD-14-C-031 with Fast Enterprises, Inc. to continue to provide hosting services and to purchase an optional integrated fund accounting system in support of the Modernized Integrated Tax System on behalf of the Office of Tax and Revenue, and to authorize payment for the services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. CFOPD-14-C-031 Extension Approval and Payment Authorization Emergency Act of 2017".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification No. 7 to Contract No. CFOPD-14-C-031 with Fast Enterprises, Inc. to continue to provide hosting services, and to implement an optional integrated fund accounting system in support of the Modernized Integrated Tax System for the Office of the Chief Financial Officer on behalf of the Office of Tax and Revenue, and authorizes payment in the not-to-exceed amount of \$5.85 million for services received and to be received during years 3, 4, and 5 of the base period of the contract.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

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Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-12

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To approve, on an emergency basis, Modification No. M022 and proposed Modification No. M023 to Human Care Agreement No. DCRL-2013-H-0039I with Seraaj Family Homes, Inc. to provide case management and therapeutic, traditional, and specialized family-based foster care services for children and youth during Option Year 3, and to authorize payment for the services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Human Care Agreement No. DCRL-2013-H-0039I Approval and Payment Authorization Emergency Act of 2017".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification No. M022 and proposed Modification No. M023 to Human Care Agreement No. DCRL-2013-H-0039I with Seraaj Family Homes, Inc. to provide case management and therapeutic, traditional, and specialized family-based foster care services for children and youth, and authorizes payment in the total not-to-exceed amount of \$5,057,433.17 for services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

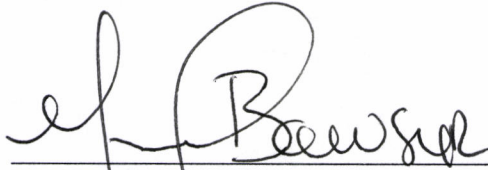
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Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-13

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To approve, on an emergency basis, Modification No. M023 and proposed Modification No. M024 to Human Care Agreement No. DCRL-2013-H-00390 with PSI Family Services, Inc. to provide case management and therapeutic foster care services for children and youth, and to authorize payment for the services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Human Care Agreement No. DCRL-2013-H-00390 Approval and Payment Authorization Emergency Act of 2017".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification No. M023 and proposed Modification No. M024 to Human Care Agreement No. DCRL-2013-H-00390 with PSI Family Services, Inc. to provide case management and therapeutic foster care services for children and youth, and authorizes payment in the total not-to-exceed amount of \$3,293,295.09 for services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

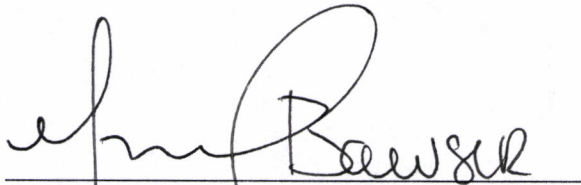
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override that veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-14

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To approve, on an emergency basis, Modification No. M019 and proposed Modification No. M020 to Human Care Agreement No. DCRL-2013-H-0039C with PSI Family Services, Inc. to provide case management and traditional, family-based foster care services for children and youth, and to authorize payment for the services received and to be received under the modifications.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Modifications to Human Care Agreement No. DCRL-2013-H-0039C Approval and Payment Authorization Emergency Act of 2017".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification No. M019 and proposed Modification No. M020 to Human Care Agreement No. DCRL-2013-H-0039C with PSI Family Services, Inc. to provide case management and traditional, family-based foster care services for children and youth, and authorizes payment in the total not-to-exceed amount of \$2,134,951.41 for services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.


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

Sec. 4. Effective date.


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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-15

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To amend, on an emergency basis, due to congressional review, the District of Columbia Public School Nurse Assignment Act of 1987 to require that any public school receiving school nurse services above 20 hours per week as of October 25, 2016, continue at that existing level of service, or the level recommended by the Department of Health’s risk-based assessment, whichever is greater, for the remainder of school year 2016-2017.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Public School Nurse Assignment Congressional Review Emergency Amendment Act of 2017”.

Sec. 2. Section 2 of the District of Columbia Public School Nurse Assignment Act of 1987, effective December 10, 1987 (D.C. Law 7-45; D.C. Official Code § 38-621), is amended as follows:

(a) Subsection (c) is repealed.

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

“(c-1) Any school that, on October 25, 2016, received school nurse services pursuant to this section that exceeded the minimum hours per week prescribed by subsection (b) of this section shall continue the level of service existing on that date, or the level recommended by the Department of Health’s risk-based assessment, whichever is greater, for the remainder of school year 2016-2017.”.

Sec. 3. Applicability.

This act shall apply as of February 16, 2017.

Sec. 4. Fiscal impact statement.


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

Sec. 5. Effective date.

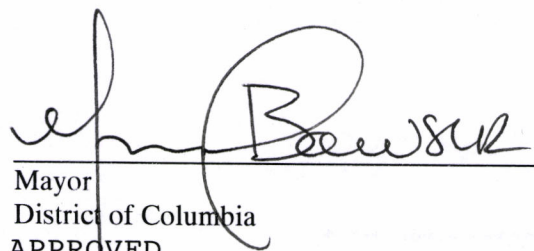
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-16

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To approve, on an emergency basis, Modification Nos. 4, 5, and 6 to Contract No. DCJM-2013-H-0007-02 with St. John’s Community Services to provide occupancy-related residential expenses and services to District residents with intellectual and developmental disabilities, and to authorize payment for the goods and services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Modifications to Contract No. DCJM-2013-H-0007-02 Approval and Payment Authorization Emergency Act of 2017”.

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 4, 5, and 6 to Contract No. DCJM-2013-H-0007-02 with St. John’s Community Services to provide occupancy-related residential expenses and services to District residents with intellectual and developmental disabilities, and authorizes payment in the not-to-exceed amount of \$2,562,690.03 for the goods and services received and to be received under the modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

ENROLLED ORIGINAL

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

ENROLLED ORIGINAL

AN ACT

D.C. ACT 22-17

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 2017

To amend, on an emergency basis, due to congressional review, the Retail Incentive Act of 2004 to modify the boundaries of the Bladensburg Road, N.E., Retail Priority Area; and to amend the H Street, N.E., Retail Priority Area Incentive Act of 2010 to clarify the location of businesses that are eligible to receive retail development project grants.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "H Street, N.E., Retail Priority Area Clarification Congressional Review Emergency Amendment Act of 2017".

Sec. 2. Section 4(g) of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.73(g)), is amended to read as follows:

"(g) There is established the Bladensburg Road, N.E., Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of Holbrook Street, N.E., and Mount Olivet Road, N.E.; thence east on Mount Olivet Road, N.E., to Bladensburg Road, N.E.; thence south on Bladensburg Road, N.E., to 17th Street, N.E.; thence south on 17th Street, N.E., to H Street, N.E.; thence east on H Street, N.E., to 19th Street, N.E.; thence south on 19th Street, N.E., to Benning Road, N.E.; thence east on Benning Road, N.E., to Oklahoma Avenue, N.E.; continuing southwest along Oklahoma Avenue, N.E., to the center line of E Street, N.E.; continuing west on E Street, N.E., to the center line of 21st Street, N.E.; continuing north on 21st Street, N.E., to the center line of Gales Street, N.E.; thence northwest on Gales Street, N.E., to 15th Street, N.E.; thence west on G Street, N.E., to 14th Street, N.E.; thence north on 14th Street, N.E., to Florida Avenue, N.E.; thence west on Florida Avenue, N.E., to Holbrook Street, N.E.; thence north on Holbrook Street, N.E., to the point of beginning."

Sec. 3. Section 4(c)(2) of the H Street, N.E., Retail Priority Area Incentive Act of 2010, effective April 8, 2011 (D.C. Law 18-354; D.C. Official Code § 1-325.173(c)(2)), is amended to read as follows:

"(2) Frontage on a commercial corridor within the H Street, N.E., Retail Priority Area;"

ENROLLED ORIGINAL

Sec. 4. Applicability.


This act shall apply as of February 27, 2017.

Sec. 5. 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. 6. Effective date.

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



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 27, 2017

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

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

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

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

- | | |
|---------|---|
| B22-131 | Education Professional Development Contracting Authority Clarification Amendment Act of 2017 Intro. 2-22-17 by Chairman Mendelson and referred to the Committee of the Whole |
| <hr/> | |
| B22-133 | Universal Paid Leave Compensation for Workers Amendment Act of 2017 Intro. 2-21-17 by Councilmembers Evans and Gray and referred to the Committee of the Whole |
| <hr/> | |
| B22-136 | Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2017 Intro. 2-28-17 by Chairman Mendelson at the request of the Board of Ethics and Government Accountability and referred to the Committee on Judiciary and Public Safety |
-

PROPOSED RESOLUTIONS

- PR22-128 Director of the Department of Employment Services Odie Donald
Confirmation Resolution of 2017

Intro. 2-17-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Labor and Workforce Development
-
- PR22-129 Commission on Asian and Pacific Islander Community Development Jennifer Hara
Confirmation Resolution of 2017

Intro. 2-17-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Government Operations
-
- PR22-131 Food Policy Council Eric Kessler Confirmation Resolution of 2017

Intro. 2-22-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
-
- PR22-132 Food Policy Council Christopher Bradshaw Confirmation Resolution of 2017

Intro. 2-22-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
-
- PR22-133 Food Policy Council Caesar Layton Confirmation Resolution of 2017

Intro. 2-22-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
-
- PR22-134 Food Policy Council Tandra Raye Stevenson Confirmation Resolution of 2017

Intro. 2-22-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment
-
- PR22-135 Food Policy Council Alexandra Ashbrook Confirmation Resolution of 2017

Intro. 2-22-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment

| | |
|----------|--|
| PR22-136 | Board of Barber and Cosmetology Mr. Isaac Colon Confirmation Resolution of 2017 Intro. 2-22-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business and Economic Development |
| PR22-137 | Public Charter School Board Stephen Bumbaugh Confirmation Resolution of 2017 Intro. 2-23-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Education |
| PR22-140 | Board of Social Work Selerya Moore Confirmation Resolution of 2017 Intro. 2-24-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health |
| PR22-141 | Board of Social Work Velva Spriggs Confirmation Resolution of 2017 Intro. 2-24-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health |
| PR22-142 | Real Estate Commission Frank Pietranton Confirmation Resolution of 2017 Intro. 2-24-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Housing and Neighborhood Revitalization |
| PR22-143 | District of Columbia Water and Sewer Authority Board of Directors David Franco Confirmation Resolution of 2017 Intro. 2-24-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Transportation and the Environment |
| PR22-144 | Chief of the Metropolitan Police Department Peter Newsham Confirmation Resolution of 2017 Intro. 2-28-17 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety |

PR22-145 Board of Pharmacy Alan Steven Friedman Confirmation Resolution of 2017
Intro. 2-28-17 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Health

PR22-146 Board of Pharmacy Tamara McCants Confirmation Resolution of 2017
Intro. 2-28-17 by Chairman Mendelson at the request of the Mayor and referred
to the Committee on Health

**COUNCIL OF THE DISTRICT OF COLUMBIA
 ABBREVIATED NOTICE OF PUBLIC HEARINGS
 AGENCY PERFORMANCE OVERSIGHT HEARINGS
 FISCAL YEAR 2016-2017**

2/28/2017

SUMMARY

February 2, 2017 Committee of the Whole Public Briefing on the Fiscal Year 2016 Comprehensive Annual Financial Report (CAFR) 9:30 a.m. in Room 500

February 8, 2017 to March 16, 2017 Agency Performance Oversight Hearings on Fiscal Year 2016-2017

The Council of the District of Columbia hereby gives notice of its intention to hold public oversight hearings on agency performances for FY 2016 and FY 2017. The hearings will begin Wednesday, February 8, 2017 and conclude on Thursday, March 16, 2017 and will take place in the Council Chamber (Room 500), Room 412, Room 123, and Room 120 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to the committee at which you are testifying. If a written statement cannot be provided prior to the day of the hearing, please have at least 10 copies of your written statement available on the day of the hearing for immediate distribution to the Council. Unless otherwise stated by the Committee, the hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's budget performance oversight hearing schedule, please contact the committee of interest.

ADDENDUM OF CHANGES TO THE PUBLIC HEARING SCHEDULE

| <u>New Date</u> | <u>Original Date</u> | <u>Hearing</u> |
|-----------------|----------------------|--|
| 2/15/2017 | 2/15/2017 | Committee on Labor and Workforce Development; 10:30 a.m. |
| 2/17/2017 | 2/16/2017 | Commission on the Arts and Humanities (Finance & Revenue-Room 412) |
| 2/17/2017 | 2/27/2017 | Secretary of the District of Columbia (Government Operations-Room 120) |
| 2/24/2017 | 2/28/2017 | Office of Public-Private Partnerships (Government Operations-Room 412) |
| | | Office of Chief Financial Officer, Real Property Tax Appeals Commission, & DC Lottery (Finance & Revenue-Room 412; 10:00 a.m.) |
| 2/27/2017 | 2/22/2017 | |
| 3/2/2017 | 2/13/2017 | Correction Information Council (Judiciary-Room 500; 11:00 a.m.) |
| | | D.C. Housing Authority & Age-Friendly DC Task Force (Housing & Neighborhood Revitalization-Room 412; 12:00 p.m.) |
| 3/14/2017 | 2/16/2017 | |
| 3/13/2017 | 3/16/2017 | Office of Budget and Planning (COW-Room 412) |

PUBLIC HEARING SCHEDULE

| | | |
|---|---|--------------------------------|
| COMMITTEE OF THE WHOLE | | Chairman Phil Mendelson |
| THURSDAY, FEBRUARY 2, 2017; COUNCIL CHAMBER (Room 500) | | |
| Time | Subject | |
| 9:30 a.m. - End | Committee of the Whole Public Briefing on the Fiscal Year 2016 Comprehensive Annual Financial Report (CAFR) | |

| | | |
|--|---|--------------------------------|
| COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION | | Chairperson Anita Bonds |
| WEDNESDAY, FEBRUARY 8, 2017; COUNCIL CHAMBER (Room 500) | | |
| Time | Agency | |
| 11:00 a.m. - End | Housing Finance Agency | |
| | Board of Condemnation of Insanitary Buildings | |
| | Board of Real Estate Appraisers | |
| | Real Estate Commission | |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

| | | |
|--|------------------------------------|------------------------------|
| COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT | | Chairperson Mary Cheh |
| FRIDAY, FEBRUARY 10, 2017; Room 412 | | |
| Time | Agency | |
| 11:00 a.m. - End | Department of Motor Vehicles | |
| | Department of Parks and Recreation | |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

| | | |
|---|--|----------------------------------|
| COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY | | Chairperson Charles Allen |
| MONDAY, FEBRUARY 13, 2017; Room 412 | | |
| Time | Agency | |
| 11:00 a.m. - 5:00 p.m. | Deputy Mayor for Public Safety and Justice | |
| | Criminal Justice Coordinating Council | |
| | Office of Victim Services and Justice Grants | |
| | Department of Corrections | |

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

| | | |
|---|---|---------------------------------|
| COMMITTEE ON EDUCATION | | Chairperson David Grosso |
| TUESDAY, FEBRUARY 14, 2017; Room 412 | | |
| Time | Agency | |
| 11:00 a.m. - End | Office of the State Superintendent of Education | |

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

| | | |
|---|--|------------------------------------|
| COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT | | Chairperson Kenyan McDuffie |
| WEDNESDAY, FEBRUARY 15, 2017; COUNCIL CHAMBER (Room 500) | | |
| Time | Agency | |
| 10:00 a.m. - End | Department of Small and Local Business Development | |
| | Department of Insurance, Securities and Banking | |
| | Department of For-Hire Vehicles | |
| | For-Hire Vehicle Advisory Council | |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Demetris Cheatham (dcheatham@dccouncil.us) or by calling 202-297-0152.

COMMITTEE ON HUMAN SERVICES

Chairperson Brianne Nadeau

| WEDNESDAY, FEBRUARY 15, 2017; Room 412 | |
|---|--|
| Time | Agency |
| 10:00 a.m. - End | Department of Disability Services Office of Disability Rights |

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Chairperson Elissa Silverman

| WEDNESDAY, FEBRUARY 15, 2017; Room 120 | |
|---|--|
| Time | Agency |
| 10:30 a.m. - End | Office of Employee Appeals Public Employees Relations Board |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Charnisa Royster (croyster@dccouncil.us) or by calling 202-724-7772.

COMMITTEE ON EDUCATION

Chairperson David Grosso

| WEDNESDAY, FEBRUARY 15, 2017; Room 123 | |
|---|--|
| Time | Agency |
| 10:00 a.m. - End | Deputy Mayor for Education State Board of Education |

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

| THURSDAY, FEBRUARY 16, 2017; COUNCIL CHAMBER (Room 500) | |
|--|--|
| Time | Agency |
| 10:00 a.m. - End | Washington Metropolitan Area Transit Authority |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy (sloy@dccouncil.us) or by calling 202-724-8058.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION

Chairperson Anita Bonds

| THURSDAY, FEBRUARY 16, 2017; Room 412 | |
|--|--|
| Time | Agency |
| 10:00 a.m. - End | Office on Aging Commission on Aging |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Charles Allen

| THURSDAY, FEBRUARY 16, 2017; Room 123 | |
|--|---|
| Time | Agency |
| 12:00 p.m. - 5:00 p.m. | Judicial Nomination Commission Commission on Judicial Disabilities and Tenure Office of the Attorney General District of Columbia Sentencing Commission Criminal Code Reform Commission |

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON HEALTH

Chairperson Vincent Gray

| FRIDAY, FEBRUARY 17, 2017; COUNCIL CHAMBER (Room 500) | |
|--|----------------------|
| Time | Agency |
| 11:00 a.m. - End | Department of Health |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Osa Imadojemu (oimadojemu@dccouncil.us) or by calling 202-727-7774.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

| FRIDAY, FEBRUARY 17, 2017; Room 412 | |
|-------------------------------------|---------------------------------------|
| Time | Agency |
| 10:00 a.m. - End | Commission on the Arts and Humanities |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy (sloy@dccouncil.us) or by calling 202-724-8058.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Brandon Todd

| FRIDAY, FEBRUARY 17, 2017; Room 120 | |
|-------------------------------------|---------------------------------------|
| Time | Agency |
| 10:00 a.m. - End | Secretary of the District of Columbia |

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6668.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Chairperson Kenyan McDuffie

| WEDNESDAY, FEBRUARY 22, 2017; COUNCIL CHAMBER (Room 500) | |
|--|---|
| Time | Agency |
| 10:00 a.m. - End | Alcoholic Beverage Regulation Administration |
| | Office of Cable Television, Film, Music and Entertainment |
| | Office of the People's Counsel |
| | Public Service Commission |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Demetris Cheatham (dcheatham@dccouncil.us) or by calling 202-297-0152.

COMMITTEE ON EDUCATION

Chairperson David Grosso

| WEDNESDAY, FEBRUARY 22, 2017; Room 412 | |
|--|--|
| Time | Agency |
| 10:00 a.m. - End | District of Columbia Public Library System |

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

| WEDNESDAY, FEBRUARY 22, 2017; Room 120 | |
|--|----------------|
| Time | Agency |
| 10:00 a.m. - End | Events DC |
| | Destination DC |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy (sloy@dccouncil.us) or by calling 202-724-8058.

COMMITTEE ON EDUCATION

Chairperson David Grosso

| THURSDAY, FEBRUARY 23, 2017; COUNCIL CHAMBER (Room 500) | |
|---|---|
| Time | Agency |
| 10:00 a.m. - End | District of Columbia Public Schools (Public Witnesses Only) |

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON HEALTH

Chairperson Vincent Gray

| THURSDAY, FEBRUARY 23, 2017; Room 412 | |
|---------------------------------------|---------------------------------|
| Time | Agency |
| 11:00 a.m. - End | Department of Behavioral Health |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Osa Imadojemu (oimadojemu@dccouncil.us) or by calling 202-727-7774.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Brandon Todd

| THURSDAY, FEBRUARY 23, 2017; Room 120 | |
|---------------------------------------|-----------------------------------|
| Time | Agency |
| 10:00 a.m. - End | Office of Administrative Hearings |
| | Office of the Inspector General |
| | Public Access Corporation |

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6668.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

| THURSDAY, FEBRUARY 23, 2017; Room 123 | |
|--|--|
| Time | Agency |
| 2:00 p.m. - 6:00 p.m. | Office of Human Rights |
| | District of Columbia Board of Ethics and Government Accountability |
| | District of Columbia Board of Elections |
| | Office of Campaign Finance |

Persons wishing to testify about the performance of any of the foregoing agencies should email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

| FRIDAY, FEBRUARY 24, 2017; Room 412 | |
|--|---|
| Time | Agency |
| 10:00 a.m. - End | Serve DC |
| | Office of Community Affairs |
| | Office of Religious Affairs |
| | Interfaith Council |
| | Commission for Women |
| | Office of Gay, Lesbian, Bisexual, Transgender & Questioning Affairs |
| | Advisory Committee to the Office of GLBTQ Affairs |
| | Office of Asian and Pacific Islander Affairs |
| | Commission on Asian and Pacific Islander Affairs |
| | Office on African Affairs |
| | Commission on African Affairs |
| | Commission on African American Affairs |
| | Commission on Fathers, Men and Boys |
| | Office of Latino Affairs |
| | Commission on Latino Community Development |
| Advisory Commission on Caribbean Community Affairs | |
| Office of Veterans Affairs | |
| Office of Public-Private Partnerships | |

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6668.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

| MONDAY, FEBRUARY 27, 2017; COUNCIL CHAMBER (Room 500) | |
|--|---------------------------------------|
| Time | Agency |
| 10:00 a.m. - End | Executive Office of the Mayor |
| | Office of the City Administrator |
| | Office of the Senior Advisor |
| | Mayor's Office of Legal Counsel |
| | Emancipation Commemoration Commission |

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6668.

COMMITTEE ON FINANCE & REVENUE **Chairperson Jack Evans**

| MONDAY, FEBRUARY 27, 2017; Room 412 | |
|--|---|
| Time | Agency |
| 10:00 a.m. - End | Office of the Chief Financial Officer |
| | District of Columbia Lottery and Charitable Games |
| | Real Property Tax Appeals Commission |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Sarina Loy (sloy@dccouncil.us) or by calling 202-724-8058.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

| TUESDAY, FEBRUARY 28, 2017; COUNCIL CHAMBER (Room 500) | |
|---|--|
| Time | Agency |
| 11:00 a.m. - End | Washington Aqueduct |
| | District of Columbia Water & Sewer Authority |
| | Department of General Services |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

| TUESDAY, FEBRUARY 28, 2017; Room 412 | |
|---|---|
| Time | Agency |
| 11:00 a.m. - 4:00 p.m. | District of Columbia National Guard |
| | Homeland Security and Emergency Management Agency |
| | Department of Forensic Sciences |
| | Office of the Chief Medical Examiner |

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE OF GOVERNMENT OPERATIONS **Chairperson Brandon Todd**

| TUESDAY, FEBRUARY 28, 2017; Room 120 | |
|---|--|
| Time | Agency |
| 11:00 a.m. - End | Office of Partnerships and Grants Services |
| | Office of the Chief Technology Officer |

Persons wishing to testify about the performance of any of the foregoing agencies may email: governmentoperations@dccouncil.us or by calling 202-724-6668.

COMMITTEE ON EDUCATION **Chairperson David Grosso**

| TUESDAY, FEBRUARY 28, 2017; Room 123 | |
|---|--|
| Time | Agency |
| 10:00 a.m. - End | District of Columbia Public Charter School Board |
| | Bully Prevention Task Force |

Persons wishing to testify about the performance of any of the foregoing agencies may do so online at: <http://bit.do/educationhearings> or by calling 202-724-8061.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

| WEDNESDAY, MARCH 1, 2017; COUNCIL CHAMBER (Room 500) | |
|---|---|
| Time | Agency |
| 10:00 a.m. - End | Department of Youth Rehabilitation Services |
| | Child and Family Services Agency |

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

| WEDNESDAY, MARCH 1, 2017; Room 412 | |
|---|---|
| Time | Agency |
| 10:00 a.m. - End | Office of Risk Management |
| | Office of Labor Relations and Collective Bargaining |
| | Department of Human Resources |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Charnisa Royster (croyster@dccouncil.us) or by calling 202-724-8835.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

| WEDNESDAY, MARCH 1, 2017; Room 120 | |
|---|-----------------------------|
| Time | Agency |
| 11:00 a.m. - End | Department of Health Boards |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Osa Imadojemu (oimadojemu@dccouncil.us) or by calling 202-727-7774.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

| WEDNESDAY, MARCH 1, 2017; Room 123 | |
|---|---|
| Time | Agency |
| 10:00 a.m. - End | Deputy Mayor for Planning and Economic Development |
| | District of Columbia Boxing and Wrestling Commission |
| | Walter Reed Army Medical Center Site Reuse Advisory Committee |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Demetris Cheatham (dcheatham@dccouncil.us) or by calling 202-297-0152.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

| THURSDAY, MARCH 2, 2017; COUNCIL CHAMBER (Room 500) | |
|--|--|
| Time | Agency |
| 11:00 a.m. - 5:00 p.m. | Metropolitan Police Department |
| | Office of Police Complaints |
| | Fire and Emergency Medical Services Department |
| | Office of Unified Communications |
| | Corrections Information Council |

Persons wishing to testify about the performance of any of the foregoing agencies may email: judiciary@dccouncil.us or by calling 202-727-8275.

COMMITTEE ON EDUCATION **Chairperson David Grosso**

| THURSDAY, MARCH 2, 2017; Room 412 | |
|--|---|
| Time | Agency |
| 10:00 a.m. - End | District of Columbia Public Schools (Government Witnesses Only) |

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION **Chairperson Anita Bonds**

| FRIDAY, MARCH 3, 2017; COUNCIL CHAMBER (Room 500) | |
|--|---|
| Time | Agency |
| 11:00 a.m. - End | Office of the Tenant Advocate |
| | Department of Housing and Community Development |
| | Housing Production Trust Fund |
| | Rental Housing Commission |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

| MONDAY, MARCH 6, 2017; COUNCIL CHAMBER (Room 500) | |
|--|--|
| Time | Agency |
| 10:00 a.m. - 2:00 p.m. | Metropolitan Washington Airports Authority |
| | Metropolitan Washington Council of Governments |
| | Office of Zoning |
| | Office of Planning |

Persons wishing to testify about the performance of any of the foregoing agencies may email: cw@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

| WEDNESDAY, MARCH 8, 2017; COUNCIL CHAMBER (Room 500) | |
|---|--|
| Time | Agency |
| 11:00 a.m. - End | Deputy Mayor for Health and Human Services |
| | United Medical Center |
| | District of Columbia Health Benefit Exchange Authority |
| | Department of Health Care Finance |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Osa Imadojemu (oimadojemu@dccouncil.us) or by calling 202-727-7774.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION **Chairperson Anita Bonds**

| WEDNESDAY, MARCH 8, 2017; Room 123 | |
|---|--|
| Time | Agency |
| 4:00 p.m. - End | Office on Returning Citizen Affairs |
| | Commission on Re-Entry and Returning Citizen Affairs |
| | Advisory Neighborhood Commissions |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

| MONDAY, MARCH 13, 2017; COUNCIL CHAMBER (Room 500) | |
|---|---------------------------------------|
| Time | Agency |
| 11:00 a.m. - End | Pedestrian Advisory Council |
| | Bicycle Advisory Council |
| | District Department of Transportation |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

| MONDAY, MARCH 13, 2017; Room 412 | |
|---|---|
| Time | Agency |
| 10:00 a.m. - 2:00 p.m. | University of the District of Columbia |
| | District of Columbia Retirement Board/Funds |
| | District Retiree Health Contribution |
| | Office of Budget and Planning |

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION **Chairperson Anita Bonds**

| TUESDAY, MARCH 14, 2017; Room 412 | |
|--|--|
| Time | Agency |
| 12:00 p.m. - End | District of Columbia Housing Authority |
| | Age-Friendly DC Task Force |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Oscar Montiel (omontiel@dccouncil.us) or by calling 202-724-8198.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

| WEDNESDAY, MARCH 15, 2017; COUNCIL CHAMBER (Room 500) | |
|--|---|
| Time | Agency |
| 10:00 a.m. - End | Department of Employment Services |
| | Deputy Mayor for Greater Economic Opportunity |
| | Workforce Investment Council |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Charnisa Royster (croyster@dccouncil.us) or by calling 202-724-7772.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

| WEDNESDAY, MARCH 15, 2017; Room 412 | |
|--|-------------------------------------|
| Time | Agency |
| 10:00 a.m. - End | Department of Human Services |
| | Interagency Council on Homelessness |

Persons wishing to testify about the performance of any of the foregoing agencies may email: humanservices@dccouncil.us or by calling 202-724-8170.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

| WEDNESDAY, MARCH 15, 2017; Room 123 | |
|--|---------------------------------------|
| Time | Agency |
| 10:00 a.m. - 2:00 p.m. | District of Columbia Auditor |
| | New Columbia Statehood Commission |
| | Contract Appeals Board |
| | Office of Contracting and Procurement |

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

| THURSDAY, MARCH 16, 2017; COUNCIL CHAMBER (Room 500) | |
|---|---|
| Time | Agency |
| 10:00 a.m. - 4:00 p.m. | Department of Consumer and Regulatory Affairs |

Persons wishing to testify about the performance of any of the foregoing agencies may email: cow@dccouncil.us or by calling 202-724-8196.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

| THURSDAY, MARCH 16, 2017; Room 412 | |
|---|--------------------------------------|
| Time | Agency |
| 11:00 a.m. - End | Department of Public Works |
| | Department of Energy and Environment |

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Aukima Benjamin (abenjamin@dccouncil.us) or by calling 202-724-8062.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON EDUCATION & COMMITTEE ON HEALTH
NOTICE OF A JOINT PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED

**COUNCILMEMBER DAVID GROSSO
COMMITTEE ON EDUCATION & COMMITTEE ON HEALTH
ANNOUNCES A JOINT PUBLIC HEARING**

on

**B22-0027 - Public School Health Services Amendment Act of 2017
B22-0062 – Health Literacy Council Establishment Act of 2017**

on

**Thursday, March 23, 2017
10:00 a.m., Hearing Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember David Grosso and Councilmember Vincent Gray announces the scheduling of a joint public hearing of the Committee on Education and the Committee on Health on B22-0027 - Public School Health Services Amendment Act of 2017 and B22-0062 – Health Literacy Council Establishment Act of 2017. The hearing will be held at 10:00 a.m. on Thursday, March 23, 2017 in Hearing Room 500 of the John A. Wilson Building.

The stated purpose of B22-0027 is to increase the minimum hours per week of registered public school nurses at District Public and Charter Schools to 40 hours per week. The stated purpose of B22-0062 is to establish the District Health Literacy Council.

Those who wish to testify may sign-up online at <http://bit.do/educationhearings> or call the Committee on Education at (202) 724-8061 or the Committee on Health at (202) 727-7774 by 5:00pm Tuesday, March 21. Persons wishing to testify are encouraged, but not required, to submit 10 copies of written testimony. Witnesses appearing on his or her own behalf should limit their testimony to three minutes; witnesses representing organizations should limit their testimony to five minutes.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee on Education & the Committee on Health, Council of the District of Columbia, Suite 116 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on December 12, 2016.

This is a revised hearing notice to add the Committee on Health to the hearing and to add B22-0062 to the agenda.

**Council of the District of Columbia
Committee on Health
Notice of Public Hearing**

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

**COUNCILMEMBER VINCENT C. GRAY, CHAIRPERSON
COMMITTEE ON HEALTH**

ANNOUNCES A PUBLIC HEARING ON:

Bill 22-64, the “Extreme Weather Protection for Animals Act of 2017”

Proposed Resolution 22-72, the “Sense of the Council Regarding the Health Impacts of Heavy Backpacks Resolution of 2017”

Bill 22-106, the “Defending Access to Women's Health Care Services Amendment Act of 2017”

Monday, March 20, 2017

11:00 a.m.

Room 500 - John A. Wilson Building

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

Councilmember Vincent C. Gray, Chairperson of the Committee on Health, announces a public hearing to be held on Monday, March 20, 2017 at 11:00 a.m. in Room 500, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 22-64, the “Extreme Weather Protection for Animals Act of 2017” amends Chapter 106 of Acts of the Legislative Assembly to define instances in which keeping animals outside in certain weather conditions constitutes cruelty to animals.

Proposed Resolution 22-72, the “Sense of the Council Regarding the Health Impacts of Heavy Backpacks Resolution of 2017” declares the sense of the Council to acknowledge the health risks that heavy backpacks pose to schoolchildren and recommends certain measures to be taken in that regard to avoid injury.

Bill 22-106, the “Defending Access to Women's Health Care Services Amendment Act of 2017” amends the Women’s Health and Cancer Rights Federal Law Conformity Act of 2000 to require insurers to cover certain health care services without cost-sharing, and to require insurers to provide information regarding coverage to enrollees and potential enrollees.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Cherita Whiting, Committee Assistant at (202) 727-7774 or cwhiting@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 11:00 a.m. on Friday, March 17, 2017. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to cwhiting@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 113, Washington D.C. 20004.

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

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

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

AND

**COUNCILMEMBER VINCENT C. GRAY, CHAIR
COMMITTEE ON HEALTH**

ANNOUNCES A JOINT PUBLIC HEARING ON:

Bill 22-72, the “Save Good Food Amendment Act of 2017”

Tuesday, March 28, 2017

11:00 a.m.

Room 500 - John A. Wilson Building

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

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue and Councilmember Vincent C. Gray, Chairman of the Committee on Health, announce a joint public hearing to be held on Tuesday, March 28, 2017 at 11:00 a.m. in Room 500, of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Bill 22-72, the “Save Good Food Amendment Act of 2017” creates a tax credit for individual taxpayers, corporations, and unincorporated businesses that donate food to non-profit organizations; expands liability protections for food donation to cover food donors that donate food directly to individuals for consumption; enhances liability protections to cover bona fide charitable or not-for-profit organizations that distribute food and charge a fee that covers the cost of handling or preparing the food; requires the Department of Health to not require date labels on food products or limit the sale or donation of past-date food products that do not pose an increased safety risk to consumers once the date has passed; requires the Department of Health and the Office of Waste Diversion within the Department of Public Works to create a guide on food donation; and requires the Department of Health to train health inspectors on the information in the guide.

The Committee invites the public to testify at the hearing. Those who wish to testify should contact Sarina Loy, Committee Assistant at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 11:00 a.m. on Monday, March 27, 2017. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia, 1350 Pennsylvania Ave., N.W., Suite 114, Washington D.C. 20004.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 22-98, the “Digital Sign Display Limitation Regulation Amendment Act of 2017”

on

**Tuesday, March 28, 2017
12:30 p.m., Hearing Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 22-98**, the “Digital Sign Display Limitation Regulation Amendment Act of 2017.” The hearing will be held at 12:30 p.m. on Tuesday, March 28, 2017 in room 412 of the John A. Wilson Building.

The stated purpose of **Bill 22-98** is to amend Appendix N of Title 12A of the District of Columbia Municipal Regulations to establish guidelines for the use of full motion video and digital displays in exterior digital signage. Bill 22-98 would prohibit the use of full motion video on signs in the District except at the Verizon Center, Nats Stadium, and Ballpark Designated Entertainment Area (“DEA”). The bill also would limit the use of full motion video on signs at the Verizon Center to one hour before, during, and 30 minutes after an event; and limit the duration of digital displays across the District to no less than eight seconds and transition time between messages to no greater than two seconds. These restrictions would effectively hold Verizon Center digital signs to the same standard as Nats Stadium and the DEA digital signs.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or to call Sydney Hawthorne, Legislative Counsel at (202) 724-8196, and to provide your name, address, telephone number, organizational affiliation, and title (if any) by close of business **March 24, 2017**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on March 24, 2017 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. More time for expert witnesses may be allowed by special arrangement. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at noon on Tuesday, April 11, 2017.

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 22-104, the “Inclusionary Zoning Consistency Amendment Act of 2017”

on

Monday, April 10, 2017
12:00 p.m. (or immediately following the preceding hearing)
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 22-104**, the “Inclusionary Zoning Consistency Amendment Act of 2017.” The hearing will be held at 12:00 p.m. (or immediately following the preceding hearing) on Monday, April 10, 2017 in room 412 of the John A. Wilson Building.

The stated purpose of **Bill 22-104** is to amend the Inclusionary Zoning Implementation Amendment Act of 2006 (D.C. Law 16-275; D.C. Official Code § 6-1041 *et seq.*) to make it consistent with changes made to the Inclusionary Zoning Regulations by the Zoning Commission for the District of Columbia on October 17, 2016. Mainly, these changes amend the Metropolitan Statistical Area income percentages associated with the low-income and middle-income brackets, and require the Mayor to promulgate rules to carry out the changes.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or to call Sydney Hawthorne, Legislative Counsel at (202) 724-8196, and to provide your name, address, telephone number, organizational affiliation, and title (if any) by close of business **April 6, 2017**. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on April 6, 2017 the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. Copies of the legislation can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at noon on Monday, April 24, 2017.

**Council of the District of Columbia
 COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT
 NOTICE OF PUBLIC HEARING
 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON
 COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT**

ANNOUNCES A PUBLIC HEARING ON

**PR22-0051, THE “COMMISSION ON FASHION ARTS AND EVENTS STEPHANIE
 SPEARS CONFIRMATION RESOLUTION OF 2017”**

**PR22-0053, THE “COMMISSION ON FASHION ARTS AND EVENTS JASON
 ANTHONY CONFIRMATION RESOLUTION OF 2017”**

**PR22-0059, THE “ALCOHOLIC BEVERAGE CONTROL BOARD DONALD L. ISAAC
 SR. CONFIRMATION RESOLUTION OF 2017”**

PR22-0093, THE “LANGDON PARK MORATORIUM ZONE RESOLUTION OF 2017”

**Monday, March 20, 2017, 2:30 p.m.
 Room 123, John A. Wilson Building
 1350 Pennsylvania Avenue, N.W.
 Washington, D.C. 20004**

On Monday, March 20, 2017, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Business and Economic Development, will hold a public hearing on Proposed Resolution 22-0051, the “Commission on Fashion Arts and Events Stephanie Spears Confirmation Resolution of 2017”; Proposed Resolution 22-0053, the “Commission on Fashion Arts and Events Jason Anthony Confirmation Resolution of 2017”; Proposed Resolution 22-0059, the “Alcoholic Beverage Control Board Donald L. Isaac Sr. Confirmation Resolution of 2017”; and the “Langdon Park Moratorium Zone Resolution of 2017”. The hearing will be held in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 2:30 p.m.

The stated purpose of PR22-0051 and PR22-0053 are to confirm Stephanie Spears and Jason Anthony to the Commission on Fashion Arts and Events.

The stated purpose of PR22-0059 is to confirm Donald L. Isaac Sr. to the Alcoholic Beverage Control Board.

The stated purpose of PR22-0093 is to approve proposed rules that the District of Columbia Alcoholic Beverage Control Board published to amend Title 23 of DCMR by adding new section

311 entitled, the “Langdon Park Moratorium Zone.” The proposed rules would place a limit on the number of CN and CX retailer licenses that be issues in Langdon Park, as well as prohibit the approval of new Entertainment Endorsements for CR and CT retailer licenses within approximately 600 feet of 2122 24th Place, N.E. for three years.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact Demetris Cheatham at (202) 478-2456, or via e-mail at DCheatham@dccouncil.us, and provide their name, telephone number, organizational affiliation, and title (if any) **by close of business, March 16, 2017**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witness should bring **15, single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically to DCheatham@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on March 24, 2017.**

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON

**THE MAYOR'S NOMINEE FOR CHIEF OF POLICE OF THE
METROPOLITAN POLICE DEPARTMENT, PETER NEWSHAM**

**Tuesday, March 7, 2017, 7:00 p.m.
R.I.S.E. Demonstration Center
2730 Martin Luther King Jr., Avenue, S.E.
Washington, D.C. 20032**

On Tuesday, March 7, 2017, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public oversight roundtable to consider the Mayor's nominee for Chief of Police of the Metropolitan Police Department, Peter Newsham. This is the first of three public roundtables on Interim Chief Newsham's nomination. The first two roundtables will be held in the community and will accept testimony from the public. The third roundtable will be held at the John A. Wilson Building and will accept testimony from the public and the nominee. This roundtable will take place at the R.I.S.E. Demonstration Center, 2730 Martin Luther King, Jr., Avenue, S.E., Washington, D.C. 20032, at 7 p.m.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the roundtable should contact the Committee on the Judiciary and Public Safety via email at judiciary@dccouncil.us or at (202) 727-8275, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Monday, March 6, 2017**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses are encouraged to bring **twenty single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.

For witnesses who are unable to testify at the roundtable, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee at judiciary@dccouncil.us or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on March 27.**

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC ROUNDTABLE**
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

**PR 22-77, District of Columbia Retirement Board Lyle M. Blanchard Reappointment
Resolution of 2017**

&

**PR 22-78, District of Columbia Retirement Board Michael J. Warren Reappointment
Resolution of 2017**

on

Monday, March 13, 2017

2:00 p.m. (or immediately following the preceding oversight hearing)

Hearing Room 412, John A. Wilson Building

1350 Pennsylvania Avenue, NW

Washington, DC 20004

Council Chairman Phil Mendelson announces a public roundtable before the Committee of the Whole on PRs **22-77**, the “District of Columbia Retirement Board Lyle M. Blanchard Reappointment Resolution of 2017,” and **22-78**, the “District of Columbia Retirement Board Michael J. Warren Reappointment Resolution of 2017.” The roundtable will be held at 2:00 p.m. (or immediately following the preceding oversight hearing) on Monday, March 13, 2017 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of PRs **22-77** and **22-78** to confirm the Council’s reappointment of Lyle Blanchard and Michael Warren, respectively, as members of the District of Columbia Retirement Board (“DCRB”). DCRB is an independent agency of the District of Columbia government with exclusive authority to manage the pension funds of the D.C. Police Officers and Firefighters’ Retirement Fund and the Teachers’ Retirement Fund. DCRB also is the benefits administrator for the plans associated with each fund.

Those who wish to testify are asked to email the Committee of the Whole at cow@dccouncil.us, or call Christina Setlow, Deputy Committee Director at (202) 724-8196, and to provide your name, address, telephone number, organizational affiliation and title (if any) by close of business Thursday, March 9, 2017. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on March 9, 2017 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses. A copy of the proposed resolutions can be obtained through the Legislative Services Division of the Secretary of the Council’s office or on <http://lims.dccouncil.us>.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at noon on March 20, 2017.

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC ROUNDTABLE
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC ROUNDTABLE ON

**PROPOSED RESOLUTION 22-0144, THE “CHIEF OF THE METROPOLITAN POLICE
DEPARTMENT PETER NEWSHAM CONFIRMATION RESOLUTION OF 2017”**

**Friday, March 24, 2017, 9:30 a.m.
Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Friday, March 24, 2017, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public roundtable to consider Proposed Resolution 22-0144, the “Chief of the Metropolitan Police Department Peter Newsham Confirmation Resolution of 2017”. This is the third of three public roundtables on Interim Chief Newsham’s nomination. The roundtable will take place in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004, at 9:30 a.m.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the roundtable should contact the Committee on the Judiciary and Public Safety via email at judiciary@dccouncil.us or at (202) 727-8275, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Wednesday, March 22, 2017**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring **twenty single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.

For witnesses who are unable to testify at the roundtable, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee at judiciary@dccouncil.us or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on March 27.**

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

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

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

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

Reprog. 22 - 15: Request to reprogram \$93,239 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the District of Columbia Public Schools (DCPS) was filed in the Office of the Secretary on February 21, 2017. This reprogramming is needed to fund computer equipment for the Powell Elementary School Modernization project.

RECEIVED: 14 day review begins February 22, 2017

Reprog. 22 - 16: Request to reprogram \$560,275 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DCPS was filed in the Office of the Secretary on February 21, 2017. This reprogramming is needed to fund the purchase of fixtures, furniture, and equipment for the Ron Brown School Modernization project.

RECEIVED: 14 day review begins February 22, 2017

Reprog. 22 - 17: Request to reprogram \$500,000 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on February 21, 2017. This reprogramming will ensure that there is sufficient available operating budget in these programs to cover these expenditures.

RECEIVED: 14 day review begins February 22, 2017

Reprog. 22 - 18: Request to reprogram \$78,189 of Pay-As-You-Go (Paygo) Capital Funds budget authority and allotment from the Department of General Services (DGS) to the Local funds budget of DGS was filed in the Office of the Secretary on February 21, 2017. This reprogramming is needed for the purchase of furniture, security equipment and fitness equipment for the Fort Stevens Recreation Center

RECEIVED: 14 day review begins February 22, 2017

Reprog. 22 - 19: Request to reprogram \$1,224,491 of Capital Funds budget authority and allotment within the District Department of Transportation (DDOT) was filed in the Office of Secretary on February 21, 2017. This reprogramming is needed to advance design and to complete construction for storm water work to mitigate flooding in the Bloomingdale neighborhood.

RECEIVED: 14 day review begins February 22, 2017

Reprog. 22 - 20: Request to reprogram \$272,307 of Fiscal Year 2017 Special Purpose Revenue funds budget from the District Department of Transportation (DDOT) to the Pay-As-You-Go (Paygo) Capital Fund was filed in the Office of the Secretary on February 21, 2017. This reprogramming ensures that DDOT can provide a contribution to complete the Pennsylvania Avenue East/White House Transportation Study.

RECEIVED: 14 day review begins February 22, 2017

Reprog. 22 - 21: Request to reprogram \$10,451,461 of Capital Funds budget authority and allotment within the Department of General Services was filed in the Office of the Secretary on February 28, 2017. This reprogramming is necessary to fully fund various critical school projects.

RECEIVED: 14 day review begins March 1, 2017

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

Placard Posting Date: March 3, 2017
Protest Petition Deadline: April 18, 2017
Roll Call Hearing Date: May 1, 2017

License No.: ABRA-094362
Licensee: Numana, LLC
Trade Name: Campono
License Class: Retailer's Class "D" Restaurant
Address: 600 New Hampshire Avenue, N.W.
Contact: Stephen O'Brien, Esq.: (202) 625-7700

WARD 2

ANC 2A

SMD 2A04

Notice is hereby given that this licensee has requested a Substantial Change to their 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 May 1, 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.

NATURE OF SUBSTANTIAL CHANGE

Class Change from DR to CR.

CURRENT HOURS OF OPERATION

Sunday through Thursday 7 am – 11 pm, Friday & Saturday 7 am – 11 pm

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday 8 am – 11 pm., and Friday & Saturday 8 am – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date: February 17, 2017
 Protest Petition Deadline: April 3, 2017
 Roll Call Hearing Date: April 18, 2017

License No.: ABRA-093723
 Licensee: Dean & Deluca of Georgetown, Inc.
 Trade Name: Dean & Deluca
 License Class: Retailer’s Class “D” Restaurant
 Address: 3276 M Street, N.W.
 Contact: Andrew J. Kline, Esq.: (202) 686-7600

WARD 2 ANC 2E SMD 2E05

Notice is hereby given that this licensee has requested a Substantial Change to their 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 April 18, 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.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests to increase the seating capacity of the Summer Garden by 50, for a new total seating capacity of 100.

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

Sunday through Thursday 10 am – 11 pm, Friday & Saturday 10 am – 12 am

HOURS OF ENTERTAINMENT INSIDE PREMISES

Sunday through Thursday 6 pm – 11 pm, Friday & Saturday 6 pm – 12 am

****HOURS OF ENTERTAINMENT OUTDOORS IN SUMMER GARDEN**

Sunday through Thursday 11 am – 6 pm, and Friday & Saturday 11 am – 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date: February 17, 2017
 Protest Petition Deadline: April 3, 2017
 Roll Call Hearing Date: April 18, 2017

License No.: ABRA-093723
 Licensee: Dean & Deluca of Georgetown, Inc.
 Trade Name: Dean & Deluca
 License Class: Retailer’s Class “D” Restaurant
 Address: 3276 M Street, N.W.
 Contact: Andrew J. Kline, Esq.: (202) 686-7600

WARD 2 ANC 2E SMD 2E05

Notice is hereby given that this licensee has requested a Substantial Change to their 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 April 18, 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.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests to increase the seating capacity of the Summer Garden by 50, for a new total seating capacity of 100.

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

Sunday through Thursday 10 am – 11 pm, Friday & Saturday 10 am – 12 am

HOURS OF ENTERTAINMENT INSIDE PREMISES

Sunday through Thursday 6 pm – 11 pm, Friday & Saturday 6 pm – 12 am

****HOURS OF ENTERTAINMENT OUTDOORS IN SUMMER GARDEN**

Sunday through Thursday 10 am – 11 pm, and Friday & Saturday 10 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 3, 2017
Protest Petition Deadline: April 18, 2017
Roll Call Hearing Date: May 1, 2017
Protest Hearing Date: June 28, 2017

License No.: ABRA-105592
Licensee: Hotel Beverage Company, LLC
Trade Name: Hotel Beverage Company
License Class: Retailer's Class "D" Tavern
Address: 1233 First Street, S.E.
Contact: Michael Fonseca, Esq.: (202) 625-7700

WARD 6

ANC 6D

SMD 6D02

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 May 1, 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 June 28, 2017 at 4:30 p.m.**

NATURE OF OPERATION

New Class "D" Tavern with 90 seats and a Total Occupancy Load of 186. Applicant will operate in the lobby dining area of collocated hotel and will serve appetizers and snacks.

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

Sunday through Saturday 12 pm – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: March 3, 2017
Protest Petition Deadline: April 18, 2017
Roll Call Hearing Date: May 1, 2017
Protest Hearing Date: June 28, 2017

License No.: ABRA-105514
Licensee: Imm on Georgia, LLC
Trade Name: Imm Thai on Georgia
License Class: Retailer's Class "C" Restaurant
Address: 5832 Georgia Ave, N.W.
Contact: Chrissie Chang: (703) 992-3994

WARD 4

ANC 4C

SMD 4C01

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 May 1, 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 June 28, 2017 at 1:30 p.m.**

NATURE OF OPERATION

New Class "C" Restaurant with 89 seats and a Total Occupancy Load of 99. Restaurant will serve Thai food for all ages. The establishment will also feature Live Entertainment.

HOURS OF OPERATION, AND ALCOHOLIC BEVERAGE**SALES/SERVICE/CONSUMPTION FOR PREMISES**

Sunday through Thursday 11 am – 11 pm, Friday and Saturday 11 am – 3 am

HOURS OF LIVE ENTERTAINMENT FOR PREMISES

Thursday through Saturday 8 pm – 2 am

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

Placard Posting Date: March 3, 2017
Protest Petition Deadline: April 18, 2017
Roll Call Hearing Date: May 1, 2017

License No.: ABRA-076011
Licensee: Salma, LLC
Trade Name: Red Lounge Hookah
License Class: Retailer's Class "C" Restaurant
Address: 2013A 14th Street, N.W.
Contact: Dee Hunter, Esq.: (202) 705-0797

WARD 1

ANC 1B

SMD 1B12

Notice is hereby given that this licensee has requested a Substantial Change to their 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 May 1, 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.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests a class change from Retailer Class "C" Restaurant to Retailer Class "C" Tavern.

**HOURS OF OPERATION, ALCOHOLIC BEVERAGE
SALES/SERVICE/CONSUMPTION AND ENTERTAINMENT FOR PREMISES**

Sunday 10 am – 12 am, Monday through Thursday 10 am – 2 am, Friday and Saturday 10 am – 3 am

BOARD OF ELECTIONS**NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE**

The Board of Elections shall consider in a public hearing whether the proposed measure “District of Columbia Recovery Act for Living Descendants of American Slaves” is a proper subject matter for initiative, at the Board Meeting on Wednesday, April 05, 2017 at 10:30 a.m., One Judiciary Square, 441 4th Street, N.W., Suite 280, Washington D.C. 20001. The entire measure is 120 pages. Anyone that would like a copy of the proposed initiative sent to them should contact the office of the General Counsel at 202 727-2194 or ogc@dcboee.org and request a copy.

The Board requests that written memoranda be submitted for the record no later than 4:00 p.m., Monday, April 3, 2017 to the Board of Elections, General Counsel’s Office, One Judiciary Square, 441 4th Street, N.W., Suite 270, Washington D.C. 20001

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number and name of the organization represented (if any) by calling the General Counsel’s office no later than Friday, March 31, 2017.

The Short Title, Summary Statement and Legislative Text of the proposed initiative read as follows:

SHORT TITLE

DISTRICT OF COLUMBIA RECOVERY ACT FOR LIVING
DESCENDANTS OF AMERICAN SLAVES

SUMMARY STATEMENT

Reparation of identity and Financial Restitution Benefits for Living Descendants of American Slaves with African or Haitian Lineage, whose Ancestors enslaved in the United States of America from 1619 thru 1870.

Taxpayers not responsible for payments of claims. Tariffs Levied on Industries, Institutions and International Governments whom participated in Slave Trading, Ownership and Labor. Payments deposited to NGO and INGO Trust Fund Corporations for Disbursement of Benefits to Descendants.

Qualified Descendants are born in the United States of America reside and vote in the District of Columbia. Mandatory DNA and Genetics Identification Test to Claim Benefits.

Initiative Act start November 10, 2018, Expires January 20, 2267
251 years.

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
WEDNESDAY, APRIL 19, 2017
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

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

TIME: 9:30 A.M.

WARD ONE

19464 **Application of David Medvedev**, pursuant to 11 DCMR Subtitle X, Chapter 9, ANC 1B for a special exception under the penthouse requirements of Subtitle C §§ 1500.4 and 1502.1, to permit the location of a new penthouse and roof deck on an existing one-family dwelling in the ARTS-4 Zone at premises 1205 V Street N.W. (Square 272, Lot 853).

WARD TWO

19475 **Application of DC Boathouse, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, ANC 2A for special exceptions under the penthouse restaurant use requirements of Subtitle C § 1500.3(c) and the retail use requirements of Subtitle U § 504.1(j), to construct an addition to an existing dormitory to create an apartment building with a ground-floor retail use and a penthouse café in the MU-2 Zone (currently zoned RA-5) at premises 2601 Virginia Avenue N.W. (Square 6, Lot 42).

WARD SIX

19480 **Application of Ilya Zusin**, pursuant to 11 DCMR Subtitle X, Chapter 9, ANC 6B for special exceptions from the accessory building lot occupancy requirements of Subtitle E § 5003.1, from the accessory building rear yard requirements of Subtitle E § 5004.1, and under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct an accessory two-story carriage house for use as covered parking and an office in the RF-1 Zone at premises 202 9th Street, S.E. (Square 944, Lot 814).

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.

BZA PUBLIC HEARING NOTICE

APRIL 19, 2017

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

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

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

Do you need assistance to participate?

Amharic

ለሙከራ ስርዓት ያስፈልግዎታል?

የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ሙከራ ተርጓሚ)

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

0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሙከራ 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。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 cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

Korean

참여하시는데 도움이 필요하세요?

BZA PUBLIC HEARING NOTICE

APRIL 19, 2017

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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 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish

¿Necesita ayuda para participar?

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 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 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
LESLYEE WHITE
CARLTON HART, VICE-CHAIRPERSON
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
ONE BOARD SEAT VACANT
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING**

DISTRICT OF COLUMBIA PUBLIC LIBRARY

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Public Library Board of Trustees, pursuant to the authority set forth in An Act to establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, as amended (29 Stat. 244, ch. 315, § 5; D.C. Official Code § 39-105 (2012 Repl.)); Section 3205 (jjj) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 39-105 (2012 Supp.)); Section 2 of the District of Columbia Public Library Board of Trustees Appointment Amendment Act of 1985, effective September 5, 1985 (D.C. Law 6-17; D.C. Official Code § 39-105 (2012 Supp.)); the Procurement Reform Amendment Act of 1996, effective April 12, 1997, as amended (D.C. Law 11-259; 44 DCR 1423 (March 14, 1997)); and Section 156 of An Act Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes, approved October 21, 1998 (112 Stat. 2681, Pub. L. 105-277; D.C. Official Code § 39-105 (2012 Repl.)); hereby gives notice of its intent to amend Chapter 8 (Public Library) of Title 19 (Amusements, Parks, and Recreation) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The amended rules will uphold the District of Columbia Public Library (DCPL) policy to provide and maintain a safe and secure environment in which every customer can obtain equitable access to information, expanded opportunities and an increased quality of life. The guidelines will act as rules of conduct for library customers, in order to deter and /or minimize the effect of unacceptable behavior, by defining such behavior so that individuals may conduct themselves in a manner consistent with the purpose and functions of DCPL.

The Board of Trustees has appointed the Chief Librarian/Executive Director, through D.C. Official Code § 39-105(a)(10) (2012 Repl.), to establish rules and manage the day-to-day operations of the library. On January 27, 2017, the Executive Director of the DCPL approved the proposed new amendment(s) to replace the current DCPL regulations regarding behavior rules governing the use of the District of Columbia Public Library.

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

Subsections 810.1 through 810.4 of Section 810, BEHAVIOR RULES GOVERNING THE USE OF THE DISTRICT OF COLUMBIA PUBLIC LIBRARY, are amended to read as follows:

810 BEHAVIOR RULES GOVERNING THE USE OF THE DISTRICT OF COLUMBIA PUBLIC LIBRARY

810.1 INTRODUCTION

The District of Columbia Public Library's (DCPL) behavior rules have three primary purposes: (1) to protect the rights and safety of all library customers, (2) to protect the rights and safety of staff members and (3) to protect the library's materials, facilities and property.

The DCPL supports the right of all customers to free and equal access to information and use of the library without discrimination, intimidation, threat of harm or invasion of privacy. DCPL is dedicated to providing friendly, courteous and respectful service and an enjoyable, clean and comfortable environment for all customers.

DCPL reserves the right to inspect a customer's belongings including purses, backpacks, bags, parcels, shopping bags, briefcases and other items to prevent unauthorized removal of library materials and equipment or for the health and safety of library staff and customers.

810.2 DEFINITIONS AND SCOPE

These behavior rules apply to all buildings and all grounds controlled and operated by DCPL (buildings and grounds are also known as "the premises") and to all customers entering in or on the premises. Listed below are the library's behavior rules. Customers who violate these rules may be removed from the premises and excluded from all library premises for the period of time listed below, by authority of the DC Public Library.

810.3 ENFORCEMENT

Library staff, Library Police, and/or Metropolitan Police Department (MPD) officers may intervene to stop prohibited activities and behaviors. A violation of law may result in arrest and prosecution. Failure to comply with these rules may result in issuance of a Notice of Barring from Library property for a period of one (1) day to five (5) years. If a Notice of Barring is issued, it applies to all DCPL locations and includes the suspension of DCPL privileges, including but not limited to the use of DCPL computers and other equipment. If barred, customers may have their photographs or video captured by DCPL staff to enforce the bar.

810.4 ADMINISTRATIVE REVIEW OF NOTICES OF BARRING

- (a) An individual who receives a Notice of Barring may request an administrative review if the bar is greater than seven (7) days. This request must be made within ten (10) business days of the date on the barring notice and submitted in writing to:

Director of Public Safety
Martin Luther King Jr. Memorial Library
901 G. Street N.W.

Washington, D.C. 20001

- (b) The Executive Director or designee will issue a final decision on the administrative review of the bar within thirty (30) calendar days. The barred individual may appeal the final decision to the District of Columbia Superior Court’s Civil Division within thirty (30) days of the date of the notice of final decision.

810.5 REASONABLE ACCOMODATION

Library customers who wish to request a reasonable modification of these Guidelines because of a disability or health problem may contact Library staff or may call the ADA Coordinator at 202-727-1101.

810.6 BEHAVIOR RULES

For the safety and comfort of the public and staff, and to create an environment that is favorable to library operations, the following rules and consequences apply. These activities are prohibited on library premises:

- (a) Category One Rules and Consequences: Any customer, aged nine (9) and older, who violates category one rules while on library premises will be restricted from the premises until the problem is corrected. Subsequent offenses by that customer will result in that person’s immediate removal and restriction from all DCPL premises as follows:

| Age | Initial | 2nd Violation (within 30 days) | 3rd Violation (within 30 days) | 4th time (within 30 days) |
|-----|---------------------------------------|-----------------------------------|-----------------------------------|------------------------------|
| 9+ | Leave library until problem corrected | 1 week | 1 month | 3 months |
| 0-8 | Warning and referral to caregiver. | | | |

- (1) Being on DCPL premises with bare feet or a bare chest; shirts and footwear are required at all times.
- (2) Being under the obvious influence of any controlled substance or intoxicating beverage.
- (3) Bringing in bags in excess of 9” L x 14” W x 22” H. Customers are permitted to bring in two bags per person, but each bag must be smaller than 9” L x 14” W x 22” H. Items must fit easily into a measuring box of the above dimensions. Infested personal items are also prohibited.

- (4) Any customer with an odor that can be detected by a reasonable person from six (6) feet away and/or disturbs other library users.
 - (5) Consuming food or drink that creates a nuisance or disrupts library use because of odor, garbage or spills. Non-alcoholic beverages in covered containers and food are only allowed in designated areas.
 - (6) Lying down, sleeping, or the appearance of sleeping on the premises. Sitting customers must use library-provided seating (chair, couch, etc.). Customers may not sit on the floor, sidewalk, etc. unless approved by a library staff member and may not block aisles, exits, pathways, or entrances.
 - (7) Using personal electronics without headphones or at a volume that disturbs others.
- (b) Category Two Rules and Consequences: Any customer who violates category two rules while on library premises will be given a warning that shall remain on the customer’s record for six (6) months. Subsequent offenses within a six (6) month time frame by that customer will result in that person’s immediate removal and barring from all DCPL premises as follows:

| Age | Initial | 2nd Violation (Within 6 months) | 3rd Violation (Within 6 months) | 4th Violation (Within 6 months) |
|-------|--|------------------------------------|------------------------------------|------------------------------------|
| 18+ | warning | 3 months | 6 months | 1 year |
| 13-17 | warning | 1 month | 3 months | 6 months |
| 9-12 | warning | 1 week | 2 weeks | 1 month |
| 0-8 | Warning, referral to caregiver and/or Library Police or MPD. | | | |

- (1) Soliciting, petitioning, or distributing written materials or canvassing for political, charitable or religious purposes on the premises.
- (2) Using someone else’s library card to obtain library services, including public computer use, is prohibited. Each customer must use their own library card and these cards are non-transferrable; loaning your library card to another person is prohibited. Library cards used in violation of this rule will be blocked after a warning.

- (3) Placing items or personal belongings on or against buildings, furniture, equipment or fixtures in a manner that interferes with library staff or customer use of the library, or leaving personal belongings unattended.
- (4) Bringing bicycles, or other similar items inside library buildings, including, but not limited to, vestibules or covered doorways. Operating bicycles or other similar items in a reckless or inattentive manner on library premises.
- (5) Operating roller skates, skateboards, hoverboards, or other similar items in, or on, library premises.
- (6) Bringing animals inside library buildings (with the exception of service animals), except as allowed at a library-approved event, or leaving an animal tethered and unattended on library premises.
- (7) Improperly using library restrooms, including, but not limited to, bathing, shaving, washing hair, and exceeding more than one person in a restroom stall (unless accompanying children or adults in need of assistance.).
- (8) Leaving one or more children eight (8) years old or under, who reasonably appear to be unsupervised or unattended, anywhere in or on library premises. [[Please see Unattended Children Policy](#)]
- (9) Customers thirteen (13) years of age and older are prohibited from using the children's area, unless accompanying a child twelve (12) years old or younger or selecting an item from the collection.
- (10) Customers twenty (20) years of age and older and children twelve (12) years of age and younger are prohibited from using the teen area unless accompanying a teen aged thirteen (13) to nineteen (19) or selecting an item from the collection..
- (11) Customers thirteen (13) years of age and older are prohibited from using any restroom designated for children. Children's restrooms are for the sole use of children twelve (12) years old or younger, and their caregivers.
- (12) Customers under the age of eighteen (18) who are on library property during regular school hours must provide verification of excused absence from school upon request from library staff.
- (13) Leaving mess, garbage or spills or creating mess, garbage or spills that disrupts or interferes with library use.

- (a) Category Three Rules and Consequences: Any customer who violates category three rules while on library premises may first be informed of library rules. Subsequent offenses by that customer within one (1) year will result in that person’s immediate removal and restriction from all DCPL premises as follows:

| Age | Initial | 2nd Violation (within one year) | 3rd Violation (within one year) | 4th Violation (within one year) |
|-------|--|------------------------------------|------------------------------------|------------------------------------|
| 18+ | 1 month | 3 months | 1 year | 2 years |
| 13-17 | 1 week | 1 month | 6 months | 1 year |
| 9-12 | rest of day | 1 week | 1 month | 3 months |
| 0-8 | Warning, referral to caregiver and/or Library Police or MPD. | | | |

- (1) Engaging in conduct that disrupts or interferes with the normal operation of the library, or disturbs library staff or customers, including but not limited to, the use of abusive or threatening language or gestures, conduct that creates unreasonable noise, or conduct that consists of loud or boisterous physical behavior or talking.
- (2) Engaging in bullying as defined by the [Youth Bullying Prevention Act of 2012](#), effective September 14, 2012 (D.C. Law 19-167; 59 DCR 7820 (June 29, 2012)).
- (3) Misuse of any library property in a destructive, abusive, or potentially damaging manner; or in a manner likely to cause personal injury to themselves or others.
- (4) Failure to comply with the reasonable direction of a library staff member or law enforcement officer.
- (5) Smoking or other use of tobacco products, including electronic cigarettes, in the library or on library property.
- (6) Violating the library’s *Computer Use Guidelines*.
- (7) Entering or attempting to enter DCPL premises while barred (*i.e.*, trespassing). Customers or persons returning to DCPL premises during a period of barring may be arrested and prosecuted for

unlawful entry pursuant to [D.C. Official Code § 22-3302](#) (2012 Repl. & 2016 Supp.).

- (8) Possessing, selling, distributing, or consuming any alcoholic beverage, except as allowed at a library-approved event.

(b) Category Four Rules and Consequences: Any customer who violates category four rules while on library premises will be immediately removed and restricted from all DCPL premises as follows:

| Age | Each Incident |
|-------|--|
| 18+ | 1-5 years, based on severity, and the incident will be reported to the appropriate law enforcement agency |
| 13-17 | 3 months to 1 year, based on severity, and the incident will be reported to the appropriate law enforcement agency |
| 9-12 | 1-6 months, based on severity, and the incident will be reported to the appropriate law enforcement agency |
| 0-8 | Warning, referral to caregiver and/or Library Police or MPD. |

- (1) Committing, or attempting to commit, any activity that would constitute a violation of any Federal or District of Columbia criminal statute, ordinance, code, or law.
- (2) Directing a specific threat of physical harm against an individual, group of individuals, or property.
- (3) Engaging in sexual conduct/activity, including, but not limited to, the physical manipulation or touching of sex organs through clothing in an act of apparent sexual stimulation or gratification.

Any person desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be submitted to Grace Perry-Gaiter, DCPL, General Counsel, Martin Luther King Jr. Memorial Library, 901 ‘G’ Street, N.W., 4th Floor, Washington, D.C. 20001. Telephone: (202) 727-1134. Copies of the proposed rulemaking may be obtained by writing to the address stated above.

OFFICE OF THE CITY ADMINISTRATOR

NOTICE OF THIRD EMERGENCY RULEMAKING

The City Administrator, pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2012 Repl. & 2016 Supp.)) and Mayor's Order 2015-36, dated January 9, 2015, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Appendix N (Signs) of Title 12 (Construction Codes Supplement of 2013), Subtitle A (Building Code Supplement of 2013), of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking would revise Section N101.3.5.3 of 12-A DCMR Appendix N to require permitting of signs that are located inside a building and are legible or clearly discernable from a property other than the property on which the sign is located, and to regulate such signs as exterior signs under Appendix N.

This emergency rulemaking is necessary to address an immediate need to preserve and promote the health, safety, and welfare of the District residents by ensuring that unpermitted, quasi-exterior signage does not proliferate across the District.

A Notice of Emergency and Proposed Rulemaking was first adopted on July 12, 2016, and published in the *D.C. Register* on August 26, 2016 at 63 DCR 11000. The initial emergency rulemaking was extended through a second emergency rulemaking adopted on November 4, 2016, and published in the *D.C. Register* on that date at 63 DCR 13718. This notice extends the language of the previous emergency rule without amendment or alteration.

This third emergency rulemaking was adopted on March 4, 2017, became effective immediately, and shall remain in effect for one hundred and twenty (120) days, or until July 2, 2017, unless earlier superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Appendix N, SIGNS, of Title 12-A DCMR, BUILDING CODE SUPPLEMENT OF 2013, is amended as follows:

Section N101, GENERAL, Subsection N101.3.5.3, is amended to read as follows:

N101.3.5.3 Signs within a building. Any sign located entirely inside a building, unless the sign: (1) is attached directly or painted on a window; (2) is located within 18 inches (457 mm) of a window or entrance; or (3) contains writing that is legible, or an image that is clearly discernible, from property other than the property on which the sign is located. A sign inside a building that (1) is attached directly or painted on a window; (2) is located within 18 inches (457 mm) of a window or entrance; or (3) contains writing that is legible, or an image that is clearly discernible, from property other than the property on which the sign is located, shall require a permit and shall be regulated as a sign under this Appendix N.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, MARCH 8, 2017
2000 14TH 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 # 17-PRO-00003; The Bottle Shop, Inc., t/a The Bottle Shop, 2216 18th Street NW, License #100543, Retailer B, ANC 1C
Substantial Change (Request a Class Change from B to A License)
- Show Cause Hearing (Status)** **9:30 AM**
Case # 15-251-00205; 1900 M Restaurant Associates, Inc., t/a Rumors Restaurant, 1900 M Street NW, License #71717, Retailer CN, ANC 2B
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age
- Show Cause Hearing (Status)** **9:30 AM**
Case # 16-CMP-00543; Shophouse, LLC, t/a Shophouse Southeast Asian Kitchen, 50 Massachusetts Ave NE, License #97214, Retailer DR, ANC 6C
No ABC Manager on Duty
- Show Cause Hearing (Status)** **9:30 AM**
Case # 16-AUD-00067; HML Rose, Inc., t/a Lindy's Bon Appetit, 2040 I Street NW, License #23533, Retailer CR, ANC 2A
Failed to Maintain Books and Records
- Show Cause Hearing (Status)** **9:30 AM**
Case # 16-CMP-00674; Sushi Para Company, t/a Sushi Sai, 4221 Connecticut Ave NW, License #88557, Retailer DR, AN C3F
No ABC Manager on Duty

Board's Calendar
March 8, 2017

Show Cause Hearing (Status)

Case # 16-CMP-00758; A DC Restaurant Group, LLC, t/a The Pinch, 3548-3550 14th Street NW, License #88333, Retailer CT, ANC 1A
No ABC Manager on Duty, Permitted Nude Dancers in the Establishment **9:30 AM**

Show Cause Hearing (Status)

Case # 16-CMP-00539; Louyans, Inc., t/a City Lights of China, 1729-1731 Connecticut Ave NW, License #14818, Retailer CR, ANC 2B
Failed to File Quarterly Statements **9:30 AM**

Show Cause Hearing*

Case # 15-CMP-00697; Jasper Ventures, LLC, t/a Capitale, 1301 K Street NW License #72225, Retailer CN, ANC 2F
Selling, Serving, or Permitting the Consumption of Alcoholic Beverages after Hours **10:00 AM**

Show Cause Hearing*

Case # 16-CMP-00527; Restaurant Enterprises, Inc., t/a Smith Point, 1338 Wisconsin Ave NW, License #60131, Retailer CT, ANC 2E
Noise Violation **11:00 AM**

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

Protest Hearing*

Case # 16-PRO-00118; La Kabah, LLC, t/a Aura Lounge (formerly Marrakach Restaurant), 2147-2149 P Street NW, License #90204, Retailer CT, ANC 2B
Application to Renew the License **1:30 PM**

Protest Hearing*

Case # 16-PRO-00116; Green Island Heaven & Hell, Inc., t/a Green Island Café/Heaven & Hell (The), 2327 18th Street NW, License #74503, Retailer CT ANC 1C
Application to Renew the License **1:30 PM**

Fact Finding Hearing*

Case # 16-251-00277; DC Live, LLC, t/a XO, 15 K Street NE, License #100316 Retailer CT, ANC 6C
Aggravated Assault Inside of the Establishment, Interfered with an Investigation **1:30 PM**

Board's Calendar
March 8, 2017

Fact Finding Hearing*

2:30 PM

Case # 17-CMP-00006; Ping Pong One, LLC, t/a Ping Pong, 900 7th Street NW
License #82097, Retailer CR, AN C 2C

**Provided Entertainment Without an Entertainment, Dancing or Cover
Charge Endorsement, Interfered with an Investigation, Transfer of
Ownership Without Board's Approval, Allowed Establishment to be Used
for Unlawful or Disorderly Purposes**

Protest Hearing*

3:30 PM

Case # 16-PRO-00117; 1716 I, LLC, t/a Eye Bar/Garden of Eden, 1716 I Street
NW, License #83133, Retailer CN, ANC 2B

Application to Renew the License

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
LICENSING AGENDA

WEDNESDAY, MARCH 8, 2017 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 1C. SMD 1C03. Pending Enforcement Matter - See attachment. No outstanding fines/citations. No conflict with Settlement Agreement. *El Rincon Espanol*, 1826 Columbia Road NW, Retailer CR, License No. 060003.
-

2. Review Application for Entertainment Endorsement to provide Live Entertainment.
Proposed Hours of Live Entertainment: Sunday-Wednesday 6pm to 10pm, Thursday 6pm to 11pm, Friday-Saturday 6pm to 10pm. ANC 1B. SMD 1B01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement.
Drift on 7th, 1819 7th Street NW, Retailer CR, License No. 093399.
-

***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.**

DC COMMISSION ON THE ARTS AND HUMANITIES**NOTICE OF FUNDING AVAILABILITY****FY 2017 Murals DC Program**

The DC Commission on the Arts and Humanities (DCCA) announces the availability of the Murals DC program for fiscal year 2017. Grants supporting artists and or artist teams will be available during this period.

The DC Commission on the Arts and Humanities seeks to provide support for graffiti and aerosol mural artists and or artist teams to design, create and install murals that inspire the various communities in which they will be placed.

Artist/Artist teams must meet eligibility criteria listed in the program's guidelines. Preference will be given to District of Columbia based artists. All District of Columbia based artists must possess a clean hands certification at the time of application.

All eligible applications are reviewed through a competitive process. Evaluation criteria are based on 1) Artistic Merit, 2) Community Impact, and 3) Managerial Capability. All activities funded by the grant must be completed by September 30, 2017.

The Request for Applications (RFA) will be available electronically beginning March 14, 2017 on the DCCA website at <http://dcarts.dc.gov/>. Applicants must apply online. The deadline for this application is April 14, 2017.

Technical assistance workshops will be offered throughout the application period.

For more information, please contact:

Keona Pearson
Public Art Program Coordinator
DC Commission on the Arts and Humanities
200 I (EYE) St. SE
Washington, DC 20003
(202) 724-5613 or Keona.Pearson@dc.gov

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE

The Director of the Department of Behavioral Health (DBH), pursuant to the authority set forth in sections 5113, 5115, 5117, 5118 and 5119 of the Department of Behavioral Health Establishment Act of 2013, effective December 24, 2013 (D.C. Law 20-0061; D.C. Official Code §§ 7-1141.02, 7-1141.04, 7-1141.06, 7-1141.07 and 7-1141.08)(2013 Supp.), hereby gives notice that effective February 21, 2017, DBH will accept a new certification application for Assertive Community Treatment (ACT) from MBI Health Services, LLC (MBI).

On February 16, 2017, Green Door, Inc. notified the Department that it would cease operations effective February 25, 2017, due to financial reasons. Green Door provided the Department a copy of an Asset Purchase Agreement between MBI and Green Door whereby MBI agreed to assume Green Door's lease at 1221 Taylor St NW, among other assets. In order to provide minimal disruption to consumer services, MBI and Green Door contemplated, to the extent permitted by law and subject to consumer and employee choice, that after February 25, 2017, MBI would continue to provide services at 1221 Taylor St NW with a workforce consisting largely of former Green Door staff. Pursuant to this Agreement, MBI and Green Door requested that the Department certify MBI to provide Mental Health Rehabilitation Services at 1221 Taylor St NW.

Green Door is currently certified to provide ACT services and treats approximately 300 active consumers. MBI is a certified MHRS provider but is not currently certified to provide ACT. The capacity of currently-certified ACT providers within the DBH network is not sufficient to accommodate the transfer of 300 Green Door ACT consumers. There currently exists a moratorium on new certification applications.

In order to preserve the health and safety of Green Door consumers following this abrupt closure, the Department has determined the following: (a) that the certification moratorium should be lifted for 7 days for the limited purpose of allowing MBI to apply for ACT certification to accommodate those ACT consumers who voluntarily choose to remain with their ACT team workers moving to MBI; (b) that Green Door consumers shall be provided written notice of Green Door's closure and the names of other DBH MHRS providers to facilitate consumer choice; and (c) that Green Door should coordinate closely with the Department and stakeholders to arrange consumer forums to ensure Green Door consumers have the opportunity to exercise their rights to choose a provider that best suits their individual needs.

Any questions concerning this Notice should be directed to Atiya Frame, Deputy Director, Office of Accountability, District of Columbia Department of Behavioral Health, 64 New York Ave., NE, 3rd Floor, Washington, D.C. 20002 – 4347, (202) 673-2254, Atiya.Frame@dc.gov.

DC INTERNATIONAL SCHOOL**REQUEST FOR PROPOSALS****Student International Trips**

District of Columbia International School is soliciting for procurement of International Student Trips for students to travel to foreign countries for service oriented trips in Chinese, French, and Spanish. The trips are to be for summer 2017 for a duration of 7 - 20 days. Proposals must be submitted no later than 3 pm on Friday, March 10, 2017.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FUNDING AVAILABILITY (NOFA)

FISCAL YEAR 2017

Improving School Climate/Safe School Certification Grant

Request for Applications (RFA) Release Date: March 20, 2017

The Office of the State Superintendent of Education (OSSE) – Division of Health and Wellness, is soliciting applications for the Improving School Climate in DC (ISC-DC) Grant pursuant to the National Institute for Justice Improving School Safety in the District of Columbia: Evaluating the Safe School Certification Program. The purpose of this grant is to support schools' efforts to complete the remaining components of the Safe School Certification Process and implement evidence based programs that meet the requirements of "evidence of promise" as defined by the U.S. Department of Education.

Eligibility: As part of the Improving School Climate in DC (ISC-DC) pilot program, this grant funding opportunity is exclusively for schools participating in the project. OSSE will make this grant available through a competitive process. Only those participating schools are eligible to apply once they have successfully passed checkpoint 1 of the Safe School Certification framework, as determined by the external review panel. In order to complete checkpoint 1, schools must submit a workbook detailing if and how they have accomplished the set benchmarks of the Safe School Certification rubric.

Award Period: The grant period begins upon date of award notification and ends on June 1 of the following year.

Available Funding for Award: The total funding available for this award period is \$255,000. Eligible schools may apply for an award amount of up to \$15,000 each.

An external review panel will be convened to review, score, and rank each application. The review panel 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 shall make recommendations for awards based on the scoring rubric.

For additional information regarding this grant competition, please contact:

DeMarcus Jenkins
Education Research Analyst
Division of Health and Wellness
Office of the State Superintendent of Education
demarcus.jenkins@dc.gov
[\(202\) 322-1399 \(c\)](tel:(202)322-1399)

The RFA and all supporting documents will be available on <http://grants.osse.gov/> or by contacting DeMarcus Jenkins at demarcus.jenkins@dc.gov.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**FFY17 IDEA PART C DRAFT STATE APPLICATION****Notice of Public Comment Period**

In order to receive a grant award under Part C of IDEA to support the provision of special education and related services to children with disabilities, each state must complete an annual grant application to the U.S. Department of Education, Office of Special Education Programs.

To ensure an opportunity for the public to provide input, this application must be posted for 60 calendar days and open for public comment for 30 days within the same 60-day period. OSSE's federal fiscal year 2017 (FFY 2017) draft state application and spending plan for IDEA Part C will be posted for 60 days on the OSSE website at <http://osse.dc.gov/publication/ffy-2017-idea-part-c-draft-state-application> beginning **Feb. 22, 2017** and will be posted until **April 21, 2017**.

Members of the public will have the opportunity to make comments on the applications from **March 3, 2017-April 3, 2017**. Individuals who wish to comment should email ossecomments.proposedregulations@dc.gov.

For additional information or questions, please contact Allan Phillips at (202) 741-0475 or Allan.Phillips@dc.gov

EXCEL ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Employee Benefits Brokerage and Consulting Services

Overview

Excel Academy PCS is seeking a benefits brokerage/consulting firm to perform the full range of services related to the design, implementation, maintenance and improvement of Excel Academy PCS's employee benefits insurance programs. The benefit programs include group medical, dental, vision and life/accidental death and dismemberment (AD&D) insurance (including basic and voluntary coverage), long-term disability, flexible spending accounts (FSAs), and an employee assistance program.

Interested and qualified brokers/consultants are invited to submit proposals which will be accepted until **5:00 pm (EST) March 10, 2017**. Proposals should be sent electronically to: BIDS@excelpcs.org

Any proposal received after this date and time, may, at the sole discretion of Excel Academy PCS, be returned or set aside without consideration. It is the practice of Excel Academy PCS not to consider late proposals unless it is determined that a selection cannot be made from among the proposals received on time.

Request for full BID requirements, questions or comments regarding this RFP must be received electronically by Excel Academy PCS no later than 5:00 p.m., February 28, 2017. Questions are to be emailed to Excel Academy, BIDS@excelpcs.org with the email subject reading Request for Proposal for Employee Benefits Brokerage Services.

Excel Academy PCS shall not be obligated to answer any questions received after the above specified deadline or any questions submitted in a manner other than as instructed above.

RFP Schedule

| Activity | Date |
|---------------------|--------------------------|
| RFP Distribution | February 24, 2017 |
| RFP Responses Due | March 10, 2017 |
| Proposal Review | March 10-17, 2017 |
| Selection of Broker | March 20-22, 2017 |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF FOR-HIRE VEHICLES
NOTICE OF FUNDING AVAILABILITY
GRANTS FOR FOR-HIRE VEHICLE INNOVATIONS**

The Government of the District of Columbia, Department of For-Hire Vehicles, is soliciting applications from for-hire vehicle companies, owners and operators with current DFHV operating authority to participate in innovative pilot projects and partnership programs aimed at improving transportation equity, expanding economic opportunities, and fostering innovation.

The Request for Applications (“RFA”) #FHVINNO-2017-05-002 release date will be March 6, 2017 and applications will be accepted immediately upon release. The full text of the RFA will be available online at DFHV’s website. It will also be available for pickup. A person may obtain a copy of this RFA by any of the following means:

Download by visiting the DFHV website;

Email a request to karl.muhammad@dc.gov with “Request copy of RFA #Pilot Program-2017-05-002” in the subject line.

In person by making an appointment to pick up a copy from the DFHV at 2235 Shannon Place, SE, Suite 2001, Washington, DC 20020 (call Karl Muhammad at (202) 645-4435 and mention this RFA by name); or

Write Department of For-Hire Vehicles at 2235 Shannon Place, SE Washington, DC 20020, Attn: Request copy of RFA #STS Pilot Program-2017-05-002” on the outside of the letter.

There are four rolling deadlines for application submissions. The first deadline is March 14, 2017 at 3:00 p.m. and every 90 days thereafter (June 12, 2017, September 11, 2017, and December 10, 2017). Four hard copies must be submitted to the above address and a complete electronic copy in .pdf format must be submitted.

Eligibility: Taxicab companies and owners with current operating authority from DFHV may participate in the innovation program and may apply for this opportunity. Other public vehicle for-hire owners and operators and private vehicle for hire companies and operators may apply for this opportunity but an award is subject to statutory changes in the law.

Period of Awards: The FHV innovation Program performance period will begin on April 1, 2017 and end on March 30 2019.

Available Funding: One or more awards will be made, and award amounts will range from a minimum of \$10,000 up to a maximum of \$500,000 per award. There may be more than one grant awarded. The amount is contingent on availability of funding, strength of the proposal,

viability of proposed innovation project, and approval by the appropriate partnering agencies.

For additional information regarding this RFA, please contact Karl Muhammad at karl.muhammad@dc.gov or (202) 645-4435.

FRIENDSHIP PUBLIC CHARTER SCHOOL**NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****iCIMS**

Friendship PCS intends to enter into a sole source contract with iCIMS for new talent acquisition software. The decision to sole source is based on the flexibility of the iCIMS technology platform and adaptability and innovation of the customer oriented service that and iCIMS provides. Technical support, software customization and account management are available at no additional cost. Unlike other providers, iCIM's focuses solely on strategic talent acquisition, recruitment and maintaining top talent. The estimated yearly cost is approximately \$50,000. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

Center Plate

Friendship PCS intends to enter into a sole source contract with Center Plate for catering services for FPCS's events at the Washington Convention Center. The decision to sole source is based on Center Plate being an exclusive provider of catering services for the Washington Convention Center. The estimated yearly cost is approximately \$90,000. The contract term shall be automatically renewed for the same period unless either party, 60 days before expiration, gives notice to the other of its desire to end the agreement.

FRIENDSHIP PUBLIC CHARTER SCHOOL**NOTICE OF REQUEST FOR PROPOSALS**

Friendship Public Charter School is soliciting proposals from qualified vendors for: **Bus Services for Student Transportation**. The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement>. Proposals are due no later than 4:00 P.M., EST, **Tuesday, March 24th, 2017**. No proposal will be accepted after the deadline. Questions can be addressed to: ProcurementInquiry@friendshipschools.org

DEPARTMENT OF HEALTH**PUBLIC NOTICE**

The District of Columbia Board of Dietetics & Nutrition (“Board”) hereby gives notice of a change in its regular meetings for the calendar year 2017, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985 (D.C. Official Code § 3-1204.05 (b) (2012 Repl.)).

The Board will change its meeting schedule, previously set for the second Tuesday of each quarter, to the second Thursday of each quarter, starting with its next meeting, to be held on Thursday, March 9, 2017 from 9:00 AM to 11:30 AM. The meeting will be open to the public from 9:00 AM until 9:30 AM 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 9:30 AM to 11:00 AM to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

Subsequent meetings for the calendar year will be held at the same time on the following dates:

Thursday, June 8, 2017

Thursday, September 14, 2017

Thursday, December 14, 2017

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

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. These properties are now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

Designation Case No. 13-22: The Scheele-Brown Farmhouse

2207 Foxhall Road NW (Square 1341, Lot 855)

Designated January 26, 2017

Applicant: Historic Washington Architecture

Affected Advisory Neighborhood Commission: 3D

Designation Case No. 16-03: The Holzbeierlein Bakery

1815-1827 Wiltberger Street NW (Square 441, Lot 853)

Designated January 26, 2017

Applicant: D.C. Preservation League

Affected Advisory Neighborhood Commission: 6E

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

INTERAGENCY COUNCIL ON HOMELESSNESS**2017 FULL COUNCIL MEETING SCHEDULE**

This notice outlines the 2017 schedule of DC Interagency Council on Homelessness (ICH). The meetings are held in open session and the public is invited to attend. The details for each meeting (location and agenda) will be published in the DC Register and posted on the ICH's website at <http://ich.dc.gov/events>.

Meeting Schedule

| Date | Time | Location |
|-----------------------------|-------------|---|
| Tuesday, March 7, 2017 | 2 – 3:30 pm | Community of Hope's Conway Health and Resource Center 4 Atlantic Street, SW, Washington DC 20032 |
| Tuesday, June 13, 2017 | 2 – 3:30 pm | To be determined (TBD) |
| Tuesday, September 12, 2017 | 2 – 3:30 pm | To be determined (TBD) |
| Tuesday, December 12, 2017 | 2 – 3:30 pm | To be determined (TBD) |

Please note that this schedule is subject to change. Updates (including location details) will be published in the DC Register and posted on the ICH's website at <http://ich.dc.gov/events>.

INTERAGENCY COUNCIL ON HOMELESSNESS**NOTICE OF PUBLIC MEETING****Full Council**

The DC Interagency Council on Homelessness (ICH) will be holding a meeting on Tuesday, March 07, 2017 at 2:00 pm. The meeting will be held at Community of Hope's Conway Health and Resource Center (Address: 4 Atlantic Street, SW, Washington, DC 20032).

Below is the draft agenda for this meeting.

For additional information, including updates on location, please visit the ICH calendar online at <http://ich.dc.gov/events>. You can also contact the ICH info line at (202) 724-1338 or ich.info@dc.gov.

Meeting Details

Date: Tuesday, March 07, 2017

Time: 12:30 – 1:30 pm Pre-Meeting for advocates, agencies, consumers, providers
2 – 3:30 pm Full Council

Location: Community of Hope's Conway Health and Resource Center
4 Atlantic Street, SW, Washington, DC 20032

Updates will be available online <http://ich.dc.gov/events>

Draft Agenda

- I. Welcome and Opening Remarks
- II. Public Comments
- III. MLK Closure
- IV. Family System Update
- V. Housing Production Trust Fund Update
- VI. Public Comments (*Time Permitting*)
- VII. Adjournment

MUNDO VERDE PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Food Service Consultant**

Mundo Verde PCS seeks bids for a food service consultant to advise on developing a self-prep school meals program under NSLP standards including professional development for chef and food service assistants.

The RFP with bidding requirements and supporting documentation can be obtained by contacting kweisgerber@mundoverdepcs.org. **Any bids not addressing all areas as outlined in the RFP may not be considered.**

The deadline for RFP submission is 9:00am March 14, 2017.

For further information regarding this notice, contact **Kelsey Weisgerber** at kweisgerber@mundoverdepcs.org.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**RECOMMENDATIONS FOR APPOINTMENT AS NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after April 1, 2017.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on March 3, 2017. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public

Effective: April 1, 2017

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| | | | |
|-----------|-------------------|--|-------|
| Abebe | Tsegaye Demeke | Sofomar Interpretation And Notary Services 1403 6th Street, NW, #1 | 20001 |
| Alao | Oluwaseyi Bukola | Industrial Bank 1800 Martin Luther King, Jr. Avenue, SE | 20020 |
| Bailey | Teresa | African Wildlife Foundation 1400 16th Street, NW, Suite 120 | 20036 |
| Baldi | Carolina | Ditto Residential 2217 14th Street, NW, # 300 | 20009 |
| Balthazar | Alicia | Hogan Lovells, US, LLP 555 Thirteenth Street, NW | 20002 |
| Bao | Thin | The UPS Store 4401A Connecticut Avenue, NW | 20008 |
| Bauer | Cathryn | Diversified Reporting Services, Inc 2611 11th Street, NW | 20001 |
| Bellamy | Stephanie | Turner Construction Company 2220 25th Place, NE | 20601 |
| Benoff | Rebecca Gabrielle | Edlavitch DCJCC 1529 16th Street, NW | 20036 |
| Blakey | Gregory William | American Association for Clinical Chemistry (AACC) 900 7th Street, NW, Suite 400 | 20001 |
| Bracey | Remy L.H. | Dechert, LLP 1900 K Street, NW | 20006 |
| Brantley | Patricia | Department of Justice, Office of Inspector General 950 Pennsylvania Avenue, NW | 20530 |
| Burt | Charles Anthony | CAB Mobile Public Notary, LLC 460 New York Avenue, NW, Suite 407 | 20001 |

**D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public**

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|-------------|----------------|---|-------|
| Burton | Tykesha Spivey | United States Capitol Police 119 D Street, NE | 20510 |
| Cadet Morla | Wilson Manuel | Wells Fargo 1545 Alabama Avenue, SE | 20032 |
| Carter | Amani Michelle | Pillsbury Winthrop Shaw Pittman LLP 1200 Seventeenth Street, NW | 20036 |
| Cephus | Eric | Ritz Carlton Georgetown 3150 South Street, NW | 20007 |
| Chadsey | Carol Cooper | Darby Overseas Investments, Ltd. 1133 Connecticut Avenue, NW, Suite 400 | 20036 |
| Chandler | Kevin J. | National Veterans Legal Services Program 1600 K Street, NW, Suite 500 | 20006 |
| Cherry | Sheilah | Self 514 6th Street, NE | 20002 |
| Cummins | Alysa R. | Clements & Company dba Clements Worldwide 1301 K Street, NW, Suite 1200 West | 20005 |
| Davis | Kimberly D. | Association of Universities for Research in Astronomy, Inc AURA 1331 Pennsylvania Avenue, NW, Suite 1475 | 20004 |
| DeLeon | Edgar Paul | Self 3535 New Hampshire Avenue, NW | 20010 |
| Dickens | Tracey D. | SGR Investments, LLC 5301 Wisconsin Avenue, NW, Suite 510 | 20015 |
| Dobyns | Michael J. | Self 4662 A Street, SE | 20019 |
| Estis | Patricia | Hogan Lovells, US, LLP 555 13th Street, NW | 20004 |

D.C. Office of the Secretary **Effective: April 1, 2017**
Recommendations for appointment as DC Notaries Public **Page 4**

| | | | |
|-----------|----------------|---|-------|
| Eubanks | Charlysa | Best Best & Kreiger, LLP 2000 Pennsylvania, Avenue, NW, Suite 5300 | 20006 |
| Faulk | Kimberly R. | Skadden, Arps, Slate, Meagher & Flom, LLP 1440 New York Avenue, NW | 20005 |
| Gemeda | Hiwot B. | District of Columbia Housing Authority 1133 North Capitol Street, NE | 20002 |
| Gilchrist | Irvin | Gilchrist & Associates, Inc 2207 Rhode Island Avenue, NE | 20018 |
| Gillings | Carla D. | The Estate Planning & Elder Law Firm, PC 1020 19th Street, NW, Suite 510 | 20006 |
| Golden | Shavar D. | Self 2002 Mississippi Avenue, SE | 20020 |
| Gore | Ishida | District of Columbia Housing Authority 1133 North Capitol Street, NE | 20002 |
| Green | LaShantha | Capital One Bank 1717 Pennsylvania Avenue, NW | 20006 |
| Hackett | Alexis | TD Bank, N.A. 1611 Wisconsin Avenue, NW | 20007 |
| Hassan | Sara S. | TD Bank, N.A. 1611 Wisconsin Avenue, NW | 20007 |
| Hobson | Jamie K. | DC Registered Agent, Inc. 1120 20th Street, NW, Suite 300 RLK | 20036 |
| Hughes | Virginia | Zenetex 2001 L Street, NW, Suite 650 | 20036 |
| Jacobs | Kenneth L. | United Negro College Fund 1805 7th Street, NW | 20001 |
| Jarrett | Bryony Abigail | Harmon Curran Spielberg & Eisenberg 1725 Desales Street, NW, Suite 500 | 20036 |

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public

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|-------------|---------------|--|-------|
| Jennings | James | Self 4418 Gault Place, NE | 20019 |
| Jones | Bonnie V. | Berliner, Corcoran & Rowe, LLP 1101 17th Street, NW, Suite 1100 | 20036 |
| Jones | Cecilia R. | Cecilia R Jones & Associates, PLLC 1629 K Street, NW, Suite 300 | 20006 |
| Kaluaratchi | Sardha | Clark Financial Group 5431 Connecticut Avenue, NW, # 101 | 20015 |
| Kraker | Karen M. | Quadrangle Development Corporation 1001 G Street, NW, Suite 900 | 20001 |
| Lakew | Gideon | Wells Fargo 3325 14th Street, NW | 20010 |
| Lee | Jenese | Millennium Challenge Corporation 1099 14th Street, NW | 20005 |
| Li | Elaine Q. | District of Columbia Housing Authority 1133 North Capitol Street, NE | 20002 |
| Mahoney | Mark Robinson | Alderson Court Reporters 1155 Connecticut Avenue, NW, Suite 200 | 20036 |
| Manders | Jenna C. | Center for Strategic and International Studies 1616 Rhode Island Avenue, NW | 20036 |
| Mann | David R. | Bracewell, LLP 2001 M Street, NW, Suite 900 | 20036 |
| Marthaller | Jacob | Neal R. Gross and Company, Inc. 1323 Rhode Island Avenue, NW | 20005 |
| McBride | Talore | Potomac Legal Group, PLLC 1420 N Street, NW, Suite 102 | 20005 |
| McMullin | Laura M. | Lincoln Property Company 25 Massachusetts Avenue, NW | 20001 |

D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public

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|----------------------|----------------------|---|-------|
| McNeil | Jesika Page | CFM Partners, Inc 4435 Macomb Street, NW | 20016 |
| Mitchell | Debbie Kaye | The Estate Planning & Elder Law Firm, PC 1020 19th Street, NW, Suite 510 | 20036 |
| Moreno | Claudia E. | Department of Labor Federal Credit Union 200 Constitution Avenue, NW, Room S - 3220 | 20017 |
| Mosby- Washington | Sharon | United States Conference of Catholic Bishops 3211 4th Street, NE | 20017 |
| Mykhaylyuk | Marianna | Eurasia Foundation 1350 Connecticut Avenue, NW, Suite 1000 | 20036 |
| Nails | Rashanda | Self 4818 Alabama Avenue, SE, #3 | 20019 |
| Nelson | Diana L. | Duncan Weinberg Genzer & Pembroke, PC 1615 M Street, NW | 20036 |
| Nesmith-Fields | Bianca | Department of Labor Federal Credit Union 200 Constitution Avenue, NW, Room S-3220 | 20017 |
| Nguyen | Luisa Beatriz | DC Office of Human Rights 441 4th Street, NW, Suite 570N | 20001 |
| Nobles | Selena | Sonny' Plumbing 1000 - H Street, NW (Rear) | 20002 |
| Noguera | Johanna Elizabeth | Entertainment Software Association 601 Massachusetts Avenue, NW # 300 | 20001 |
| Page Jr. | Russell L. | Derenberger & Page Reporting, Inc. 1430 S Street, NW | 20009 |
| Paredes | Gilmer | Kavan Construction, Inc 710 L Street, SE | 20003 |

D.C. Office of the Secretary Effective: April 1, 2017
 Recommendations for appointment as DC Notaries Public Page 7

| | | | |
|----------------------|----------------|---|-------|
| Paxton | Keisha R. | Office of Lottery & Charitable Games 2235 Shannon Place, SE | 20020 |
| Perry | Stephanie L. | Department of Employment Services 4058 Minnesota Avenue, NE | 20019 |
| Peters | Ancilma J. | Rosenthal Gormly, Chtd. 5101 Wisconsin Avenue, NW, Suite 302 | 22181 |
| Phillips | Nituna | Self 2515 R Street, SE, Apartment 10 | 20020 |
| Plybon | Perry M. | American University College of Law 4300 Nebraska Avenue, NW, Suite C101 | 20016 |
| Porter | Domonique | Morpho Trust, USA 1255 23rd Street, NW, Suite 800 | 20037 |
| Prieto | Zully | OAS Staff Federal Credit Union 1889 F Street, NW | 20006 |
| Punnusami | Indira | Azure Healthcare Services, LLC 5412 2nd Street, NW | 20011 |
| Rafferty | Catherine Mary | Law Offices of Catherine Mary Rafferty 4801 Yuma Street, NW | 20016 |
| Ramirez | Elisa | OAG/CSSD 441 4th Street, NW | 20001 |
| Roberts | Jennifer Leigh | The Law Office of Geoffrey D. Allen 1730 Rhode Island Avenue, NW, Suite 206 | 20036 |
| Scanlan | Jennifer L. | Hannon Law Group, LLP 338 8th Street, NE | 20002 |
| Sergent | Bailey E. | African Wildlife Foundation 1400 16th Street, NW, Suite 120 | 20036 |
| Shafiei- Alavijeh | Pooyan | The UPS Store 4401A Connecticut Avenue, NW | 20008 |

**D.C. Office of the Secretary
Recommendations for appointment as DC Notaries Public**

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|------------|-----------------|---|-------|
| Soleye | Temitope | Palantir Technologies 1025 Thomas Jefferson Street, NW, Suite 600 | 20007 |
| Spencer | Derrick Gerard | Certified Title Corporation 5335 Wisconsin Avenue, NW | 20015 |
| Stiens | Kimberlee | Vox Media 1201 Connecticut Avenue, NW, 11th Floor | 20036 |
| Strongbo | Michael | FirstService Residential 915 E Street, NW | 20004 |
| Sullivan | Evangeline | Self 1645 W Street, SE, #203 | 20020 |
| Tutwiler | Britany | DC Workspaces 1101 30th Street, NW, Suite 500 | 20007 |
| Velasquez | Karen V. | Wells Fargo 3325 14th Street, NW | 20010 |
| Vincent | Loretta Jackson | AT&T 1120 20th Street, NW Suite 400 North | 20036 |
| Wanamaker | Patrick | Wells Fargo Bank, NA 2901 M Street, NW | 20007 |
| White | Tiffany Denise | Self (Dual) 216 K Street, SW | 20024 |
| Wilber | Kathleen A. | National Center for Victims of Crimes 2000 M Street, NW, Suite 480 | 20036 |
| Windschitl | Krista Nicole | Highland Title and Escrow 1701 Q Street, NW | 20009 |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Operations Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will be holding a meeting on Thursday, March 16, 2017 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | | |
|-----|-------------------------------|---|
| 1. | Call to Order | Committee Chairperson |
| 2. | AWTP Status Updates | Assistant General Manager, Plant Operations |
| | 1. BPAWTP Performance | |
| 3. | Status Updates | Chief Engineer |
| 4. | Project Status Updates | Director, Engineering & Technical Services |
| 5. | Action Items | Chief Engineer |
| | - Joint Use | |
| | - Non-Joint Use | |
| 6. | Water Quality Monitoring | Assistant General Manager, Consumer Services |
| 7. | Action Items | Assistant General Manager, Consumer Services |
| 8. | Emerging Items/Other Business | |
| 9. | Executive Session | |
| 10. | Adjournment | Committee Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Governance Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Governance Committee will be holding a meeting on Wednesday, March 8, 2017 at 9:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dcwater.com.

DRAFT AGENDA

- | | |
|--|---------------------------------|
| 1. Call to Order | Chairperson |
| 2. Government Affairs: Update | Government Relations Manager |
| 3. Update on the Compliance Monitoring Program | TBD |
| 4. Update on the Workforce Development Program | Contract Compliance Officer |
| 5. Emerging Issues | Chairperson |
| 6. Agenda for Upcoming Committee Meeting (TBD) | Chairperson |
| 7. Executive Session | |
| 8. Adjournment | Chairperson |

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Human Resources and Labor Relations Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Human Resources and Labor Relations Committee will be holding a meeting on Wednesday, March 8, 2017 at 11:00 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at www.dcwater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dcwater.com.

DRAFT AGENDA

- | | |
|----------------------|-----------------------|
| 1. Call to Order | Committee Chairperson |
| 2. Union Presidents | |
| 4. Other Business | |
| 5. Executive Session | Committee Chairperson |
| 6. Adjournment | Committee Chairperson |

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

Application No. 18690-A of Rito Loco, LLC, as amended¹, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the requirements of Subtitle C § 1500.3(c), and variances from the lot occupancy requirements of Subtitle G § 404.1, the rear yard requirements of Subtitle G § 405, the side yard requirements of Subtitle G § 406.2, and the rear service staircase requirements of Subtitle X § 1001.2, to construct a roof deck above an existing fast food establishment in the MU-4 Zone at premises 606 Florida Avenue N.W. (Square 441, Lots 819, 837, and 838).

HEARING DATES: December 14, 2016, February 1, 2017, and February 8, 2017²
DECISION DATE: February 8, 2017

SUMMARY ORDER

SELF-CERTIFIED³

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 36.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted a timely report dated December 20, 2016, recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public

¹ The application was originally processed and noticed as a modification of significance to Application No. 18690 for a special exception under Subtitle C § 1500.3 (see Exhibit 3), but the application was subsequently amended (Exhibit 36) to add variances from the lot occupancy requirements of Subtitle G § 404.1, the rear yard requirements of Subtitle G § 405, the side yard requirements of Subtitle G § 406.2, and the rear service staircase requirements of Subtitle X § 1001.2, to the request for special exception under Subtitle C § 1500.3 and the amended application was treated as a new application because it included lots not part of the original application. However, the application number was not changed since the original processing. The caption has been changed to reflect those amendments.

² The hearing was postponed at the Applicant's request from the hearing date of December 14, 2016 (Exhibit 45) and administratively rescheduled from the hearing date of February 1, 2017.

³ The case was originally filed with a Zoning Administrator's referral letter (Exhibit 3), but amended with the submission of a revised self-certification form. (Exhibit 36.)

meeting on December 6, 2016, at which a quorum was present, the ANC voted 4-0-0 to support the application. (Exhibit 54.) The ANC Commissioner for Single Member District 6E02, who represents the area in which the Applicant's property is located, testified in support at the hearing.

The Office of Planning ("OP") submitted two timely reports regarding the application. In the first report, OP indicated that it did not have sufficient time in which to make a recommendation. (Exhibit 34.) In its second, supplemental report, OP recommended approval of the application, as amended, on the condition that an easement be recorded to permit the construction of the two staircases on the adjoining lot to the west, Lot 837. (Exhibit 44.) OP and the Applicant confirmed during testimony at the hearing that such an easement has been recorded and the condition has been met. (Exhibit 49, Tab A.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 33.)

Letters of support for the application by the adjacent neighbors and a petition of support signed by 25 local residents were submitted to the record. (Exhibit 49.)

A letter of opposition on behalf of the Matinee Condominium Owners Association was submitted to the record. (Exhibit 37.)

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 lot occupancy requirements of Subtitle G § 404.1, the rear yard requirements of Subtitle G § 405, the side yard requirements of Subtitle G § 406.2, and the rear service staircase requirements of Subtitle X § 1001.2, to construct a roof deck above an existing fast food establishment 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 §§ 404.1, 405, and 406.2, and from Subtitle X § 1001.2, 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 requirements of Subtitle C § 1500.3(c), to construct a roof deck above an existing fast food establishment 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 X § 1500.3(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 7.**

VOTE: **3-0-2** (Frederick L. Hill, Peter G. May, and Carlton E. Hart, to APPROVE; two Board seats vacant.)

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

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

FINAL DATE OF ORDER: February 21, 2017

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

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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. 19367 of Frank and Andrea Mirkow, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201, from the rear yard requirements of Subtitle D § 306.1, and the side yard requirements of Subtitle D § 307.1, to construct a rear second story garage addition in the R-1-B Zone at premises 4831 Alton Place, N.W. (Square 1498, Lot 821).

HEARING DATES: November 16, 2016 and December 21, 2016¹
DECISION DATE: January 18, 2017

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated August 8, 2016, from the Zoning Administrator, certifying the required relief. (Exhibit 6.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 3E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. The ANC submitted a resolution indicating that at a regularly scheduled, properly noticed public meeting on December 8, 2016, at which a quorum was present, the ANC voted 5-0-0 not to oppose the application provided that the changes enumerated in the resolution were met. (Exhibit 38.) The ANC noted that the Applicants agreed to a number of modifications to the proposal to accommodate the immediately adjacent neighbors. These modifications met the ANC’s request and included retaining the existing five-foot, one-inch² side yard setback, frosting windows on the east side of the accessory dwelling unit; modifying the drainage system into additional rain barrels, adding landscaping screening between the Applicants’ property and that of the neighbor to the west, and modifying the roof from a gable to a flat roof. The Applicants revised the plans to reflect the concessions offered. (Exhibits 43 and 48.)

¹ The application was originally scheduled to be heard on November 16, 2016. At the Applicants’ request, the hearing was postponed to December 21, 2016.

² While the official ANC resolution referenced a five-foot, six-inch side yard, the Single Member District Commissioner for ANC 3E02 submitted a letter noting that the reference to the side yard setback in the ANC Resolution as five feet, six inches was in error. She noted that the accurate figure is five feet, one inch. (Exhibit 41.) (Emphasis added.)

The Office of Planning (“OP”) submitted a timely report dated November 4, 2016, recommending approval of the application. (Exhibit 31.) At the public hearing, OP noted that the Applicants’ setback from the 16-foot alley should be four feet from the property line, not only three feet as proposed, to obviate the need for relief from 11 DCMR Subtitle D § 5004 – requiring a 12-foot rear yard setback for accessory buildings abutting an alley. The Applicants agreed to move the proposed addition one foot closer to the house to meet the alley setback requirement. (Exhibit 48.)

The District Department of Transportation (“DDOT”) submitted a timely report dated November 2, 2016, indicating that it had no objection to the grant of the application. (Exhibit 30.)

A petition containing 12 signatures by neighbors in support of the application was submitted into the record. (Exhibit 34.)

Three neighbors filed letters objecting to the application. The residents of 4833 Alton Place, N.W. filed a letter dated November 1, 2016 addressing their concerns about privacy, light, and air. (Exhibits 29 and 42-42M) Mr. Borek also testified at the hearing in opposition to the application.

The resident of 4827 Alton Place, N.W. also filed a letter in opposition to the application and testified at the hearing raising issues related to privacy, light, and air. (Exhibit 32.)

After the public hearing on December 21, 2016, the Board left the record open for revised plans to show rear yard changes noted by OP, and how the plans meet the conditions referenced in the ANC resolution.

Both the Applicants and the adjacent neighbors filed summaries of a post-hearing meeting between them. (See Exhibits 49, 50, and 51.) The Applicants noted that they clarified for their neighbors how the project would meet the conditions in the ANC 3E resolution (Exhibit 50) and the Applicants filed a Surveyor’s Plat (Exhibit 47) and Revised Architectural Plans. (Exhibit 48). The Board determined that the project would not unduly affect nearby properties based on the modifications that the Applicants made to the project, the ANC’s involvement and non-objection for the project, as modified, and OP’s assessment that the project would not have a substantial adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property in terms of light and air, use and enjoyment and visual intrusion. (See Exhibit 31.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicants to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle E § 5201, from the rear yard requirements of Subtitle D § 306.1, and the side yard requirements of Subtitle D § 307.1. The only parties to the case were the Applicants and the ANC. 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 Applicants have met the burden of proof, pursuant to 11

DCMR Subtitle X § 901.2, Subtitle E § 5201, and Subtitle D §§ 306.1 and 307.1, 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 48 – ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 3-0-2 (Frederick L. Hill, Carlton E. Hart, and Anthony J. Hood (by absentee ballot) to APPROVE; two Board seats vacant).

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

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

FINAL DATE OF ORDER: February 16, 2017

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.

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

Application No. 19390 of Jason Burnett, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the penthouse setback requirements of Subtitle C § 1500.4, the penthouse enclosure wall requirements of Subtitle C § 1500.9, and the penthouse setback requirements of Subtitle C § 1502.1, to allow the addition of a penthouse and roof deck to an existing three-story, one-family dwelling in the R-1-B Zone at premises 2316 Tracy Place N.W. (Square 2520, Lot 31).

HEARING DATES: December 21, 2016 and February 15, 2017

DECISION DATE: February 15, 2017

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 (original) and 40 (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") 2D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2D, which is automatically a party to this application. The ANC submitted a report of support for the application. The report indicated that at a regularly scheduled and properly notices public meeting on October 17, 2016, at which a quorum was present, the ANC voted 2-0-0 to support the application. (Exhibit 9.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 28.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 27.)

A letter of support for the application from the adjacent neighbors at 2314 Tracy Place, N.W. was submitted to the record. (Exhibit 26.)

The Sheridan Kalorama Neighborhood Council requested party status in opposition. (Exhibit 32-33.) However, at the public hearing, the Sheridan Kalorama Neighborhood Council testified on

¹ The Applicant amended the application to add special exception relief from the penthouse enclosing wall requirements of Subtitle C § 1500.9. (Exhibit 40.) The caption has been changed accordingly.

the record that it was withdrawing its party status request, based on a settlement with the Applicant and contingent on the Applicant's revised plans. (See, Exhibit 37.)

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 penthouse setback requirements of Subtitle C § 1500.4, the penthouse enclosure wall requirements of Subtitle C § 1500.9, and the penthouse setback requirements of Subtitle C § 1502.1, to allow the addition of a penthouse and roof deck to an existing three-story, one-family dwelling in the R-1-B Zone. The only parties that remained after the Sheridan Kalorama Neighborhood Council withdrew its opposition request were the Applicant and the ANC. Thus, 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 C §§ 1500.4, 1500.9, and 1502.1, 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 7D1-7D2, AS REVISED BY EXHIBIT 37 (REVISED ROOF PLAN).**

VOTE: **3-0-2** (Frederick L. Hill, Carlton E. Hart, and Anthony J. Hood, to APPROVE;
two Board seats vacant.)

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

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

FINAL DATE OF ORDER: February 22, 2017

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.

BZA APPLICATION NO. 19390

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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.

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. 19395 of Embassy of the State of Kuwait, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D § 5201, from the accessory structure location requirements of Subtitle D § 5000.4, to allow the installation of a security booth in front of an Ambassador's residence in the R-8 Zone at premises 3107 Fessenden Street N.W. (Square 2277, Lot 8.)

HEARING DATE: February 8, 2017¹

DECISION DATE: February 8, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 3F and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3F, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 15, 2016, at which a quorum was present, the ANC voted 6-0-0 to support the application subject to conditions. (Exhibits 25 and 44.) At the hearing on February 8th, the Applicant addressed the ANC's conditions and indicated that it agreed to adhere to them, but also noted that the conditions are largely unrelated to zoning. As a result, the Board declined to adopt the conditions as part of this order.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 40.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 42.)

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 accessory structure location

¹ The hearing for this case was rescheduled administratively from January 25, 2017 to February 8, 2017 due to the lack of a quorum for the January 25th hearing.

requirements of Subtitle D § 5000.4, to allow the installation of a security booth in front of an Ambassador's residence in the R-8 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 D §§ 5201 and 5000.4, 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 36B.**

VOTE: **3-0-2** (Frederick L. Hill, Peter G. May, and Carlton E. Hart, to APPROVE; two Board seats vacant.)

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

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

FINAL DATE OF ORDER: February 16, 2017

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.

BZA APPLICATION NO. 19395

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PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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. 19423 of James Courtney, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 504.1, and from the addition to a nonconforming structure requirements of Subtitle C § 202.2, to construct a second-story addition to an existing one-family dwelling in the RF-3 Zone at premises 416 G Street, S.E. (Square 822, Lot 803).

HEARING DATE: February 15, 2017
DECISION DATE: February 15, 2017

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated October 19, 2016, from the Zoning Administrator, certifying the required relief.² (Exhibit 3.)

The Board of Zoning Adjustment (“Board” or “BZA”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC filed a report dated January 17, 2017 stating that at a regularly scheduled, properly noticed meeting on January 10, 2017, with a quorum present, the ANC voted 9-0-0 to support the application. (Exhibits 40 and 41.)

The Office of Planning (“OP”) submitted a timely report dated February 3, 2017 recommending that the Applicant add special exception relief from Subtitle C § 202.2, the addition to a nonconforming structure provision, and OP recommended approval of the application. (Exhibit 44.) At the hearing, the Applicant’s representative testified that the Applicant accepted OP’s

¹ The Applicant originally filed an application for a special exception under Subtitle E § 5201 based on a referral letter from the Zoning Administrator certifying the required relief as a special exception from the lot occupancy requirements under Subtitle E § 504.1. However, in its report, the Office of Planning (“OP”) noted that the property also needs relief from Subtitle C § 202.2 – addition to a nonconforming structure requirements. (Exhibit 44.) At the public hearing on February 15, 2017, the Applicant’s representative indicated that the Applicant wanted to amend his application to request special exception relief from Subtitle C § 202.2, per OP’s recommendation. The caption has been changed accordingly.

² The Board accepted the Applicant’s amendment of the application based on the Office of Planning’s recommendation without a revised Zoning Administrator’s letter on the advice of the Office of the Attorney General.

recommendation of relief required, and the relief was added at the hearing and is part of this application. (See footnote 1.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 42.)

Seven letters were filed in the record in support of the application. (Exhibits 32-38.)

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 Subtitle E § 5201 not meeting the lot occupancy requirements of Subtitle E § 504.1, and the nonconforming structure requirements of Subtitle C § 202.2. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle E §§ 5201 and 504.1, and Subtitle C § 202.2, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 10 – ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 3-0-2 (Frederick L. Hill, Carlton E. Hart, and Anthony J. Hood to APPROVE; two Board seats vacant).

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

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

FINAL DATE OF ORDER: February 22, 2017

BZA APPLICATION NO. 19423

PAGE NO. 2

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.

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

Application No. 19426 of 699 14th Street, LLC, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10, for a special exception under the rear yard requirements of Subtitle I §§ 205.1 and 205.5, and variances from the habitable penthouse requirements of Subtitle C § 1500.3(d), and from the ground floor preferred-use requirements of Subtitle I § 601.2(a), to construct an addition to the rear of an existing historic commercial building for use as an office building with ground-floor retail in the D-7 Zone at premises 619 14th Street N.W. and 1336-1342 G Street N.W. (Square 253, Lots 53-55, 67, 817, and 818).

HEARING DATE: February 15, 2017

DECISION DATE: February 15, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. 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 January 11, 2017, at which a quorum was present, the ANC voted 3-0-0 to support the application. (Exhibit 35.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application with conditions. (Exhibit 33.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 34.)

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 area variances from the habitable penthouse requirements of Subtitle C § 1500.3(d), and from the ground floor preferred-use requirements of Subtitle I § 601.2(a), to construct an

addition to the rear of an existing historic commercial building for use as an office building with ground-floor retail in the D-7 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 area variances from 11 DCMR Subtitle C § 1500.3(d) and Subtitle I § 601.2(a), the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1 that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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 rear yard requirements of Subtitle I §§ 205.1 and 205.5 in the D-7 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 I §§ 205.1, 205.5, 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 30A1 AND 30A2, AS REVISED BY EXHIBIT 37B (REVISED FIRST FLOOR PLAN) AND WITH THE FOLLOWING CONDITION:**

1. Substantial changes to the current proposal shall be reviewed by the Secret Service.

VOTE: **3-0-2** (Frederick L. Hill, Carlton E. Hart, and Anthony J. Hood, to APPROVE; two Board seats vacant.)

BZA APPLICATION NO. 19426

PAGE NO. 2

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

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

FINAL DATE OF ORDER: February 23, 2017

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.

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,

BZA APPLICATION NO. 19426

PAGE NO. 3

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

441 4TH STREET, N.W.
SUITE 200-SOUTH
WASHINGTON, D.C. 20001

NOTICE OF CLOSED MEETINGS FOR MARCH 2017

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on February 22, 2017, the Board of Zoning Adjustment voted 4-0-1, to hold *closed meetings telephonically on Mondays, February 27th, March 6th, March 13th, March 20th, and March 27th*, 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 March 1st, March 8th, March 15th, March 22nd, and March 29th.

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

**Frederick L. Hill, Chairperson, Carlton E. Hart, Vice-Chairperson,
Lesyllee White, Board Member, one 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.**

Government of the District of Columbia
Public Employee Relations Board

| | | | |
|---------------------------------|-------------|---|------------------------|
| _____ | |) | |
| In the Matter of: | |) | |
| | |) | |
| American Federation of State, | |) | |
| County, and Municipal, | |) | |
| Employees, Local 2401 | |) | PERB Case No. 17-UC-02 |
| | Petitioner, |) | |
| | |) | Opinion No. 1607 |
| | v. |) | |
| | |) | |
| Public Service Commission | |) | |
| Of the District of Columbia | |) | |
| | |) | |
| | Respondent, |) | |
| | and |) | |
| | |) | |
| American Federation of State, | |) | |
| County and Municipal Employees, | |) | |
| District Council 20, AFL-CIO, | |) | |
| | |) | |
| | Intervenor. |) | |
| _____ | |) | |

DECISION AND ORDER

I. Statement of the Case

On December 02, 2016, American Federation of State, County, and Municipal Employees, Local 2401 (“Petitioner” or “Local 2401”) filed a unit clarification petition (“Petition”). On December 20, 2016, Public Service Commission of the District of Columbia (“Respondent” or “Agency”) filed a Motion to Dismiss Petitioner’s Request for Unit Clarification. On January 3, 2017, American Federation of State, County, and Municipal Employees, District Council 20 (“District Council 20”) filed a Motion to Intervene and a Motion to Dismiss.

For the reasons stated below, the motion to intervene and the motions to dismiss are both granted.

II. Discussion

Petitioner filed this request for clarification of the bargaining unit currently described as follows:

Decision and Order
PERB Case No. 17-UC-02
Page 2

All professional and non-professional employees employed by the District of Columbia Public Service Commission, excluding all management officials, supervisors, confidential employees, employees who are covered by another union's certification, employees engaged in personnel work other than in a purely clerical capacity and employees engaged in administering the provisions of Title 1, Chapter 6, subchapter XVII of the D.C. Official Code.¹

The Agency and District Council 20 have filed motions to dismiss this petition. Both of these parties argue that Local 2401 lacks standing because it is not the exclusive representative of the unit.² The Agency and District Council 20 state that the Board recognized District Council 20 as the exclusive representative of the unit and Local 2401 was not a party to the certification.³ According to District Council 20, Local 2401 seeks to assert itself as the exclusive representative of the unit, which is already represented by District Council 20, and therefore its intervention is necessary to protect its legal rights and those of its members.

Petitioner filed a motion for leave to oppose pending motions to dismiss and an opposition to Respondent's and District Council 20's motion to dismiss. On March 17, 2016, the Board ruled on a Joint Petition for Compensation Unit Determination which was filed by the Petitioner and the Agency.⁴ Petitioner argues that its inclusion in this prior ruling by the Board establishes that the Petitioner has the proper standing to request a unit clarification.⁵

PERB Rule 506.1 states that a request for clarification of an existing unit may be filed by either "the agency or by the labor organization which is party to the certification." PERB Rule 503.1 states that a petition for compensation unit determination may be filed by "an agency, a labor organization, or a group of labor organizations." Unlike a unit clarification petition, a petition for compensation unit determination does not require the filing party to be a party to the certification. On December 20, 2013, District Council 20 filed a petition for recognition with the Board to represent a unit of professional and non-professional employees of the District of Columbia Public Service Commission.⁶ On June 4, 2014, the Board certified District Council 20 as the exclusive collective bargaining representative for the unit.⁷ Petitioner is now seeking a unit clarification on behalf of the same unit. Based on the Board's previous certification of the unit in question, Petitioner is neither the agency nor a party to the certification and therefore does not have standing to file a petition for unit clarification.

¹ Petition at 2.

² Both parties also argue that Local 2401 has failed to meet the filing requirements of PERB Rule 506. The Board will not address whether or not Local 2401 has met the requirements of PERB Rule 506 because the petition will be decided on other grounds.

³ *AFGE, District Council 20, AFL-CIO and District of Columbia Public Service Commission*, 61 DC Reg. 7580, Op. No. 1474, PERB Case No. 14-RC-01 (2014).

⁴ Petitioner's Opposition to Respondent's and District Council 20's Motions to Dismiss at 2.

⁵ *Id.*

⁶ *AFGE, District Council 20, AFL-CIO and District of Columbia Public Service Commission*, 61 DC Reg. 7580, Op. No. 1474, PERB Case No. 14-RC-01 (2014).

⁷ *Id.* at 3.

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PERB Case No. 17-UC-02
Page 3

III. Conclusion

Because the Board has previously recognized District Council 20 as the exclusive representative in PERB Opinion No. 1474, the Board finds that District Council 20 is a necessary party and its motion to intervene is granted. The Board also grants Petitioner's motion for leave. The Board further finds that the Petitioner has not met the requirement of PERB Rule 506.1 because it is neither the Agency nor a party to the certification. Therefore, the Respondent's and Intervenor's motions to dismiss are granted.

ORDER

IT IS HEREBY ORDERED THAT:

1. District Council 20's motion to intervene is granted.
2. Petitioner's motion for leave is granted
3. The Respondent's and Intervenor's motions to dismiss are granted. The Petition is dismissed with prejudice.
4. Pursuant to Board Rule 559. 1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, and Members Ann Hoffman, Barbara Somson and Douglas Warshof.

January 12, 2016

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 17-UC-02, Op. No. 1607 was sent by File and ServeXpress to the following parties on this the 17th day of January, 2017.

Brenda Zwack
1401 K Street, NW, Suite 300
Washington, D.C. 20005

Lloyd Jordan
Motley Waller LLP
1155 F Street, NW, Suite 1050
Washington, D.C. 20004

Donald M. Temple
Donald Temple, P.C.
1310 L Street, NW, Suite 750
Washington, D.C. 20005

/s/ Sheryl Harrington

PERB

**Government of the District of Columbia
Public Employee Relations Board**

| | | | |
|---|-------------|---|-----------------------|
| _____ | |) | |
| In the Matter of: | |) | |
| | |) | |
| Metropolitan Police Department, | |) | |
| | |) | |
| | Petitioner, |) | PERB Case No. 16-A-08 |
| | |) | |
| | v. |) | Opinion No. 1608 |
| | |) | |
| Fraternal Order of Police/Metropolitan Police | |) | |
| Department Labor Committee, | |) | |
| | |) | |
| | Respondent. |) | |
| _____ | |) | |

DECISION AND ORDER

Petitioner Metropolitan Police Department (“the Department”) filed an arbitration review request (“Request”) seeking review of an Opinion and Award (“Award”) that sustained in part a group grievance brought by the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“the Union”). By agreement of the parties, the Arbitrator left the determination of damages for the parties to negotiate. The Arbitrator stated that he retained jurisdiction “if their best efforts at settlement are unsuccessful.”¹

As we find the Request to be premature, we dismiss the Request without prejudice.

I. Statement of the Case

On December 10, 2008, the chief of police (“the Chief”) announced scheduling changes in preparation for the January 20, 2009 presidential inauguration. The schedule changes lasted from January 11, 2009, to January 24, 2009, and included twelve-hour shifts with only one day off per week.²

The schedule changes applied to members of the force assigned to the Metropolitan Police Academy (“MPA”). On January 21, 2009, the commander of the MPA informed staff of the MPA that effective immediately schedules would revert to eight-hour shifts with two days off per week.³ This readjustment led the Union to file a grievance on behalf of a group of five

¹ Award 3.
² Award 12.
³ Award 13.

Decision and Order
PERB Case No. 16-A-08
Page 2

officers assigned to the MPA.⁴ The Step One Group Grievance asserted in part that the January 21, 2009 schedule change was made without the fourteen days' notice required by article 24 of the parties' collective bargaining agreement ("CBA"). Having received no response to the Step One Group Grievance, the Union filed a Step Two Group Grievance with the Chief on February 20, 2009. In a letter of February 27, 2009, the Chief denied the grievance and gave her reasons for doing so.⁵

On March 10, 2009, the Union demanded arbitration of the group grievance. Six and a half years later, an arbitration hearing was held. The parties presented to the Arbitrator, Sean Rogers, these two issues for resolution: "Whether MPD violated CBA Articles 1, 4, 24 and 49 when it changed MPA members' work schedule on January 21, 2009? If so what shall be the remedy?"⁶ In the Award, the Arbitrator explained the procedure the parties had agreed upon for the separate resolution of those two issues:

The Parties agreed to bifurcate the dispute. I am initially to resolve the merits. If the Arbitrator finds that the answer to Issue [One] is *Yes*, then the proceeding will be bifurcated with regard to my consideration of damages. (Tr 16-17). For this reason, my Award is to be limited to a determination of liability with regard to FOP's assertion of an MPD CBA violation. Then the determination of damages will be initially left to the Parties to attempt [to] agree and settle.

Absent resolution and settlement of damages, then the Parties will reconvene the arbitration hearing and I am to resolve the dispute. For this reason, the Parties agree that I am to retain jurisdiction if their best efforts at settlement are unsuccessful.⁷

The parties submitted post-hearing briefs, and in due course the Arbitrator issued an Award on the liability issue. The Arbitrator found that the January 21, 2009 change in MPA members' schedules and days off violated articles 4 and 24 of the CBA and D.C. Official Code § 1-612.01 *et seq.* but did not violate articles 1 or 49 of the CBA or D.C. Official Code § 1-617.04(a).⁸

Regarding the remaining issue of damages, the Arbitrator alluded to arguments that the parties had made on damages. The Union had argued that the MPA members were entitled to time and a half pay plus liquidated damages under the Fair Labor Standards Act. The Department had argued that "public policy prohibits compensating the MPA members for work not actually performed."⁹ After noting the parties' bifurcation agreement, the Arbitrator stated how he intended to resolve the issue of damages:

⁴ Award 11.

⁵ Award 13-14.

⁶ Award 3.

⁷ Award 3.

⁸ Award 21, 23.

⁹ Award 23.

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PERB Case No. 16-A-08
Page 3

I find that more briefing is needed on the important issue of liquidated damages pursuant to CBA Article 24. I am not prepared to resolve the damages issue until I hear more from the Parties. Also, I find that this issue is more appropriate for resolution as part of an overall and final determination on damages.

Having established liability, I leave all damages issues initially to the Parties to attempt to reach an agreement in final resolution and settlement of the dispute. Absent resolution and settlement, either Party may reconvene a hearing or set an agreed briefing schedule without hearing for a final Award.¹⁰

On April 4, 2016, the Department filed the instant Request. The Union filed an Opposition to the Request on April 18, 2016.

II. Discussion

The Department's statutory basis for the Request is the Board's power to modify, set aside, or remand an arbitration award that "on its face is contrary to law and public policy."¹¹ The Department asserts that there is a public policy against "exaction of compensation for services not performed."¹² It argues that this policy is articulated by the National Labor Relations Act, as amended by the Taft-Hartley Act, which prohibits a certain type of "featherbedding." Section 8(b)(6) of the National Labor Relations Act (29 U.S.C. § 158(b)(6)) declares that "[i]t shall be an unfair labor practice for a labor organization or its agents . . . to cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed." The Department states that the same policy is evident in decisions of the Supreme Court applying this statute. The Department claims that the Award violates¹³ and contravenes¹⁴ this policy but never explains how it violates or contravenes the policy.

In opposing the Request, the Union correctly points out that the Request does not challenge factual and legal findings of the Arbitrator that support his conclusion that the Department violated the CBA and D.C. Official Code § 1-612.01 *et seq.*¹⁵ Instead, the Union says, the Department raises "the defense of feather-bedding."¹⁶ The Union asserts that article 19(E) of the CBA bars this defense because the Department failed to raise it as a ground for denying the grievance in its February 27, 2009 letter.

¹⁰ Award 23.

¹¹ D.C. Official Code § 1-605.02(6). The other narrow grounds for review, which are not alleged in this case, are that "the arbitrator was without, or exceeded, his or her jurisdiction; the award . . . was procured by fraud, collusion, or other similar and unlawful means." *Id.*

¹² Request 9.

¹³ Request 6, 9.

¹⁴ Request 7, 8.

¹⁵ Opp'n 12.

¹⁶ Opp'n 5.

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PERB Case No. 16-A-08
Page 4

“Likewise,” the Union adds, “the MPD failed to raise ‘feather-bedding’ as a ground to deny the D.C. Police Union’s grievance at the arbitration hearing in this matter or in its post-hearing brief.”¹⁷ The Union proceeds to contradict this statement by arguing that “several pages of the MPD’s post-hearing brief were dedicated to its public policy argument” in terms that mirror the argument in the Request.¹⁸ The Union states that it responded to the public policy argument in its post-hearing brief,¹⁹ and it responds to the argument in its Opposition, asserting that the public policy is inapplicable to this case.²⁰ The Union contends that “the public policy argument made by the MPD in its ARR represent[s] an improper attempt to reargue legal positions that were already considered and rejected by Arbitrator Rogers.”²¹

Noting the bifurcation of the case, the Union argues in the alternative that “while the MPD’s public policy argument was rejected by Arbitrator Rogers in ruling in favor of the D.C. Police Union on the merits of its grievance, to the extent that the MPD’s ARR is considered a public policy challenge to awarding damages to the D.C. Police Union, this argument is premature and should be denied by PERB.”²²

Whether the CBA would bar the Department’s public policy argument if the Department did not raise it in denying the grievance is a question for the Arbitrator. It is the Arbitrator’s interpretation of the CBA, not the Board’s, for which the parties have bargained.²³

In the arbitration itself, the Department’s public policy argument was neither waived (by not being presented to the Arbitrator) nor adjudicated (by being rejected by the Arbitrator). The Arbitrator acknowledged the Department’s public policy argument and reserved consideration of it until the damages phase of the arbitration in accordance with the parties’ agreement to bifurcate the case.²⁴ The Arbitrator found a “violation of CBA Articles 4, 24” and the law,²⁵ but he has not found at this stage of the arbitration “a compensable violation,” as the Union claims.²⁶

Because the Arbitrator has yet to award the remedy of compensation but rather has deferred that issue for later consideration in a bifurcated proceeding, the Department’s contention that such a remedy violates public policy “is premature speculation,” as the U.S. Third Circuit Court of Appeals said in a similar case.²⁷ The Federal Labor Relations Authority (“FLRA”) has also declined to review arbitration awards on the basis of premature arguments. In cases in which an arbitrator issued an award but retained jurisdiction to consider awarding

¹⁷ Opp’n 5.

¹⁸ Opp’n 9.

¹⁹ Opp’n 9-10.

²⁰ Opp’n 6-7, 9-11.

²¹ Opp’n 11.

²² Opp’n 12.

²³ *D.C. Pub. Sch. v. Council of Sch. Officers, Local 4*, 63 D.C. Reg. 8980, Slip Op. No. 1574 at 11, PERB Case No. 15-A-05 (2016).

²⁴ Award 16-17, 23-24.

²⁵ Award 24.

²⁶ Opp’n 10.

²⁷ *Rite Aid N.J., Inc. v. United Food Commercial Workers Union, Local 1360*, 449 F. App’x 126, 129 (3d Cir. 2011) (Where parties to an arbitration bifurcated the issues of liability and remedy and the arbitrator issued an award on liability only, the court affirmed denial of a petition to vacate the award that was based on a public policy objection to a potential remedy).

Decision and Order
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attorneys' fees as a remedy, the FLRA has dismissed without prejudice the respondents' exceptions to that remedy.²⁸ The FLRA's dismissal of these cases without prejudice is consistent with the Board's practice of dismissing without prejudice appeals from an arbitrator's decision that is not a final award.²⁹

Therefore, the Department's Request is dismissed without prejudice.

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is dismissed without prejudice.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairman Charles Murphy and Members Ann Hoffman, Barbara Somson, and Douglas Warshof.

Washington, D.C.

January 12, 2017

²⁸ *Broad. Bd. of Governors Office of Cuba Broad. and AFGE Local 1812*, 66 F.L.R.A. 1012, 1018 (2012); *U.S. Dep't of Veterans' Affairs Med. Ctr. Coatesville, Pa. and NAGE Local R3-35*, 53 F.L.R.A. 1426, 1431-32 (1998).

²⁹ *D.C. Dep't of Consumer & Regulatory Affairs v. AFGE, Local 2725*, 59 D.C. Reg. 15198, Slip Op. No. 1338, PERB Case No. 11-A-01 (2012); *Univ. of D.C. and Univ. of D.C. Faculty Ass'n/NEA*, 38 D.C. Reg. 845, Slip Op. No. 260, PERB Case No. 90-A-05 (1990).

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 16-A-08 is being transmitted via File & ServeXpress to the following parties on this the 13th day of January 2017.

Mark Viehmeyer
Metropolitan Police Department
300 Indiana Ave. NW, room 4126
Washington, DC 20001

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/s/ Najibah Almahdi
Program Analyst

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FOP's appeal of PERB Case No. 13-U-38 as well and ordered the Board to address the same questions that the D.C. Court of Appeals raised with regard to PERB Case No. 12-U-16.

Since both PERB Case Nos. 12-U-16 and 13-U-38 involve the same parties and similar issues, the Board hereby consolidates the cases and addresses the questions ordered by the D.C. Court of Appeals and the D.C. Superior Court. As explained more fully herein, the Board finds that the Executive Directors rightfully granted OPC's respective motions to dismiss, and hereby dismisses both cases with prejudice.

I. Statement of the Case

A. PERB Case No. 12-U-16

On November 3, 2011, FOP sent an information request to OPC requesting information about OPC's use of one-way mirrors during interviews with police officers.¹ FOP stated that the request was being made pursuant to D.C. Official Code § 1-617.04(a)(5) and Article 10 of the Collective Bargaining Agreement ("CBA") between "the District of Columbia and the FOP."² On November 14, 2011, OPC sent a response denying the request, stating that "there is no bargaining obligation between OPC and FOP," and therefore, D.C. Official Code § 1-617.04(a)(5) "is not applicable."³ Further, OPC asserted that since OPC "is not a party to the CBA between MPD and FOP, it is not covered by the agreement" and "not subject to the CBA's processes."⁴

On January 6, 2012, FOP filed an unfair labor practice complaint arguing that its CBA was between FOP and the entire District of Columbia government, not just MPD, and therefore, OPC was obligated to provide the requested information pursuant to Article 10 of that CBA.⁵ FOP additionally argued that under D.C. Official Code §§ 1-617.04(a)(1) and (5), OPC was prohibited from interfering with, restraining, or coercing District employees in the exercise of the rights guaranteed by the CMPA, and therefore had a statutory duty to provide the information.⁶ In its Answer, OPC denied FOP's arguments and asserted, among other things, that since FOP's CBA expressly states that its terms apply only between FOP and MPD, OPC had no obligation under that agreement or the CMPA to bargain collectively with FOP, or to provide the information.⁷ Accordingly, OPC moved for dismissal of the complaint.

In Fraternal Order of Police/Metro. Police Dep't Labor Comm., v. Dist. of Columbia Office of Police Complaints, et al., 60 D.C. Reg. 3041, Slip Op. 1364, PERB Case No. 12-U-16

¹ 12-U-16 Complaint, Exhibit 2.

² *Id.*

³ 12-U-16 Complaint, Exhibit 3.

⁴ *Id.*

⁵ 12-U-16 Complaint at 5.

⁶ *Id.* at 5-7.

⁷ 12-U-16 Answer at 1-5.

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(2013) (hereinafter “Slip Op. No. 1364” or “PERB Case No. 12-U-16”),⁸ PERB’s Executive Director administratively granted OPC’s motion to dismiss, reasoning that since OPC was not a party to FOP’s collective bargaining agreement with MPD, and since FOP did not represent any of OPC’s employees, FOP lacked standing to bring the complaint and, even if it did, OPC did not have a duty under Article 10 of that agreement or under D.C. Official Code § 1-617.04(a)(5) to comply with FOP’s request.⁹ FOP did not file a motion for reconsideration, but rather appealed the Executive Director’s dismissal directly to the D.C. Superior Court.

On August 21, 2014, the D.C. Superior Court affirmed PERB’s dismissal in *Fraternal Order of Police/Metro. Police Dep’t Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints*, Civ. Case No. 2013 CA 002120 P(MPA) (D.C. Super. Ct. Aug. 21, 2014). The court reasoned in part that since OPC did not employ any members of the bargaining unit that FOP represented, had never entered into contract negotiations with FOP, and was not a party to any agreements with FOP, and because there was no privity of contract between FOP and OPC, it was reasonable for PERB to find that the CBA applied only to FOP and MPD, and not to FOP and all other District agencies. Furthermore, the Court found that it was also reasonable for PERB to conclude that OPC was not bound by the CMPA to provide the requested information.¹⁰ FOP appealed the Superior Court’s decision to the D.C. Court of Appeals.

On March 8, 2016, the D.C. Court of Appeals vacated the D.C. Superior Court’s Decision and remanded the matter to PERB to address four specific questions:

- (1) [w]hether, under the PERB’s rules, the FOP failed to adequately preserve an objection to the authority of the Executive Director to decide the motion to dismiss, by failing to ask the PERB to reconsider the Executive Director’s ruling;
- (2) if so, whether the issue of the Executive Director’s authority raises a question of the PERB’s jurisdiction requiring the PERB to address the issue even if the FOP did not adequately preserve an objection, *compare, e.g., Washington Gas Light Co. v. Public Serv. Comm’n*, 982 A.2d 691, 708-09 (D.C. 2009), *with, e.g., Jones & Artis Constr. Co. v. District of Columbia Contract Appeals Bd.*, 549 A.2d 315, 323-24 (D.C. 1988);

⁸ The Board notes that in most cases, the Executive Director’s administrative dismissals are not issued with a slip opinion number or published in the D.C. Register.

⁹ Slip Op. No. 1364 at 6-10.

¹⁰ *Fraternal Order of Police/Metro. Police Dep’t Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints*, Civ. Case No. 2013 CA 002120 P(MPA) at p. 5-7 (D.C. Super. Ct. Aug. 21, 2014) (internal citations omitted).

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- (3) whether, under the applicable statutes and regulations, the Executive Director did have the authority to decide the motion to dismiss, *see* D.C. Code § 1-605.01 (k)-(l) (2012 Repl.); 6-B DCMR §§ 500.2-.5, 500.11, 520.8, 520.10-.14, 553, 559 (2013); *see also* 6-B DCMR §§ 500.2-.5, 500.11, 520.5, 520.8, 520.10, 520.14, 553, 559 (2016); and
- (4) whether, on the merits, the OPC committed an unfair labor practice by refusing to provide the requested information. *See generally, e.g., Teamster Local Union 1714 v. Public Emp. Relations Bd.*, 579 A.2d 706, 712 (D.C. 1990) (vacating and remanding for consideration of issues by PERB in first instance).¹¹

B. PERB Case No. 13-U-38

On July 18, 2012, FOP Chief Shop Steward Michael Millet represented an MPD officer during an investigatory interview with OPC.¹² During the interview, a dispute arose over the scope of the inquiry and Millet tried to use his cellular phone. OPC then informed him that OPC's rules did not permit the use of cellular phones during investigative interviews. FOP requested bargaining over the rule, which OPC rejected.¹³ On September 4, 2013, FOP filed an unfair labor practice complaint against the OPC, asserting that OPC violated D.C. Official Code §§ 1.617.04(a)(1) and (5) when it unilaterally implemented its cellular phone rule without first providing notice to FOP, and when it refused FOP's request to bargain over the rule.¹⁴ FOP reasoned that OPC's rule against using cellular phones during interviews directly impacted terms and working conditions between the parties, and implementing the ban "without bargaining represents a fundamental rejection of [FOP] as a representative bargaining agent."¹⁵

On June 15, 2015, PERB's Executive Director administratively dismissed FOP's complaint in PERB Case No. 13-U-38. The Executive Director relied on the Board's decision in *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Office of Unified Commc'ns and D.C. Office of Labor Relations and Collective Bargaining*, 62 D.C. Reg. 2902, Slip Op. No. 1505, PERB Case No. 13-U-10 (2014) (hereinafter "Slip Op. No. 1505" or "PERB Case No. 13-U-10"). In that case, FOP alleged that the D.C. Office of Unified Communication ("OUC") violated the CMPA when it refused to comply with an information request. In its decision—which FOP did not appeal—the Board reasoned that since FOP did not

¹¹ *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints*, 14-CV-1015 at p. 2 (D.C. Mar. 8, 2016).

¹² 13-U-38 Complaint at 3.

¹³ *Id.*

¹⁴ *Id.* at 3-6.

¹⁵ *Id.* at 5-6.

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have a collective bargaining agreement with OUC, OUC was not obligated to provide the information, and FOP did not have standing to bring the complaint.¹⁶

In PERB Case No. 13-U-38, the Executive Director similarly reasoned that:

[t]he plain language of D.C. Official Code § 1-617.04(a)(5) prohibits the District and its agencies from refusing to bargain collectively in good faith “with the exclusive representative.” The Board has held that in order for a union to be considered the “exclusive representative” for the purposes of collective bargaining, the agency’s employees must have “chosen” that union to be their representative. In this case, FOP is not certified as the “exclusive representative” for any employees employed at OPC; the agency from which FOP was seeking information.

Further, [...] OPC is not a signatory to FOP and MPD’s collective bargaining agreement. Indeed, FOP’s continuing assertion that its collective bargaining agreement with MPD is binding on all other District agencies has been unambiguously rejected by PERB and the D.C. Superior Court. FOP and MPD’s collective bargaining agreement only creates obligations between FOP and MPD—not between FOP and all other District agencies. Accordingly, there is no privity of contract between FOP and OPC.¹⁷

Just as it did in PERB Case No. 12-U-16, FOP appealed the Executive Director’s administrative dismissal of PERB Case No. 13-U-38 directly to the D.C. Superior Court without first filing a motion for reconsideration. After the D.C. Court of Appeals vacated the D.C. Superior Court’s Order affirming the administrative dismissal in PERB Case No. 12-U-16, the D.C. Superior Court, at the request of the parties, similarly vacated the Executive Director’s administrative dismissal of PERB Case No. 13-U-38 and ordered that the matter be remanded to the Board for further proceedings consistent with the D.C. Court of Appeals Order in PERB Case No. 12-U-16.¹⁸

Thus, PERB Case Nos. 12-U-16 and 13-U-38 are now before the Board for resolution in compliance with the D.C. Court of Appeals’ and the D.C. Superior Court’s orders.

¹⁶ Slip Op. No. 1505 at p. 3-10.

¹⁷ 13-U-38 Admin. Dismissal (citing *Am. Fed’n of Gov’t Emp., Local 2725 v. Dist. of Columbia Dep’t of Health*, 59 D.C. Reg. 6003, Slip Op. No. 1003 at p. 4-5, PERB Case No. 09-U-65 (2012); Slip Op. No. 1364; and *FOP v. PERB and OPC*, Civ. Case No. 2013 CA 002120 P(MPA) (D.C. Super. Ct. Aug. 21, 2014)).

¹⁸ *Fraternal Order of Police/Metro. Police Dep’t Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd.*, Civ. Case Nos. 2013 CA 004910 P(MPA) and 2013 CA 005693 P(MPA) (D.C. Super. Ct. Mar. 17, 2016).

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II. Analysis

A. Preliminary Issues

After PERB Case Nos. 12-U-16 and 13-U-38 were remanded to PERB, FOP filed a motion to consolidate the two cases and to have them assigned to a hearing examiner. As stated, *supra*, FOP's motion to consolidate the cases is granted.¹⁹

However, the Board finds that it is not necessary to assign the consolidated cases to a hearing. PERB Rule 520.8²⁰ states that the "Board or its designated representative shall investigate each complaint." PERB Rule 520.10 states that if "the investigation reveals that there is no issue of fact to warrant a hearing, the Board may render a decision upon the pleadings or may request briefs and/or oral argument." However, PERB Rule 520.9 states that in the event "the investigation 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."

In these cases, there are no disputes of fact to warrant a hearing. Although OPC generally denied FOP's respective legal allegations and conclusions, it did not dispute the alleged underlying facts, which were that: (1) FOP requested information and/or bargaining; and (2) OPC denied those requests. Since those underlying facts are not disputed by the parties, leaving only legal questions to be resolved, the Board finds that a fact-finding hearing would not reveal or clarify any facts that are not already known, and that these cases can be properly decided based upon the pleadings already in the record in accordance with PERB Rule 520.10.²¹

B. Issues Posed By the D.C. Court of Appeals

1. Did FOP fail to adequately preserve its objections to the authority of the Executive Directors to decide the motions to dismiss by failing to ask the PERB to reconsider the Executive Directors' rulings?

The first question posed by the D.C. Court of Appeals is whether FOP failed to adequately preserve its objections to the authority of the Executive Directors to decide the respective motions to dismiss in PERB Case Nos. 12-U-16 and 13-U-38 when it failed to ask the

¹⁹ See *Am. Fed'n of Gov't Emp., Locals 631, 872, 1972, & 2553 v. Dist. of Columbia Dep't of Pub. Works*, 43 D.C. Reg. 1394, Slip Op. No. 306, PERB Case Nos. 94-U-02 & 94-U-08 (1994) (holding that cases involving the same parties and related issues may be consolidated for purposes of efficiency and economy of the Board's processes).

²⁰ Unless otherwise expressly stated herein, all citations to PERB's Rules in this Decision and Order will be to the 2012 iteration of the Rules since that is the version that was in effect when the complaints were filed. See 6-B DCMR §§ 500-599, *et seq.* (2013).

²¹ See D.C. Official Code §§ 1-617.13(b)-(c) (establishing in part that "[t]he findings of the Board with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole" regardless of whether the action in court is initiated by PERB or by a person aggrieved by a final order of the Board); see also *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Metro. Police Dep't*, 60 D.C. Reg. 5337, Slip Op. No. 1374 at p. 11, PERB Case No. 06-U-41 (2013); and *Am. Fed'n of Gov't Emp., Local 2978, AFL-CIO v. Dist. of Columbia Dep't of Health*, 60 D.C. Reg. 2551, Slip Op. No. 1356 at p. 7-8, PERB Case No. 09-U-23 (2013).

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Board to reconsider the Executive Directors' rulings.²² The Board finds that, pursuant to the CMPA, PERB's Rules, and the common law's longstanding waiver and exhaustion rules, FOP did indeed fail to preserve its right to object to the Executive Directors' authority to dismiss the respective complaints in PERB Case Nos. 12-U-16 and 13-U-38 when it failed to file motions for reconsideration with the Board.

a. Exhaustion of Remedies and Waiver Under the CMPA and PERB's Rules

D.C. Official Code §§ 1-617.13(b) and (c) establish in part that regardless of whether an action before a D.C. court concerning a Board decision is initiated by PERB or by a person aggrieved by the decision, “[n]o defense or objection to an order of the Board shall be considered by the court, unless such defense or objection was first urged before the Board.” PERB Rule 500.4 sets forth, in part, that “[a] decision made by the Executive Director shall become final unless a party files a motion for reconsideration within thirty (30) days after issuance of the Executive Director's decision.” The 2012 iteration of PERB Rules 559.1 and .2 prescribed that Decisions and Orders from the Board became final thirty (30) days after issuance unless the Order specified otherwise, the Board reopened the case on its own motion, or a party filed a motion for reconsideration within ten (10) days after issuance of the Decision.²³ PERB Rule 559.3 stated that “[u]pon issuance of an Opinion on any motion for reconsideration of a Decision and Order, the Board's Decision and Order shall become final.” Finally, PERB Rule 559.4 established that “[a]administrative remedies are considered exhausted when a Decision and Order [from the Board] becomes final....”

b. Exhaustion of Remedies and Waiver Under the Common Law

The D.C. Court of Appeals has held—in articulation of its “waiver” and/or “exhaustion” rules—that it will not consider procedural claims that could have been first brought before the agency, but were not. The court has stated:

“We have long held that we will not review a procedural claim that was not adequately raised at the agency level. Administrative and judicial efficiency require that all claims be first raised at the agency level to allow appropriate development and administrative response before judicial review....^[24] Failing to object at a time when an error complained of on appeal could be corrected below is sufficient to work a forfeit of that claim on appeal.” *Fair Care Found. v. District of Columbia Dep't of Ins. & Sec. Regulation*,

²² *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints*, *supra*, 14-CV-1015 at p. 2.

²³ The 2015 amendments to the Board's Rules expanded the time period to file a motion for reconsideration of a Decision and Order from the Board to fourteen (14) days after issuance of the Decision.

²⁴ See also *Hughes v. Dist. of Columbia Dep't of Emp't Serv.*, 498 A.2d 567, 570-71 (D.C. 1985) (citing *Smith v. Police and Firemen's Ret. & Relief Bd.*, 460 A.2d 997, 999 (D.C.1983); *Arthur v. Dist. of Columbia Nurses' Exam'ing Bd.*, 459 A.2d 141, 145 n. 7 (D.C. 1983); and *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 801 (D.C. Cir. 1965)).

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716 A.2d 987, 993 (D.C. 1998) (internal citations and quotation marks omitted); *see also Goodman v. District of Columbia Rental Hous. Comm'n*, 573 A.2d 1293, 1301 (D.C. 1990) (“In the absence of exceptional circumstances, a reviewing court will refuse to consider contentions not presented before the administrative agency at the appropriate time.”); *Jones & Artis Constr. Co. v. District of Columbia Contract Appeals Bd.*, 549 A.2d 315, 324 (D.C. 1988). “[S]imple fairness to those who are engaged in the tasks of administration, and to litigants, requires as a general rule that courts should not topple over administrative decisions unless the administrative body not only has erred but has erred against objection made at the time appropriate under its practice.” *United States v. L.A. Tucker Truck Lines, Inc.*, 344 U.S. 33, 37, 73 S. Ct. 67, 97 L. Ed. 54 (1952). One principal reason for the rule that procedural objections must be timely made is to give the tribunal and opposing parties the opportunity to correct or controvert the purported defect when it is still possible to do so. *District of Columbia Gen. Hosp. v. District of Columbia Office of Employee Appeals*, 548 A.2d 70, 74 (D.C. 1988). Another main reason is that “judicial review might be hindered by the failure of the litigant to allow the agency to make a factual record, exercise its discretion, or apply its expertise.” *R.R. Yardmasters of Am. v. Harris*, 232 U.S. App. D.C. 171, 177, 721 F.2d 1332, 1338 (1983).²⁵

The Board notes that the court has recognized several “distinct legal concepts” under its exhaustion rules.²⁶ One is a common law court-created exhaustion rule that the court applies in cases where exhaustion is not required by statute.²⁷ The court will apply this rule to specific issues and/or arguments that the parties could have brought before the agency (e.g., on a motion for reconsideration), but did not. This exhaustion concept is derived from the court’s equitable powers and can therefore be waived under exceptional circumstances.²⁸

Another exhaustion rule the court recognizes, and that applies to the instant cases, arises when exhaustion is expressly required by a statute.²⁹ In those cases, the court must determine whether the statutory restriction is discretionary or jurisdictional. If the statutory bar is discretionary, then the court can waive it. In cases where the bar is jurisdictional, however, the

²⁵ *Dist. of Columbia Hous. Auth. v. Dist. of Columbia Office of Human Rights*, 881 A.2d 600, 611 (D.C. 2005); *see also Howell v. Dist. of Columbia Zoning Comm’n*, 97 A.3d 579, 584 n. 6 (D.C. 2014) (holding that the court would not consider a claim that could have been raised in a motion for reconsideration, but was not); *and Brown v. Dist. of Columbia Dep’t of Emp. Serv.*, 83 A.3d 739, 746 n. 22 (D.C. 2014) (citing favorably to a First Circuit decision refusing to consider a challenge to a ruling where the complaining party “never raised a word of protest about [the ruling] to the [agency], though it could have sought reconsideration on [that] basis”).

²⁶ *Washington Gas Light Co.*, *supra*, 982 A.2d at 700-01.

²⁷ *Id.* at 700-01.

²⁸ *Id.*

²⁹ *Id.* at 701.

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court cannot excuse a litigant's failure to exhaust its remedies and/or arguments at the agency level because it (the court) has no jurisdiction to do so.³⁰ In order for a statutory exhaustion restriction to be considered jurisdictional, the statutory language must state in clear and unequivocal terms that the judiciary is barred from hearing the action or argument until it has been first pleaded before and decided by the administrative agency.³¹ Additionally, the court considers whether the statute expressly bars the courts from hearing an unexhausted action or argument, or whether it merely bars litigants from pleading the action or argument. If the latter, then the court has found that the statutory restriction is discretionary because it does not expressly restrict the judiciary's ability to hear or address the argument, only the litigant's ability to plead it.³² Another factor the court considers is whether the statute provides for any exceptions. If the statute does not list any exceptions, then the court has generally found that the legislature intended the restriction to be jurisdictional.³³

c. Application of Exhaustion and Waiver Rules to PERB Case Nos. 12-U-16 and 13-U-38

As noted *supra*, the applicable statute in these cases is D.C Official Code § 1-617.13(b), which simply states that “[n]o defense or objection to an order of the Board shall be considered by the court, unless such defense or objection was first urged before the Board.” Since the statute's language clearly and unequivocally places the bar on the judiciary and not on the parties, and since it does not list any exceptions, it is evident that §§ 1-617.13(b) and (c)'s exhaustion requirement is jurisdictional.³⁴

In both of the instant cases, FOP never asked the Board to reconsider the Executive Directors' dismissals as it could and should have under PERB Rule 500.4. Nor did it ever raise before the Board its argument that the Executive Directors lacked the authority to issue the dismissals. Instead, the first time FOP raised the argument was in its appeals before the D.C. Superior Court. Thus, in accordance with the express exhaustion requirement in D.C Official Code § 1-617.13(b) and in consideration of the court's waiver and exhaustion rules, the Board finds that FOP did indeed fail to adequately preserve its objections when it failed to ask the Board to reconsider the Executive Directors' rulings.³⁵

Furthermore, the Board notes that the only place in its Rules (either in the 2012 iteration or in the 2015 amendments) that speaks to the exhaustion of administrative remedies is PERB Rule 559.4, which states that “[a]dministrative remedies are considered exhausted when a Decision and Order becomes final in accordance with this section”— “this section” meaning

³⁰ *Id.* at 701-02.

³¹ *Id.* at 701.

³² *Id.* at 704-05.

³³ *Id.* at 704 (citations omitted).

³⁴ *Id.* at 704-05; *see also* *Woelke & Romero Framing, Inc. v. NLRB*, 456 U.S. 645, 665-66 (1982) (enforcing a federal statute that barred courts from hearing on appeal any objection that had not been first urged before the National Labor Relations Board);

³⁵ *See Dist. of Columbia Hous. Auth. v. Dist. of Columbia Office of Human Rights, supra*, 881 A.2d at 611; *see also* *Woelke, supra*, 456 U.S. at 666; and *Washington Gas Light Co., supra*, 982 A.2d at 700-05.

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PERB Rule 559 *et seq.*, which governs final Decisions and Orders issued by the Board, and not PERB Rule 500.4 which governs decisions issued by the Executive Director.³⁶ Furthermore, D.C Official Code § 1-617.13(c) states that “[a]ny person aggrieved by a final order *of the Board* granting or denying in whole or in part the relief sought may obtain review of such order in the Superior Court of the District of Columbia by filing a request within 30 days after the final order has been issued.”³⁷ When read in conjunction with D.C Official Code § 1-617.13(b) and the court’s waiver and exhaustion rules, it is apparent that decisions by the Executive Director cannot be appealed directly to the Superior Court, but rather must first be brought before the Board in a motion for reconsideration.³⁸ This is not to say that decisions by the Executive Director can never become final, since PERB Rule 500.4 expressly states that Executive Director decisions become final 30 days after issuance unless a party files a motion for reconsideration. Rather it demonstrates that if a party wants to challenge an Executive Director decision on any grounds, it must first timely seek reconsideration of the decision by the Board.³⁹ Once the Board has issued its final Decision and Order on the motion for reconsideration, then and only then will the parties have exhausted their administrative remedies under PERB’s Rules, thus paving the way for them to file an appeal with the D.C. Superior Court under D.C. Official Code § 1-617.13(c) if they so choose. However, if a party wishing to challenge an Executive Director’s decision fails to raise its objections in a timely motion for reconsideration before the Board, then the Executive Director’s decision will become final and the party will have forfeited its right to raise its objections either before the Board or in the courts.⁴⁰

Here, as stated *supra*, FOP had fair opportunities under PERB Rule 500.4 to obtain full redress of its claims from the Board by filing a motion for reconsideration of the Executive Directors’ respective dismissals, but simply chose not to avail itself of that prescribed procedure.⁴¹ Accordingly, FOP failed to preserve its right to raise its concerns for the first time in the courts.⁴²

³⁶ PERB Rule 500.22 (2012) further states that “Opinions, certifications, authorizations, decisions and orders *of the Board* are final, unless otherwise stated therein, for purposes of judicial review pursuant to D.C. Official Code §§ 1-617.13(c) and 1-605.02(12) (2001 ed. & Supp. 2014)” (emphasis added).

³⁷ (Emphasis added).

³⁸ See *Dist. of Columbia Metro. Police Dep’t v. Fraternal Order of Police/Metro. Police Dep’t Labor Comm.*, 997 A.2d 65, 81-82 (D.C. 2010) (holding that the policies behind the exhaustion rule require parties to air their issues at the administrative level first in order to create a better record, to allow the agency which enjoys greater familiarity with the parties and issues than the courts to decide how to best apply its expertise and exercise its discretion, and to discourage unnecessary litigation in the courts).

³⁹ *Id.*

⁴⁰ *Id.*; see also *Woelke, supra*, 456 U.S. at 666.

⁴¹ *Dist. of Columbia Metro. Police Dep’t v. Fraternal Order of Police/Metro. Police Dep’t Labor Comm.*, *supra*, 997 A.2d at 82 (noting that, in cases where the exhaustion requirement is discretionary, the Court will sometimes forgive a party’s failure to exhaust administrative remedies in cases where “exceptional” circumstances beyond the party’s control deprived it of a “fair opportunity” to exhaust all available remedies at the administrative level, but will not do so when the party could have availed itself of “full redress” through the agency’s “prescribed proceedings” and simply chose not to take advantage of that opportunity) (citations omitted).

⁴² See D.C Official Code § 1-617.13(b); see also *Dist. of Columbia Hous. Auth. v. Dist. of Columbia Office of Human Rights, supra*, 881 A.2d at 611; *Dist. of Columbia Metro. Police Dep’t v. Fraternal Order of Police/Metro. Police Dep’t Labor Comm.*, *supra*, 997 A.2d at 81-82; and *Woelke, supra*, 456 U.S. at 666.

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2. If FOP did fail to adequately preserve its objections to the authority of the Executive Directors to decide the motions to dismiss when it did not seek reconsideration of the dismissals by the Board, did the issue of the Executive Directors' authority raise questions about PERB's jurisdiction requiring the Board to address the issues even if the FOP did not adequately preserve its objections?

The second question the court directed the Board to address was, if FOP did fail to adequately preserve its objections to the authority of the Executive Directors to decide the motions to dismiss when it did not seek reconsideration of the dismissals by the Board, whether the issue of the Executive Director's authority raised a question of PERB's jurisdiction requiring the Board to address the issue anyway.⁴³ The court instructed the Board to compare *Washington Gas Light Co.*, *supra*, 982 A.2d at 708-09 with *Jones*, *supra*, 549 A.2d at 323-24.⁴⁴ The Board finds that FOP's contentions concerning the Executive Directors' authority did not raise questions about PERB's jurisdiction such that it required the Board to address them *sua sponte* or upon its own motion.

In *Washington*, the court articulated one narrow exception to its waiver and exhaustion requirements. The court stated that "if an alleged defect in an agency's jurisdiction is so serious that it wholly deprives the agency of the power to act, [the court] will retain the discretion to reach the jurisdictional question notwithstanding a party's failure to raise it before the agency."⁴⁵ In other words, if an agency decision wholly exceeded the agency's statutory authority, or if the agency itself suffered from some other serious compositional or constitutional defect, then the court will retain sufficient jurisdiction to consider a challenger's argument even if the party did not raise the argument before the agency or ask the agency to reconsider the decision prior to bringing it before the court.⁴⁶ This exception, however, is very "narrow" and the court's general rule has still been that "even jurisdictional questions must be put to agencies before they are brought to a reviewing court."⁴⁷

For example, in *Jones*, the court rejected a contractor's argument that the Contract Appeals Board did not have the procedural authority to issue a certain decision because it did not have enough members to form a quorum.⁴⁸ The court held that the contractor waived its right to raise that argument in the courts because it failed to raise it first before the agency.⁴⁹ The court reasoned that the contractor did not challenge the Contract Appeals Board's substantive power to act at all through its Chairman, but rather challenged only the procedural "authority of the Chairman to act alone in this particular case, absent a stipulation by the parties."⁵⁰ In contrast, in

⁴³ *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints*, *supra*, 14-CV-1015 at p. 2.

⁴⁴ *Id.*

⁴⁵ 982 A.2d at 700.

⁴⁶ *Id.* at 708-09 (citing *R.R. Yardmasters of Am. v. Harris*, 721 F.2d 1332 (D.C. Cir. 1983); and *Mitchell v. Christopher*, 996 F.2d 375, 378 (1993)).

⁴⁷ *Id.* at 708 (citations omitted).

⁴⁸ 549 A.2d 315.

⁴⁹ *Id.* at 323-24.

⁵⁰ *Id.* at 324.

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Washington, the court found that since the Public Service Commission's statutory exhaustion requirement was discretionary and not jurisdictional,⁵¹ and since the appellant's argument was that the Commission did not have the substantive statutory authority to issue the decision at all (as opposed to challenging who at the Commission made the decision or in what capacity), then the court retained sufficient jurisdiction to hear and address that jurisdictional argument even though the appellant had not first raised it before the Commission.⁵²

Here, as discussed *supra*, the exhaustion requirement in D.C. Official Code §§ 1-617.13(b) and (c) is jurisdictional and not discretionary.⁵³ Furthermore, FOP's arguments before the court were that the Executive Directors lacked the procedural authority to grant OPC's motions to dismiss, and that even if the Executive Directors did have the authority to decide the motions, the merits of their conclusions were incorrect.⁵⁴ Neither of these arguments speaks to PERB's core substantive statutory authority to adjudicate and decide FOP's unfair labor practice allegations.⁵⁵ Additionally, the Board had quorums as defined by D.C. Official Code § 1-605.01(l) when each dismissal was issued, and thus could have fully addressed FOP's arguments if FOP had moved for reconsideration of the dismissals as provided by PERB Rule 500.4.⁵⁶ Accordingly, the Board finds that FOP's contentions concerning the Executive Directors' authority did not raise questions about PERB's substantive jurisdiction such that it required the Board to address FOP's arguments *sua sponte* even though FOP did not adequately preserve them when it failed to file a timely motion for reconsideration in either case.⁵⁷

3. Did the Executive Directors have the authority to decide the motions to dismiss?

The third question the court ordered the Board to consider was whether, under the applicable statutes and regulations, the Executive Directors had the authority to decide the motions to dismiss. The court instructed the Board to consider in its analysis, D.C. Official Code §§ 1-605.01(k)-(l) (2012 Repl.); 6-B DCMR §§ 500.2-.5, 500.11, 520.8, 520.10-14, 553, 559 (2013); and 6-B DCMR §§ 500.2-.5, 500.11, 520.5, 520.8, 520.10, 520.14, 553, 559 (2016). The Board finds that under the CMPA, PERB's Rules, and PERB's case law, the Executive Directors did have the authority to administratively grant the motions to dismiss.

D.C. Official Code § 1-605.01(k) states in pertinent part that the "Board may appoint such employees as may be required to conduct its business." Sec. 1-605.01(l) states that "[t]hree members of the Board shall constitute a quorum for the transaction of business." The selection of PERB's Rules that the court instructed the Board to consider fall into four basic categories: (1)

⁵¹ 982 A.2d at 707-08.

⁵² *Id.* at 709-10.

⁵³ See *Washington Gas Light Co.*, *supra*, 982 A.2d at 704-05; see also *Woelke*, *supra*, 456 U.S. at 666.

⁵⁴ *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints*, *supra*, 14-CV-1015 at p. 2.

⁵⁵ See D.C. Official Code § 1-605.02(3).

⁵⁶ See D.C. Official Code § 1-617.13(b); see also *Dist. of Columbia Hous. Auth. v. Dist. of Columbia Office of Human Rights*, *supra*, 881 A.2d at 611; *Dist. of Columbia Metro. Police Dep't v. Fraternal Order of Police/Metro. Police Dep't Labor Comm.*, *supra*, 997 A.2d at 81-82; and *Woelke*, *supra*, 456 U.S. at 666.

⁵⁷ Compare, e.g., *Washington Gas Light Co.*, *supra*, 982 A.2d at 700-10 with *Jones*, *supra*, 549 A.2d at 323-24.

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rules governing the role and authority of the Executive Director and PERB in general;⁵⁸ (2) rules governing unfair labor practice cases;⁵⁹ (3) rules governing motions;⁶⁰ and (4) rules governing how and when Decisions and Orders issued by the Board become final.⁶¹

In *Monono, et al. v. Am. Fed'n of State, Cnty., and Mun. Emp., Dist. Council 20, Local 2401*, 49 D.C. Reg. 826, Slip Op. No. 672 at p. 2, PERB Case No. 01-U-15 (2001) the Board expressly held that D.C. Official Code § 1-605.1(k) “authorizes the Board to delegate its authority to dismiss complaints administratively to the Executive Director.”⁶²

Furthermore, PERB Rule 500.3 states that the Executive Director is the “principal administrative officer of the Board and performs such duties as designated by the CMPA or as assigned by the Board, including the investigation of all petitions, requests, complaints and other matters referred or submitted to the Board.”⁶³ PERB Rule 500.4 authorizes the Executive Director to, “among other things, [...] conduct [...] investigations, [...] and, pursuant to action by the Board or by an authorized panel thereof, sign and issue decisions and orders made by or *on behalf of* the Board.”⁶⁴ As noted, *supra*, PERB Rule 500.4 also provides that a “decision” by the Executive Director becomes “final” unless a party files a motion for reconsideration within 30 days. PERB Rule 500.5 states that the “duly authorized and official documents of the Board of every description and without exception, including but not limited to decisions, orders, ... and other communications, may be signed on behalf of the Board by the Executive Director....” Pursuant to PERB Rule 520.8, the Executive Director acts as the Board’s “designated representative” who, under the express authority of PERB Rule 500.4, investigates each unfair labor practice complaint that is filed with the Board. If, in the course of that investigation, it is determined that the complaint has not met the *prima facie* case of the pleaded allegations, has failed to raise an allegation that, if proven, could constitute a violation of the CMPA, raises an allegation for which relief cannot be granted, or suffers from some other serious defect, then the Board has long authorized the Executive Director to administratively dismiss the case, either on his/her own accord or in response to a motion to dismiss.⁶⁵ Moreover, there is nothing in PERB Rule 553, *et seq.* (in either the 2012 or 2015 versions) that mandates that motions—including motions to dismiss—be granted or denied by a quorum of the Board. If such were the case, then

⁵⁸ See PERB Rules 500.2-.5 & .11 (2012 and 2015 versions).

⁵⁹ See PERB Rules 520.8 & .10-.14 (2012); and PERB Rules 520.5, .10, & .14 (2015).

⁶⁰ See PERB Rule 553, *et seq.* (2012 and 2015 versions).

⁶¹ See PERB Rule 559, *et seq.* (2012 and 2015 versions).

⁶² (Internal citations omitted).

⁶³ PERB Rule 500.3 was not changed in the 2015 amendments.

⁶⁴ (Emphasis added). Further, PERB Rule 500.4 was not changed in the 2015 amendments.

⁶⁵ See, e.g., PERB Rules 500.21 & 501.13 (2012 and 2015 versions); and PERB Rule 520.5 (2015); see also, e.g., *Greene v. Univ. of the Dist. of Columbia and Am. Fed'n of State, Cnty., and Mun. Emp., Dist. Council 20, Local 2087*, 43 D.C. Reg. 1290, Slip Op. No. 350, PERB Case No. 91-U-09 (1993) (affirming the Executive Director’s administrative dismissal of the complaint); *Beeton v. Fraternal Order of Police/Dep’t of Corr. Labor Comm.*, 45 D.C. Reg. 2078, Slip Op. No. 538, PERB Case No. 97-U-26 (1998) (finding that there was no basis to disturb the Executive Director’s administrative dismissal); *Monono, supra*, Slip Op. No. 672 at p. 2, PERB Case No. 01-U-15; and *Johnson v. Dist. of Columbia Pub. Sch., et al.*, 61 D.C. Reg. 7380, Slip Op. No. 1472, PERB Case No. 07-U-07 (2014) (finding that it was proper for the Executive Director to administratively dismiss a complaint for untimeliness and because it failed to state a claim for which relief could be granted).

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the Board's once-a-month meetings would be unnecessarily bogged down and encumbered by the numerous administrative tasks that the Board expressly empowered and appointed the full-time Executive Director to address and decide on its behalf.⁶⁶

Here, the Board expressly condoned the Executive Director's administrative dismissal of PERB Case No. 12-U-16 when it issued Slip Op. No. 1505 in PERB Case No. 13-U-10. As discussed, *supra*, in PERB Case No. 13-U-10, FOP filed an unfair labor practice complaint against OUC alleging that OUC violated D.C. Official Code §§ 1-617.04(1) and (5) and Article 10 of FOP's CBA with MPD when OUC refused to comply with an information request. The Board's dismissal of FOP's complaint in PERB Case No. 13-U-10 echoed, cited to, relied upon, and fully endorsed the Executive Director's dismissal of the substantially similar complaint in PERB Case No. 12-U-16.⁶⁷ FOP did not ask the Board to reconsider its Decision and Order in PERB Case No. 13-U-10, nor did it appeal the ruling in the D.C. Superior Court. Thus, Slip Op. No. 1505 in PERB Case No. 13-U-10 articulates the Board's current and unambiguous precedent on these issues.⁶⁸ Accordingly, when FOP raised similar allegations in yet another complaint against OPC in PERB Case No. 13-U-38, the Executive Director rightfully and appropriately granted OPC's motion to dismiss.⁶⁹

4. On the merits, did OPC commit an unfair labor practices in PERB Case Nos. 12-U-16 and 13-U-38?

The final question the court ordered the Board to consider is whether, on the merits, OPC did commit an unfair labor practice in PERB Case No. 12-U-16 by refusing to provide FOP with the requested information. Similarly, the D.C. Superior Court ordered the Board to consider whether, on the merits, OPC committed unfair labor practices in PERB Case No. 13-U-38 when it unilaterally implemented its cellular phone rule without first providing notice to FOP, and/or when it refused FOP's request to bargain over the rule. The Board finds that, in accordance with its precedent set in PERB Case No. 13-U-10 and other noted authorities, OPC did not commit unfair labor practices in either PERB Case No. 12-U-16 or Case No. 13-U-38.

a. PERB Case No. 12-U-16

The facts of PERB Case No. 12-U-16 are nearly identical to those in PERB Case No. 13-U-10. In both cases, (1) FOP requested information from a District agency in which it did not represent any employees and with which it did not have a CBA; (2) FOP made the requests under the authority of D.C. Official Code § 1-617.04(a)(5) and Article 10 of FOP's CBA with MPD; (3) the agencies denied FOP's requests; and (4) FOP filed unfair labor practice complaints arguing that FOP's CBA with MPD was binding on the entire District, not just MPD, and that

⁶⁶ See D.C. Official Code § 1-605.01(k); and PERB Rules 500.2-4 (2012 and 2015 versions): see also *Monono, supra*, Slip Op. No. 672 at p. 2, PERB Case No. 01-U-15; and *Dist. of Columbia Fire and Emergency Med. Serv. Dep't v. Am. Fed'n of Gov't Emp., Local 3721*, Slip Op. No. 1556, PERB Case No. 15-U-22 (December 1, 2015) (affirming the Executive Director's decision to grant a motion to dismiss).

⁶⁷ Slip Op. No. 1505 at p. 3-10.

⁶⁸ See PERB Rule 559, *et seq.* (2012).

⁶⁹ 13-U-38 Admin. Dismissal; see also, generally, the cases cited in n. 65 and 66 herein.

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the agencies therefore violated D.C. Official Code §§ 1-617.04(a)(1) and (5) when they respectively refused to produce the requested information.

In PERB Case No. 13-U-10, the Board dismissed FOP's complaint on grounds that OUC was not a party to FOP's CBA with MPD, and therefore did not have a duty under Article 10 of that agreement or under D.C. Official Code § 1-617.04(a)(5) to provide FOP with the requested information.⁷⁰

- i. OPC was not obligated under Article 10 of FOP's CBA with MPD to provide the information that FOP requested

In PERB Case No. 13-U-10, PERB rejected FOP's argument that OUC was bound by Article 10 of its CBA with MPD on the grounds that: (1) the title page and Article 1, Section 1 of the agreement stated it was the collective bargaining agreement between FOP and MPD; (2) the terms of the agreement were specific to FOP and MPD; and (3) FOP's and MPD's representatives were the only signers of the agreement.⁷¹ As such, the Board found it was reasonable to conclude that the only entities upon which the agreement bestowed any rights or obligations were FOP and MPD.⁷² Here, because the same CBA was in effect when PERB Case No. 12-U-16 was filed, the same analysis applies. Indeed, in the administrative dismissal of FOP's complaint in PERB Case No. 12-U-16, the Executive Director correctly reasoned:

Erroneously, FOP claims that Article 10 of the CBA empowers it to seek and receive information from OPC. (Complaint at 3, 5-7, and Exhibit #2). Section 1 of Article 10 states, “[t]he Parties shall make available to each other’s duly designated representatives, upon reasonable request, any information, statistics and records relevant to negotiations or necessary for proper administration of the terms of this Agreement.” (Complaint, Exhibit #2 at 8) (emphases added). In the instant matter, “the Parties” and “to each other” are the legally operative terms. They plainly dictate, without ambiguity, that the obligation to exchange information only applies between MPD and FOP. [*Mittal Steel USA ISG, Inc. v. Bodman*, 435 F.Supp.2d 106, 108-09 (Dist. Court, Dist. of Columbia 2006)]; [*Charlton v. Mond*, 987 A.2d 436, 441 (D.C. 2010)]; and [*YA Global Investments, L.P. v. Cliff*, 15 A.3d 857, 862 (N.J. Super. Ct. App. Div. 2011)]. Furthermore, there is nothing in the four (4) corners of Article 10 or the CBA to demonstrate that the CBA imposes any contractual requirement to request or disclose information on anyone who is not MPD or FOP. *Mittal Steel USA ISG, Inc. v. Bodman. supra*; and *Charlton v. Mond, supra*.

⁷⁰ Slip Op. No. 1505 at p. 10-11.

⁷¹ *Id.* at 4-6.

⁷² *Id.*

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In its Complaint, FOP contends that its CBA is between it and the entire District of Columbia government, not just between it and MPD. (Complaint at 3, 5-7). However, such an argument cannot be squared with the CBA's plain and unambiguous identification of the parties, noted above, and therefore must fail. *See Mittal Steel USA ISG, Inc. v. Bodman. supra*; *see also American Federation of Government Employees, Local 2924 v. Federal Labor Relations Authority*, 470 F. 3d 375, 377 & 381 (D.C. Cir. 2006) (internal citations omitted). The only proper and legally sound reading of the CBA is that its terms only apply between FOP and MPD, not FOP and all other District agencies. *Mittal Steel USA ISG, Inc. v. Bodman. supra*; and *Charlton v. Mond, supra*; and *YA Global Investments, L.P. v. Cliff, supra*. To say otherwise would be to imply that a union's agreement with one (1) agency in the District is a binding contract upon all of the District's agencies. Simply put, at best, such an argument is unwarranted and ethereal. Basic contract law dictates that such is not the case. *Id.* OPC is not bound by the terms of the CBA between FOP and MPD any more than the Department of Health or some other non-party agency is. *Id.*⁷³

Although the Court of Appeals vacated—on procedural grounds only—the D.C. Superior Court's August 21, 2014 Order affirming the Executive Director's administrative dismissal of PERB Case No. 12-U-16, the Superior Court's reasoning is still persuasive.⁷⁴ The Superior Court stated:

[The argument that Article 10 applies to agencies other than MPD] has already been presented to PERB, which thoroughly explained in its ten-page Administrative Dismissal why the CBA does not extend to OPC. Taking [FOP] through the basic concepts of contract law, PERB explained that to apply the CBA to OPC would “imply that a union's agreement with one (1) agency in the District is a binding contract upon all of the District's agencies ... OPC is not bound by the terms of the CBA between FOP and MPD any more than the Department of Health or some other non-party agency.” To find otherwise would be overbroad and, moreover, it is clear from the PERB decision citing to the specific language of the CBA that there is no privity of contract between FOP and OPC. The CBA includes numerous explicit references to the parties bound by it, naming only FOP and MPD. It was thus reasonable

⁷³ Slip Op. No. 1364 at p. 7-8; *see also* Slip Op. No. 1505 at p. 4-5.

⁷⁴ *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints, supra*, 14-CV-1015 at p. 1-2.

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for PERB to find that the CBA only applied to FOP and MPD and reject [FOP's] argument that the OPC is additionally bound by its terms.⁷⁵

As the Board held in PERB Case No. 13-U-10, CBAs are negotiated between particular agencies and the exclusive representatives of their employees with specific agency processes and specific bargaining unit needs in mind.⁷⁶ While certain statutory rights (i.e. *Weingarten* rights) apply to all District agencies regardless of their respective agreements, the obligation to produce information is imposed by the CBA, not by statute.⁷⁷ That right therefore does not apply to agencies that are not parties to a particular agreement.⁷⁸ The plain language of Article 10 in the CBA between FOP and MPD “defines and establishes a right to seek and receive information [only] between FOP and MPD.”⁷⁹ Thus, it was not reasonable for FOP to seek enforcement of that provision against OPC, which was not present during negotiations, did not have the benefit of making proposals or counterproposals, and was not a signatory to the final agreement.⁸⁰ Accordingly, the Board finds that Article 10 of FOP's CBA with MPD did not obligate OPC to produce the requested information.⁸¹

ii. OPC was not obligated under D.C. Official Code § 1-617.04(a)(5) to provide the information

The Board noted in PERB Case No. 13-U-10 that agencies are normally obligated to provide information to the exclusive representatives of the bargaining units of their employees.⁸² Indeed, the United States Supreme Court has held that an employer's duty to disclose information “unquestionably extends beyond the period of *contract negotiations* and applies to labor-management relations *during the term of an agreement*.”⁸³ Accordingly, the Board has held that when an agency fails, without a viable defense, to provide information requested by its employees' exclusive representative, that agency repudiates the contract and thus violates its duty under D.C. Official Code § 1-617.04(a)(5) to “bargain collectively in good faith *with the exclusive representative*.” In so doing, the agency further derivatively violates its counterpart duty under D.C. Official Code §1-617.04(a)(1) to not interfere with its employees' “statutory rights to organize a labor union free from interference, restraint or coercion; to form, join or

⁷⁵ *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints, supra*, Civ. Case No. 2013 CA 002120 P(MPA) at p. 7 (internal citations omitted); see also Slip Op. No. 1505 at p. 5-6.

⁷⁶ Slip Op. No. 1505 at p. 6 (citing *Mittal Steel USA ISG, Inc., supra*).

⁷⁷ *Id.*; see also *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Office of Police Complaints*, 59 D.C. Reg. 5510, Slip Op. No. 994 at p. 19-20, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28 (2009).

⁷⁸ Slip Op. No. 1505 at p. 6.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ See *id.*

⁸² *Id.* at 6-7; see also *Am. Fed'n of Gov't Emp., Local 631 v. Dist. of Columbia Water and Sewer Auth.*, 59 D. C. Reg. 3948, Slip Op. No. 924 at p. 5-6, PERB Case No. 08-U-04 (2007).

⁸³ *Nat'l Labor Rel. Bd. v. Acme Indus. Co.*, 385 U.S. 432, 436 (1967) (citations omitted) (emphases added).

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assist any labor organization or to refrain from such activity; and to bargain collectively through representatives *of their own choosing*.”⁸⁴

In PERB Case No. 12-U-16, however, the Executive Director’s administrative dismissal correctly reasoned:

The CBA cited and relied upon by FOP in its November 3, 2011, request for information and in its Complaint defines and establishes a right to seek and receive information between FOP and MPD, but it does not establish rights between FOP and OPC. Indeed, FOP and OPC have not engaged in any “contract negotiations” regarding information requests. *NLRB v. Acme Industrial, supra*. Likewise, FOP and OPC are not currently in the “term [(time period)] of an agreement” governing information requests. *Id.* As such, OPC was not obligated to “bargain collectively in good faith” with FOP and was not obligated to provide FOP with the information it requested under D.C. [Official] Code § 1-617.04(a)(5), as no collective bargaining agreement or requirement to bargain existed between FOP and OPC. *Id.*

Therefore, FOP lacks standing to allege under D.C. [Official] Code § 1-617.04(a)(5) that OPC failed to bargain with it in good faith.⁸⁵

In its Order affirming the Executive Director’s administrative dismissal, the D.C. Superior Court stated:

PERB acknowledged that generally agencies are obligated to provide documents in response to a request by a union. PERB cites to the United States Supreme Court in *National Labor Relations Board v. Acme Industrial Co.*, 385 U.S. 432, 436-37 (1967) for the proposition that the duty to disclose information applies to both contract negotiations and labor management relations during the term of a collective bargaining agreement. PERB explained, however, that OPC is simply not an employer of FOP, has never entered into contract negotiations, and is not a party to any agreements with OPC. Therefore, PERB held that

⁸⁴ Slip Op. No. 1505 at p. 6-7 (citing *Am. Fed’n of Gov’t Emp., Local 2725 v. Dist. of Columbia Dep’t of Health*, 59 D.C. Reg. 5996, Slip Op. No. 1003 at p. 4-5, PERB Case 09-U-65 (2009)) (emphases added).

⁸⁵ Slip Op. 1364 at p 9; *see also* Slip Op. No. 1505 at p. 7.

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FOP did not have standing under the CMPA to compel compliance with its request for information.⁸⁶

Indeed, FOP is not the “exclusive representative” of any of OPC’s employees as expressly required by D.C. Official Code § 1-617.04(a)(5). Further, none of OPC’s employees have “chosen” FOP to be their representative as required by *Am. Fed’n of Gov’t Emp., Local 2725 v. Dist. of Columbia Dep’t of Health, supra*, Slip Op. No. 1003 at p. 4-5, PERB Case No. 09-U-65. FOP and OPC have never engaged in “contract negotiations,” nor have they been parties to “the term of an agreement” as envisioned by the U.S. Supreme Court’s holding in *Nat’l Labor Relations Bd. v. Acme Indus. Co., supra*, 385 U.S. at 436.⁸⁷ Accordingly, the Board finds that the only statutory obligations that FOP’s and MPD’s CBA created were between FOP and MPD, not between FOP and all other District agencies.⁸⁸ Therefore, OPC had no obligation under D.C. Official Code § 1-617.04(a)(5) to provide the information that FOP requested.⁸⁹

iii. Applicability of Fraternal Order of Police/Metro. Police Dep’t Labor Comm. v. Dist. of Columbia Office of Police Complaints, supra, Slip Op. No. 994, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28

FOP has argued that *Fraternal Order of Police/Metro. Police Dep’t Labor Comm. v. Dist. of Columbia Office of Police Complaints, supra*, Slip Op. No. 994, PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28 stands for the notion that that since the Board stated the parties to the CBA between FOP and MPD were actually FOP and the District of Columbia, the CBA’s terms and conditions are binding on all other District agencies. However, the Superior Court correctly rejected FOP’s argument, stating:

[FOP] argues that PERB and the D.C. Superior Court have previously held that OPC must bargain collectively in good faith with FOP. In turn, then, [FOP] argues that PERB has consistently held that a request for information constitutes a request for bargaining. In support of its position, [FOP] cites a vacated opinion in a dismissed Superior Court case [*Dist. of Columbia Office of Police Complaints v. Dist. of Columbia Pub. Emp. Relations Bd.*, Case No. 2009 CA 008122 P(MPA) (D.C. Super. Ct., Apr. 12, 2011)] and claims that OPC had a bargaining obligation with FOP that “creates certain rights, the violation of which *could* constitute a ULP complaint even absent a collectively bargained agreement.” In this instance, there is no privity of contract between OPC and FOP; OPC is not FOP’s employer and

⁸⁶ *Fraternal Order of Police/Metro. Police Dep’t Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints, supra*, Civ. Case No. 2013 CA 002120 P(MPA) at p. 5 (citations omitted); see also Slip Op. No. 1505 at p. 7-8.

⁸⁷ Slip Op. No. 1505 at p. 8.

⁸⁸ *Id.*

⁸⁹ *Id.*

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OPC was not subject to any management obligations or duties provided for in the CMPA. [FOP's] cited case does not explicitly hold that OPC is definitively required to bargain "collectively in good faith" as required by the CMPA statute, but suggested that certain bargaining rights *may* exist in the absence of a CBA. The sole case cited by [FOP] does not explicitly hold that OPC has a duty to collectively bargain with FOP but merely raises the possibility. Also, given that that case was dismissed for want of jurisdiction ... on September 30, 2011 [*Dist. of Columbia Office of Police Complaints v. Dist. of Columbia Pub. Emp. Relations Bd.*, 11-CV-621 (D.C., Aug. 5, 2011)], the Court does not place much weight on its conclusions.⁹⁰

Similarly, the Board also wholly rejected this argument when FOP raised it again in PERB Case No. 13-U-10.⁹¹ The Board stated:

In PERB Case Nos. 06-U-24, 06-U-25, 06-U-26 and 06-U-28, the Board adopted a hearing examiner's report and recommendation which found that "the parties to the Labor Agreement [between MPD and FOP] are the District of Columbia and [FOP]." Notwithstanding, the hearing examiner expressly rejected the notion that that meant all District agencies and officials were therefore bound by all of the agreement's terms. The hearing examiner stated: "[t]he fact that the District of Columbia is a party to the [collective bargaining agreement] does not by itself mean that all definitions, provisions, and requirements of a particular collective bargaining agreement are automatically transmuted or otherwise modified or redefined to fit the organizational arrangements or circumstances of agencies other than the one that [employs] the affected employees." ... The Board agreed and dismissed FOP's allegations.

* * *

If every collective bargaining agreement in the District was binding on all District agencies, there would be nothing to prevent FOP from enforcing against MPD a provision articulated in an agreement between another agency and another union that it (FOP)

⁹⁰ *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Dist. of Columbia Pub. Emp. Relations Bd. and Dist. of Columbia Office of Police Complaints*, *supra*, Civ. Case No. 2013 CA 002120 P(MPA) at p. 5-7 (citations omitted); *see also* Slip Op. No. 1505 at p. 9-10.

⁹¹ Slip Op. No. 1505 at p. 8-10.

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failed to bargain for in its own negotiations with MPD. Reason and established contract law dictate that such cannot be the case.⁹²

Thus, in accordance with the Board's finding in PERB Case No. 13-U-10 that FOP's CBA with MPD was not binding on OUC under the facts alleged in that case, the Board finds that FOP's CBA with MPD was likewise not binding on OPC under the nearly identical facts alleged in this case.⁹³

iv. OPC's motion to dismiss FOP's complaint in PERB Case No. 12-U-16

When considering a motion to dismiss, the Board views all factual allegations in the complaint as true in order to determine whether the complaint may give rise to a violation of the CMPA for which PERB can grant relief.⁹⁴ Notwithstanding, even when viewing the alleged facts of PERB Case No. 12-U-16 as true, the Board still cannot conclude that OPC repudiated a contract to which it was not a party, or that it violated a duty that it did not have.⁹⁵ Thus, in consideration of the arguments presented by the parties in their pleadings, and based on the Board's unambiguous precedent in PERB Case No. 13-U-10, the Board finds that OPC was not obligated under Article 10 of FOP's CBA with MPD, or under D.C. Official Code § 1-617.04(a)(5), to comply with FOP's information request.⁹⁶ Accordingly, OPC's motion to dismiss is granted, and FOP's complaint in PERB Case No. 12-U-16 is dismissed with prejudice.⁹⁷

b. PERB Case No. 13-U-38

As discussed, *supra*, D.C. Official Code § 1-617.04(a)(5) prohibits the District and its agencies from refusing to bargain collectively in good faith "with the exclusive representative." The Board has held that in order for a union to be considered the "exclusive representative" for the purposes of collective bargaining, the agency's employees must have "chosen" that union to be their representative.⁹⁸ In this case, FOP is not certified as the "exclusive representative" of any of OPC's employees; nor have OPC's employees made any efforts to "choose" FOP as their

⁹² *Id.* at p. 9-10; see also *Am. Fed'n of State, Cnty., and Mun. Emp., Dist. Council 20, Local 2921 v. Dist. of Columbia Pub. Sch.*, 62 D.C. Reg. 9200, Slip Op. No. 1518 at p. 5, PERB Case No. 12-E-10 (2015) (holding that D.C. Official Code § 1-617.13(b) expressly authorizes the Board to interpret its own orders).

⁹³ Slip Op. No. 1505 at p. 3-11.

⁹⁴ *Dist. of Columbia Fire and Emergency Med. Serv. Dep't v. Am. Fed'n of Gov't Emp., Local 3721, supra*, Slip Op. No. 1556 at p. 4, PERB Case No. 15-U-22.

⁹⁵ Slip Op. No. 1505 at p. 3-11 (citations omitted).

⁹⁶ *Id.*

⁹⁷ As the Board noted in Slip Op. No. 1505 at p. 11, the Board's finding does not mean that FOP cannot request the information through other means. For example, it is possible that FOP may be able to obtain the information it seeks from OPC under the District of Columbia Freedom of Information Act (FOIA), D.C. Official Code §§ 2-531 *et seq.*

⁹⁸ See *Am. Fed'n of Gov't Emp., Local 2725 v. Dist. of Columbia Dep't of Health, supra*, Slip Op. No. 1003 at p. 4-5, PERB Case No. 09-U-65.

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exclusive representative. Accordingly, OPC cannot have breached a duty to bargain where no such duty existed in the first place.⁹⁹

Furthermore, the Board rejects FOP's assertion that its CBA with MPD applies to OPC because MPD and OPC are interrelated.¹⁰⁰ The Board notes that the D.C. Council specifically created and designed OPC to operate separately from MPD and to be independent from MPD's influence. Indeed, OPC's stated statutory purpose is to provide an "effective, efficient, and fair system of *independent* review of citizen complaints against police officers in the District of Columbia."¹⁰¹ Additionally, OPC's structure and organization are designed to assert its independence from MPD. For example, OPC has its own Executive Director, employees, and organization—none of which are subject to MPD's Chief of Police in any way.¹⁰² Further, only one member of OPC's Police Complaints Board can be an MPD employee,¹⁰³ and OPC investigators and mediators "may not be persons currently or formerly employed by the MPD."¹⁰⁴ The Council even went so far as to expressly state that when OPC becomes aware of a complaint against an officer, that occurrence does not have any impact on the statutory deadlines for MPD to begin disciplinary proceedings against the officer.¹⁰⁵ If OPC was meant to be so connected to MPD that the two could be considered interrelated either organizationally or for the purposes of collective bargaining, then the Council would not have gone to such great lengths to separate them.

Accordingly, even when viewing FOP's factual allegations in PERB Case No 13-U-38 as true,¹⁰⁶ the Board still cannot conclude that OPC repudiated a contract to which it was not a party, or that it breached a duty it did not have.¹⁰⁷ Thus, the Board finds that OPC did not commit unfair labor practices when it unilaterally implemented its cellular phone rule without first providing notice to FOP, or when it refused FOP's request to bargain over the rule. OPC's motion to dismiss is therefore granted, and FOP's complaint in PERB Case No. 13-U-38 is dismissed with prejudice.

⁹⁹ *Id.*

¹⁰⁰ 13-U-38 FOP Response to Order to Show Cause at 12.

¹⁰¹ D.C. Official Code § 5-1102 (emphasis added).

¹⁰² D.C. Official Code §§ 5-1105 and 5-1106(a).

¹⁰³ D.C. Official Code § 5-1104(a).

¹⁰⁴ D.C. Official Code §§ 5-1106(a) and (d).

¹⁰⁵ D.C. Official Code § 5-1107(i).

¹⁰⁶ See *Dist. of Columbia Fire and Emergency Med. Serv. Dep't v. Am. Fed'n of Gov't Emp., Local 3721*, supra, Slip Op. No. 1556 at p. 4, PERB Case No. 15-U-22.

¹⁰⁷ Slip Op. No. 1505 at p. 3-11 (citations omitted).

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ORDER

IT IS HEREBY ORDERED THAT:

1. FOP's motion to consolidate PERB Case Nos. 12-U-16 and 13-U-38 is granted;
2. FOP's motion for a hearing is denied;
3. OPC's respective motions to dismiss the complaints in PERB Case Nos. 12-U-16 and 13-U-38 are granted, and the cases are each dismissed with prejudice; and
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, and Members Ann Hoffman, Barbara Somson, and Douglas Warshof.

January 12, 2017

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case Nos. 12-U-16 and 13-U-38, Op. No. 1609 was transmitted by File & ServeXpress to the following parties on this the 17th day of January, 2017.

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