



***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- D.C. Council passes Resolution 22-461, Sense of the Council Arts and Humanities in Education Resolution of 2018
- D.C. Council schedules a public oversight roundtable on “Improving School Attendance: Truancy, Chronic Absenteeism, and the Implementation of Reform Initiatives”
- Office on Aging solicits applicants to operate two new District Senior Wellness Centers in Wards 4 and 5
- Department of Human Services announces funding availability for the FY2018 Daytime Services for Individuals Experiencing Homelessness program
- Office of Public-Private Partnerships schedules public hearings on the Delivery of Smart Street Lighting Project
- Office of the State Superintendent of Education solicits public comments on the FY2019-2021 Child Care and Development Fund Draft State Plan
- Office of the State Superintendent of Education announces funding availability for the Scholarships for Opportunity and Results (SOAR) Act Grants

# DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

AN ACT

**D.C. ACT 22-317**

IN THE COUNCIL OF DISTRICT OF COLUMBIA

**APRIL 19, 2018**

To amend the Office of Administrative Hearings Establishment Act of 2001 to expand the jurisdiction of the Office of Administrative Hearings to include certain cases from the Department of Behavioral Health, certain cases arising from the Condominium Act of 1976, certain cases arising from the Rental Housing Conversion and Sale Act of 1980, adjudicated cases involving the enforcement of administrative civil penalties by the Department of Energy and Environment, the denial or revocation of a notary commission, certain cases involving the Day Care Policy Act of 1979 and the Child Development Facilities Regulation Act of 1988, the contested residency status of a public school student pursuant to the District of Columbia Nonresident Tuition Act, certain disputes under the State Education Office Establishment Act of 2000, and certain disputes under the District of Columbia Child Support Enforcement Amendment Act of 1985, and to require that Office of Administrative Hearings Administrative Law Judges meet all eligibility requirements at the time of reappointment; and to make conforming amendments to the Condominium Act of 1976, the Nursing Home and Community Residence Facility Residents' Protections Act of 1985, and the District of Columbia Child Support Enforcement Amendment Act of 1985.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Administrative Hearings Jurisdiction Expansion Amendment Act of 2018".

Sec. 2. The Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*), is amended as follows:

(a) Section 4 (D.C. Official Code § 2-1831.01) is amended by adding a new paragraph (7A) to read as follows:

"(7A) "Grievance" means a consumer complaint filed with the Department of Behavioral Health that alleges a violation of a right established by the Mental Health Consumers' Rights Protection Act of 2001, effective December 18, 2001 (D.C. Law 14-56, D.C. Official Code § 7-1231.01 *et seq.*)."

(b) Section 6 (D.C. Official Code § 2-1831.03) is amended as follows:

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

(A) The lead-in language is amended to read as follows:

“(a) This act shall apply to adjudicated cases under the jurisdiction of the following agencies or arising pursuant to the following provisions of law:”.

(B) Paragraph (8) is repealed.

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

(A) The lead-in language is amended to read as follows:

“(b) This act shall apply to adjudicated cases under the jurisdiction of the following agencies or arising pursuant to the following provisions of law:”.

(B) Paragraph (1) is amended by striking the phrase “other than the private workers’ compensation function;” and inserting the phrase “excluding private workers’ compensation cases;” in its place.

(C) Paragraph (2) is amended to read as follows:

“(2) Department of Consumer and Regulatory Affairs, except for those cases under the jurisdiction of the Real Property Tax Appeals Commission for the District of Columbia established in D.C. Official Code § 47-825.01a;”.

(D) Paragraph (5) is amended by striking the phrase “Historic Preservation Office within” and inserting the phrase “Historic Preservation Office, as defined in section 3(6A) of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1102(6A)), within” in its place.

(3) Subsection (b-1) is amended to read as follows:

“(b-1) This act shall apply to adjudicated cases arising under the jurisdiction of the Rent Administrator pursuant to section 204 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.04).”.

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

(A) The lead-in language is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), and (b-1) of this section, as of January 1, 2009, this” and inserting the word “This” in its place.

(B) Paragraph (1) is repealed.

(5) Subsection (b-3) is amended by striking the phrase “In addition to those cases described in subsections (a), (b), (b-1), and (b-2) of this section, as of May 5, 2010, this” and inserting the word “This” in its place.

(6) Subsection (b-4) is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), and (b-3) of this section, this” and inserting the word “This” in its place.

(7) Subsection (b-6) is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), and (b-5) of this section, this” and inserting the word “This” in its place.

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(8) Subsection (b-7) is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), and (b-6) of this section, this” and inserting the word “This” in its place.

(9) Subsection (b-8), as added by section 3(b) of the Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014, effective June 10, 2014 (D.C. Law 20-108; 61 DCR 3892), is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), and (b-7) of this section, this” and inserting the word “This” in its place.

(10) Subsection (b-8), as added by section 3(b) of the Public Space Enforcement Amendment Act of 2014, effective March 11, 2015 (D.C. Law 20-207; 61 DCR 12690), is redesignated as subsection (b-9) and amended to read as follows:

“(b-9) This act shall apply to adjudicated cases under the jurisdiction of the District Department of Transportation.”

(11) Subsection (b-9), as added by section 5 of the Higher Education Licensure Commission Amendment Act of 2015, effective February 27, 2016 (D.C. Law 21-74; 63 DCR 252), is redesignated as subsection (b-10) and amended to read as follows:

“(b-10) This act shall apply to adjudicated cases involving a civil fine or penalty imposed by the Higher Education Licensure Commission pursuant to section 12(a-1) of the Education Licensure Commission Act of 1976, effective March 16, 1989 (D.C. Law 7-217; D.C. Official Code § 38-1312(a-1)).”

(12) Subsection (b-11), as added by section 3 of the Relocation Expenses Recoupment and Lien Authority Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-211; 63 DCR 15307), is amended to read as follows:

“(b-11) This act shall apply to all adjudicated cases involving the reimbursement of emergency housing and relocation assistance arising pursuant to sections 2068c through 2068h of the Office of the Chief Tenant Advocate Establishment Act of 2005, effective February 18, 2017 (D.C. Law 21-211; D.C. Official Code §§ 42-3531.09 through 42-3531.16).”

(13) Subsection (b-12) is amended to read as follows:

“(b-12) This act shall apply to all adjudicated cases that arise under the Universal Paid Leave Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 *et seq.*).”

(14) Subsection (b-11), as added by section 501 of the Fisheries and Wildlife Omnibus Amendment Act of 2016, effective May 19, 2017 (D.C. Law 21-282; 64 DCR 2055), is redesignated as subsection (b-13) and amended to read as follows:

“(b-13) This act shall apply to all adjudicated cases involving the modification, suspension, revocation, or denial of a permit issued pursuant to section 207 of the Fisheries and Wildlife Omnibus Amendment Act of 2016, effective May 19, 2017 (D.C. Law 21-282; D.C. Official Code § 8-1731.07), and all adjudicated cases involving the denial, revocation, or suspension of an authorization pursuant to section 303 of the Fisheries and Wildlife Omnibus

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Amendment Act of 2016, effective May 19, 2017 (D.C. Law 21-282; D.C. Official Code § 8-2231.03).”.

(15) Subsection (b-14) is amended by striking the phrase “In addition to those cases described in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), (b-7), (b-8), (b-9), (b-10), (b-11), (b-12), and (b-13) of this section, this” and inserting the word “This” in its place.

(16) New subsections (b-16) through (b-23) are added to read as follows:

“(b-16) This act shall apply to the following categories of adjudicated cases under the jurisdiction of the Department of Behavioral Health:

“(1) The denial, suspension, conversion, or termination of a license or certification of a mental health rehabilitation services provider, substance abuse provider, or mental health community residence facility pursuant to 22-A DCMR § 3426, 22-A DCMR § 6305, or 22-B DCMR §§ 3106-3113;

“(2) The imposition of a civil fine on a mental health community residence facility or mental health and substance abuse provider pursuant to Chapter 35 of Title 16 of the District of Columbia Municipal Regulations;

“(3) The reduction, suspension, or termination of a supported housing subsidy pursuant to 22-A DCMR § 2218;

“(4) The involuntary discharge, transfer, or relocation of a resident from a mental health community residence facility pursuant to section 303 of the Nursing Home and Community Residence Facility Residents’ Protections Act of 1985, effective April 18, 1986 (D.C. Law 6-8; D.C. Official Code § 44-1003.03);

“(5) A non-Medicaid recoupment action against a mental health and substance abuse provider; and

“(6) All adjudicated cases arising pursuant to section 212(b)(4) of the Mental Health Consumers’ Rights Protection Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1231.12(b)(4)), granting a fair hearing to any party who is dissatisfied with the outcome of the external review of his or her grievance.”.

“(b-17) This act shall apply to adjudicated cases arising pursuant to the following provisions of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1901.01 *et seq.*):

“(1) The rejection of condominium registration applications and public offering statements pursuant to section 406(c) (D.C. Official Code § 42-1904.06(c));

“(2) Temporary cease and desist orders from unlawful practices pursuant to section 414 (D.C. Official Code § 42-1904.14);

“(3) The revocation of condominium registration pursuant to section 415 (D.C. Official Code § 42-1904.15); and

“(4) Structural defect warranty claims pursuant to section 316 (D.C. Official Code. § 42-1903.16).

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“(b-18) This act shall apply to all adjudicated cases arising pursuant to the following provisions of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 *et seq.*):

“(1) Any petitions for declaratory relief after a showing of reasonable grounds for a hearing pursuant to section 503a (D.C. Official Code § 42-3405.03a);

“(2) The rejection of applications pursuant to section 504 (D.C. Official Code § 42-3405.04);

“(3) Temporary cease and desist orders from unlawful practices pursuant to section 506 (D.C. Official Code § 42-3405.06); and

“(4) The revocation of a certificate or registration pursuant to section 507 (D.C. Official Code § 42-3405.07).

“(b-19) This act shall apply to all adjudicated cases involving the enforcement of administrative civil penalties brought by the Department of Energy and Environment (“DOEE”) pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*), or other law, and to appeals of orders issued by DOEE.

“(b-20) This act shall apply to all adjudicated cases involving the denial or revocation by the Mayor, or the Mayor’s designee, of a notary commission pursuant to 17 DCMR § 2410.

“(b-21) This act shall apply to adjudicated cases arising pursuant to the Day Care Policy Act of 1979, effective September 19, 1979 (D.C. Law 3-16; D.C. Official Code § 4-401 *et seq.*), and the Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215; D.C. Official Code § 7-2031 *et seq.*), involving:

“(1) Child care eligibility determinations;

“(2) The licensing and regulatory oversight of child care facilities, including the denial, refusal to renew, restriction, suspension, or revocation of a license; and

“(3) Enforcement actions subject to civil infractions.

“(b-22) This act shall apply to adjudicated cases involving:

“(1) The contested residency status for a student attending District of Columbia Public Schools or District of Columbia public charter schools pursuant to the District of Columbia Nonresident Tuition Act, approved September 8, 1960 (74 Stat. 853; D.C. Official Code § 38-301 *et seq.*);

“(2) Invoice disputes over special education providers pursuant to 5-A DCMR § 2901; and

“(3) The denial of a federal grant application administered by the Office of the State Superintendent of Education pursuant to section 3(b)(18) and (29) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(18) and (29)).

“(b-23) This act shall apply to all adjudicated cases:

“(1) Involving the attachment and levy of personal injury and workers’ compensation settlement funds from insurers participating in the Child Support Lien

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Network when the assets are owned by a child support obligor who owes overdue child support pursuant to section 25 of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Official Code § 46-224);

“(2) Occurring before any proposed denial, refusal to renew, or suspension of a driver’s license and a car registration of a child support obligor by the Mayor, or the Mayor’s designee, for the failure to comply with a subpoena or warrant relating to paternity or child support proceedings, or the failure to pay child support pursuant to section 26a(b-2) of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 13, 1996 (D.C. Law 11-87; D.C. Official Code § 46-225.01(b-2)); and

“(3) Arising pursuant to section 27c(c) of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective April 3, 2001 (D.C. Law 13-269; D.C. Official Code § 46-226.03(c)), involving the attachment and seizure of:

“(A) Assets owned by a child support obligor held in a financial institution or held in a financial institution by another on behalf of the support obligor by the Child Support Services Division of the Office of the Attorney General, or its successor, in order to satisfy child support arrearages; or

“(B) Any settlements, judgments, or other funds.”

(c) Section 11(d) (D.C. Official Code § 2-1831.08(d)) is amended as follows:

(1) The lead-in language is amended by striking the phrase “appointment,” and inserting the phrase “appointment or reappointment,” in its place.

(2) Paragraph (1) is amended by striking the phrase “appointment,” and inserting the phrase “appointment or reappointment,” in its place.

(3) Paragraph (2) is amended by striking the word “appointed” and inserting the phrase “appointed or reappointed” in its place.

(4) Paragraph (3) is amended by striking the word “appointed” and inserting the phrase “appointed or reappointed” in its place.

### Sec. 3. Conforming amendments.

(a) Section 415(b) of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1904.15(b)), is amended by striking the word “agency” and inserting the phrase “Office of Administrative Hearings” in its place.

(b) The Nursing Home and Community Residence Facility Residents’ Protections Act of 1985, effective April 18, 1986 (D.C. Law 6-108; D.C. Official Code § 44-1001.01 *et seq.*), is amended as follows:

(1) Section 303(b) (D.C. Official Code § 44-1003.03(b)) is amended by striking the sentence “The Mayor shall hold a hearing at the resident’s facility within 5 calendar days, and shall render a decision within 7 calendar days, after a timely hearing request is received.” and inserting the sentences “The Mayor shall hold a hearing at the Office of Administrative Hearings (“OAH”) within 10 calendar days, and OAH shall render a decision within 21 calendar days, after a timely hearing request is received. If the resident is unable to travel to OAH due to a

**ENROLLED ORIGINAL**

physical or mental disability, he or she shall be offered the opportunity to participate remotely through telephone or other means.” in its place.

(2) Section 309(a) (D.C. Official Code § 44-1003.09(a)) is amended by striking the sentence “When a hearing request is submitted by a resident, the hearing shall be held at a location convenient to the resident.”

(c) Section 27c(c) of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective April 3, 2001 (D.C. Law 13-269; D.C. Official Code § 46-226.03(c)), is amended by striking the phrase “before the IV-D agency to contest” and inserting the phrase “before the Office of Administrative Hearings to contest” in its place.

**Sec. 4. Applicability.**

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

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

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

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

**Sec. 5. Fiscal impact statement.**


The Council adopts the fiscal impact statement in the committee report 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), a 30-day period of congressional review as


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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
April 19, 2018



ENROLLED ORIGINAL

A RESOLUTION

22-461

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 10, 2018

To declare the sense of the Council that the District is committed to promoting arts and humanities education in both traditional public schools and public charter schools.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council Arts and Humanities in Education Resolution of 2018”.

Sec. 2. The Council finds that:

(1) All children should receive arts and humanities education as a key component of their educational experience by the inclusion of the arts and humanities in the basic curriculum.

(2) All public school students deserve an equitable, high-quality education that includes the arts as a critical subject.

(3) Providing arts education in public and public charter schools is an opportunity to incorporate and celebrate cultural diversity of our city.

(4) Arts and humanities education is defined as sustained exposure to, experience of, and instruction in creative, cultural, and artistic expression and knowledge. It includes the 5 nationally recognized arts disciplines -- dance, music, theatre, visual arts, and media arts -- and requires both separate instruction in the arts disciplines as well as integration of the arts into other academic subjects such as reading, math, science, and social studies that meets the National Arts Standards.

(5) The benefits of arts and humanities education has the potential to give students greater academic, artistic, and economic skills.

(6) Public and public charter school arts education programs should implement a comprehensive plan, which should:

(A) Provide students with access to highly effective teachers with sufficient instructional time and written with sequential curriculum in 2 or more of the following disciplines: dance, music, theater, and the visual arts. This curriculum should be based on the approved Learning Standards for Arts Education and the National Arts Standards developed by the National Coalition for Core Arts Standards;

ENROLLED ORIGINAL

(B) Provide arts-infused instruction, wherever possible and with the support of area cultural institutions, within other curricula, including history, geography, language arts, mathematics, science, and physical education;

(C) Be appropriately budgeted for and allotted reasonable instructional hours to meet state academic standards in arts education;

(D) Seek private funds and in-kind resources from entities such as businesses, foundations, and individuals to complement public funding and to support the goal of a well-rounded education for all students;

(E) Be established and implemented by all appropriate agencies and offices of government that provide educational services to both traditional public and public charter schools;

(F) Be appropriately staffed at the local education agency level and in individual schools and provided with adequate materials, equipment, and facilities necessary to meet learning standards;

(G) Leverage community arts resources such as teaching artists, museum educators, and cultural organizations into school arts instruction in order to meet learning standards;

(H) Work in concert with community arts resources to align programming to meet the goals of the sequential curriculum as well as those of the community;

(I) Encourage community and parental involvement; and

(J) Provide ongoing professional development for teachers, administrators, and staff in order to achieve arts and humanities standards for all students in public and public charter schools.

Sec. 3. It is the sense of the Council that:

(1) We reaffirm the District’s commitment to the importance of arts and humanities education for public school students;

(2) We declare that, as part of that commitment, it is a priority for the District to have a base of guidelines for developing curriculum and programing in public schools that reflects a thoughtful approach to including the arts and humanities and

(3) The District of Columbia public schools and public charter schools should adopt curriculum and guidelines for principals and teachers that fully incorporates the arts and humanities.

Sec. 4. The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Chancellor of the District of Columbia Publics Schools, the Chair of the Public Charter School Board, the State Superintendent for Education, and the State Board of Education.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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

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

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

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

B22-741      Comprehensive Boards and Commissions Review Amendment Act of 2018  
  
Intro. 03-06-2018 by Councilmember Todd and re-referred to the Committee on Government Operations

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B22-793      Ben's Chili Bowl Way Designation Act of 2018  
  
Intro. 04 - 20 - 2018 by Councilmembers Nadeau, Allen, R. White, Grosso, McDuffie, Cheh, Bonds, Evans, Gray, T. White, Todd, Silverman, and Chairman Mendelson and referred to the Committee of the Whole

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**PROPOSED RESOLUTIONS**

PR22-834      Historic Preservation Review Board Marnique Heath Confirmation Resolution of 2018  
  
Intro. 04 - 17 - 2018 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

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PR22-835      Historic Preservation Review Board Brian Crane Confirmation Resolution of 2018  
  
Intro. 04 - 17 - 2018 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

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PR22-836      Historic Preservation Review Board Andrew Aurbach Confirmation Resolution of 2018  
  
Intro. 04 - 17 - 2018 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole

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- PR22-837      Historic Preservation Review Board Gretchen Pfaehler Confirmation Resolution of 2018  
Intro. 04 - 17 - 2018 by Chairman Mendelson at the request of the Mayor and referred to the Committee of the Whole
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- PR22-838      District of Columbia Board of Elections Michael Bennett Confirmation Resolution of 2018  
Intro. 04 - 17 - 2018 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Judiciary and Public Safety
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- PR22-839      Commission on the Arts and Humanities Quanice G. Floyd Confirmation Resolution of 2018  
Intro. 04 - 18 - 2018 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue
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- PR22-840      SB & Company, LLC Disapproval Resolution of 2018  
Intro. 04 - 19 - 2018 by Councilmembers McDuffie T. White, and Chairman Mendelson and Retained by the Council
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**COUNCIL OF THE DISTRICT OF COLUMBIA  
 NOTICE OF PUBLIC HEARINGS  
 FISCAL YEAR 2019 PROPOSED BUDGET AND FINANCIAL PLAN,  
 FISCAL YEAR 2019 BUDGET SUPPORT ACT OF 2018,  
 FISCAL YEAR 2019 LOCAL BUDGET ACT OF 2018  
 FISCAL YEAR 2019 FEDERAL BUDGET ACT OF 2018, AND  
 COMMITTEE MARK-UP SCHEDULE**

4/20/2018

**SUMMARY**

March 21, 2018	Mayor Transmits the Fiscal Year 2019 Proposed Budget and Financial Plan
March 23, 2018	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2019 Proposed Budget and Financial Plan
March 26, 2018 to April 26, 2018	Committee Public Hearings on the "Fiscal Year 2019 Local Budget Act of 2018." (The Committees may also simultaneously receive testimony on the sections of the Fiscal Year 2019 Budget Support Act that affect the agencies under each Committee's purview)
April 27, 2018	Committee of the Whole Public Hearing on the "Fiscal Year 2019 Local Budget Act of 2018", "Fiscal Year 2019 Federal Budget Act of 2018" and "Fiscal Year 2019 Budget Support Act of 2018."
May 2-4, 2018	Committee Mark-ups and Reporting on Agency Budgets for Fiscal Year 2019
May 8, 2018	Budget Work Session 10:00 a.m.
May 15, 2018	Committee of the Whole and Council consideration of the "Fiscal Year 2019 Local Budget Act of 2018", "Fiscal Year 2019 Federal Portion Budget Request Act of 2018" and the "Fiscal Year 2019 Budget Support Act of 2018"
May 29, 2018	Council consideration of the "Fiscal Year 2019 Local Budget Act of 2018" and the "Fiscal Year 2019 Federal Portion Budget Request Act of 2018"

The Council of the District of Columbia hereby gives notice of its intention to hold public hearings on the FY 2019 Proposed Budget and Financial Plan, the "Fiscal Year 2019 Local Budget Act of 2018", "Fiscal Year 2019 Federal Portion Budget Request Act of 2018" and the "Fiscal Year 2019 Budget Support Act of 2018". The hearings will begin Monday, March 26, 2018 and conclude on Thursday, April 26, 2018 and will take place in the Council Chamber (Room 500), Room 412, Room 120, or Room 123 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

The Committee mark-ups will begin Wednesday, May 2, 2018 and conclude on Friday, May 4, 2018 and will take place in the Council Chamber (Room 500) 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 corresponding committee office. If a written statement cannot be provided prior to the day of the hearing, please have at least 15 copies of your written statement available on the day of the hearing for immediate distribution to the Council. 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 oversight hearings and mark-up 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>
March 28, 2018		Mayor's Office of African Affairs (Government Operations - Room 123; 10:00a.m.)
March 28, 2018	March 27, 2018	Contract Appeals Board (COW - Room 500; 10:00a.m.)
March 29, 2018	April 11, 2018	State Board of Education, Office of the Ombudsman, and Office of the Student Advocate (Education - Room 123; 10:00a.m.)
April 11, 2018	March 29, 2018	Deputy Mayor for Education and DC Public Charter School Board (Education - Room 120; 10:00a.m.)
April 13, 2018		Housing Production Trust Fund - Public Witnesses Only (Housing & Community Development - Room 500; 11:00a.m.)
April 20, 2018	March 29, 2018	District of Columbia Housing Authority (Housing & Community Development - Room 412; 11:00a.m.)
April 24, 2018	March 28, 2018	Office of Veterans' Affairs (Government Operations - Room 123; 10:00a.m.)
April 24, 2018		Office of Lesbian, Gay, Bisexual, Transgender & Questioning Affairs (Government Operations - Room 123; 10:00a.m.)
April 24, 2018	April 24, 2018	Committee on Business and Economic Development; TIME CHANGE from 11:00a.m. to 12:00p.m.; Room 500
April 25, 2018	April 23, 2018	Department of Behavioral Health (Health - Room 500; 10:00a.m.)
April 26, 2018	April 25, 2018	Department of Behavioral Health (Health - Room 412; 10:00a.m.)

**PUBLIC HEARING SCHEDULE**

<b>COMMITTEE OF THE WHOLE</b>		<b>Chairman Phil Mendelson</b>
<b>FRIDAY, MARCH 23, 2018; COUNCIL CHAMBER (Room 500)</b>		
<b>Time</b>	<b>Subject</b>	
10:00 a.m. - End	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2019 Proposed Budget and Financial Plan	

<b>COMMITTEE OF THE WHOLE</b>		<b>Chairman Phil Mendelson</b>
<b>MONDAY, MARCH 26, 2018; COUNCIL CHAMBER (Room 500)</b>		
<b>Time</b>	<b>Agency</b>	
10:30 a.m. - End	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: [cow@dccouncil.us](mailto:cow@dccouncil.us) or by calling 202-724-8196.

<b>COMMITTEE ON TRANSPORTATION &amp; THE ENVIRONMENT</b>		<b>Chairperson Mary Cheh</b>
<b>MONDAY, MARCH 26, 2018; Room 412</b>		
<b>Time</b>	<b>Agency</b>	
11:00 a.m. - End	Department of General Services	

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

<b>COMMITTEE OF THE WHOLE</b>		<b>Chairman Phil Mendelson</b>
<b>TUESDAY, MARCH 27, 2018; COUNCIL CHAMBER (Room 500)</b>		
<b>Time</b>	<b>Agency</b>	
10:00 a.m. - End	Council of the District of Columbia	
	District of Columbia Auditor	
	New Columbia Statehood Commission	
	Office of Contracting and Procurement	
	District of Columbia Retirement Board/Funds	
	District Retiree Health Contribution	

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

<b>COMMITTEE ON HEALTH</b>		<b>Chairperson Vincent Gray</b>
<b>TUESDAY, MARCH 27, 2018; Room 412</b>		
<b>Time</b>	<b>Agency</b>	
10:00 a.m. - End	Deputy Mayor for Health and Human Services	
	Not-For-Profit Hospital Corporation	
	Not-For-Profit Hospital Board	

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron ([mcameron@dccouncil.us](mailto:mcameron@dccouncil.us)) or by calling 202-654-6179.

<b>COMMITTEE ON TRANSPORTATION &amp; THE ENVIRONMENT</b>		<b>Chairperson Mary Cheh</b>
<b>TUESDAY, MARCH 27, 2018; Room 123</b>		
<b>Time</b>	<b>Agency</b>	
11:00 a.m. - End	Department of Energy and the Environment	

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

<b>COMMITTEE ON HUMAN SERVICES</b>		<b>Chairperson Brianne Nadeau</b>
<b>WEDNESDAY, MARCH 28, 2018; COUNCIL CHAMBER (Room 500)</b>		
<b>Time</b>	<b>Agency</b>	
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](mailto:humanservices@dccouncil.us) or by calling 202-724-8170.

<b>COMMITTEE ON EDUCATION</b>		<b>Chairperson David Grosso</b>
<b>WEDNESDAY, MARCH 28, 2018; Room 412</b>		
<b>Time</b>	<b>Agency</b>	
10:00 a.m. - End	District of Columbia Public Schools ( <b>Public Witnesses Only</b> )	

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 GOVERNMENT OPERATIONS**

**Chairman Brandon Todd**

<b>WEDNESDAY, MARCH 28, 2018; Room 123</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Office of Asian and Pacific Islander Affairs
	Office of Latino Affairs
	Office of African American Affairs
	Office of African Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: [governmentoperations@dccouncil.us](mailto:governmentoperations@dccouncil.us) or by calling 202-724-6663.

**COMMITTEE OF THE WHOLE**

**Chairman Phil Mendelson**

<b>WEDNESDAY, MARCH 28, 2018; Room 120</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Contract Appeals Board
	University of the District of Columbia

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

**COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

**Chairperson Charles Allen**

<b>THURSDAY, MARCH 29, 2018; COUNCIL CHAMBER (Room 500)</b>	
<b>Time</b>	<b>Agency</b>
9:30 a.m. - End	Deputy Mayor for Public Safety and Justice
	Office of Neighborhood Safety and Engagement
	Metropolitan Police Department
	Criminal Justice Coordinating Council
	Office of Police Complaints

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

**COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION**

**Chairperson Anita Bonds**

<b>THURSDAY, MARCH 29, 2018; Room 412</b>	
<b>Time</b>	<b>Agency</b>
11:00 a.m. - End	Mayor's Office on Returning Citizen Affairs
	Office of the Advisory Neighborhood Commissions

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

**COMMITTEE ON EDUCATION**

**Chairperson David Grosso**

<b>THURSDAY, MARCH 29, 2018; Room 123</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	State Board of Education
	Office of the Ombudsman
	Office of the Student Advocate

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 OF THE WHOLE**

**Chairman Phil Mendelson**

<b>THURSDAY, MARCH 29, 2018; Room 120</b>	
<b>Time</b>	<b>Agency</b>
9:30 a.m. - 5:00 p.m.	Office of Budget and Planning
	Department of Consumer and Regulatory Affairs

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

**COMMITTEE ON HEALTH**

**Chairperson Vincent Gray**

<b>MONDAY, APRIL 9, 2018; COUNCIL CHAMBER (Room 500)</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Department of Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron ([mcameron@dccouncil.us](mailto:mcameron@dccouncil.us)) or by calling 202-654-6179.

**COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT**

**Chairperson Mary Cheh**

<b>MONDAY, APRIL 9, 2018; Room 412</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	District Department of Transportation

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



**COMMITTEE ON FINANCE & REVENUE**

**Chairperson Jack Evans**

<b>WEDNESDAY, APRIL 11, 2018; COUNCIL CHAMBER (Room 500)</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Events DC
	Destination DC
	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](mailto:sloy@dccouncil.us)) or by calling 202-724-8058.

**COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT**

**Chairperson Kenyan McDuffie**

<b>WEDNESDAY, APRIL 11, 2018; Room 412</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Department of Small and Local Business Development
	Department of Insurance, Securities and Banking
	Department of For-Hire Vehicles

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey ([cautrey@dccouncil.us](mailto:cautrey@dccouncil.us)) or by calling 202-724-8053.

**COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT**

**Chairperson Elissa Silverman**

<b>WEDNESDAY, APRIL 11, 2018; Room 123</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Office of Labor Relations and Collective Bargaining
	Department of Human Resources
	Office of Risk Management

Persons wishing to testify about the performance of any of the foregoing agencies may contact: [labor@dccouncil.us](mailto:labor@dccouncil.us) or by calling 202-724-7772.

**COMMITTEE ON EDUCATION**

**Chairperson David Grosso**

<b>WEDNESDAY, APRIL 11, 2018; Room 120</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Deputy Mayor for Education
	District of Columbia Public Charter School Board

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**

<b>THURSDAY, APRIL 12, 2018; COUNCIL CHAMBER (Room 500)</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Department of Human Services

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

**COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

**Chairperson Charles Allen**

<b>THURSDAY, APRIL 12, 2018; Room 412</b>	
<b>Time</b>	<b>Agency</b>
9:30 a.m. - End	Fire and Emergency Medical Services Department
	Office of Unified Communications
	Homeland Security and Emergency Management Agency

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

**COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT**

**Chairperson Mary Cheh**

<b>THURSDAY, APRIL 12, 2018; Room 123</b>	
<b>Time</b>	<b>Agency</b>
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](mailto:abenjamin@dccouncil.us)) or by calling 202-724-8062.

**COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION**

**Chairperson Anita Bonds**

<b>FRIDAY, APRIL 13, 2018; COUNCIL CHAMBER (Room 500)</b>	
<b>Time</b>	<b>Agency</b>
11:00 a.m. - End	Department of Housing and Community Development ( <b>Public Witnesses Only</b> )
	Housing Production Trust Fund ( <b>Public Witnesses Only</b> )

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

**COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

Chairperson Charles Allen

FRIDAY, APRIL 13, 2018; Room 123	
Time	Agency
10:30 a.m. - 5:00 p.m.	Office of the Attorney General
	Office of Victim Services and Justice Grants
	Board 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 may email: [judiciary@dccouncil.us](mailto:judiciary@dccouncil.us) or by calling 202-727-8275.

**COMMITTEE ON GOVERNMENT OPERATIONS**

Chairman Brandon Todd

FRIDAY, APRIL 13, 2018; Room 120	
Time	Agency
10:00 a.m. - End	Office of Administrative Hearings
	Office of the Inspector General

Persons wishing to testify about the performance of any of the foregoing agencies may email: [governmentoperations@dccouncil.us](mailto:governmentoperations@dccouncil.us) or by calling 202-724-6663.

**COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION**

Chairperson Anita Bonds

TUESDAY, APRIL 17, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
1:30 p.m. - End	Department of Housing and Community Development (Government Witnesses Only)
	Housing Production Trust Fund (Government Witnesses Only)
	Housing Finance Agency

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

**COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT**

Chairperson Elissa Silverman

WEDNESDAY, APRIL 18, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	Department of Employment Services (Public Witnesses Only)
	Workforce Investment Council (Public Witnesses Only)
	Deputy Mayor for Greater Economic Opportunity (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: [labor@dccouncil.us](mailto:labor@dccouncil.us) or by calling 202-724-7772.

**COMMITTEE ON FINANCE & REVENUE**

Chairperson Jack Evans

WEDNESDAY, APRIL 18, 2018; Room 412	
Time	Agency
10:00 a.m. - End	Office of the Chief Financial Officer
	DC Lottery
	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](mailto:sloy@dccouncil.us)) or by calling 202-724-8058.

**COMMITTEE ON HUMAN SERVICES**

Chairperson Brienne Nadeau

WEDNESDAY, APRIL 18, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Child and Family Services Agency
	Department of Youth Rehabilitation Services

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

**COMMITTEE ON EDUCATION**

Chairperson David Grosso

WEDNESDAY, APRIL 18, 2018; Room 120	
Time	Agency
10:00 a.m. - End	District of Columbia Public Library

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 EDUCATION**

Chairperson David Grosso

THURSDAY, APRIL 19, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Government 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, APRIL 19, 2018; Room 412	
Time	Agency
10:00 a.m. - End	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: Malcolm Cameron ([mcameron@dccouncil.us](mailto:mcameron@dccouncil.us)) or by calling 202-654-6179.

**COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT**

**Chairperson Kenyan McDuffie**

THURSDAY, APRIL 19, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Public Service Commission Office of People's Counsel

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autrey ([cautrey@dccouncil.us](mailto:cautrey@dccouncil.us)) or by calling 202-724-8053.

**COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

**Chairperson Charles Allen**

THURSDAY, APRIL 19, 2018; Room 120	
Time	Agency
9:30 a.m. - End	District of Columbia National Guard Office of Human Rights Department of Corrections Corrections Information Council 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](mailto:judiciary@dccouncil.us) or by calling 202-727-8275.

**COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT**

**Chairperson Mary Cheh**

FRIDAY, APRIL 20, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
11:00 a.m. - End	Department of Public Works

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

**COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION**

**Chairperson Anita Bonds**

FRIDAY, APRIL 20, 2018; Room 412	
Time	Agency
11:00 a.m. - End	District of Columbia Housing Authority

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

**COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT**

**Chairperson Elissa Silverman**

FRIDAY, APRIL 20, 2018; Room 123	
Time	Agency
10:00 a.m. - End	Department of Employment Services (Government Witnesses Only) Workforce Investment Council (Government Witnesses Only) Deputy Mayor for Greater Economic Opportunity (Government Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact: [labor@dccouncil.us](mailto:labor@dccouncil.us) or by calling 202-724-7772.

**COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT**

**Chairperson Kenyan McDuffie**

TUESDAY, APRIL 24, 2018; COUNCIL CHAMBER (Room 500)	
Time	Agency
12:00 p.m. - End	Office of Cable Television, Film, Music and Entertainment Alcoholic Beverage Regulation Administration Deputy Mayor for Planning and Economic Development

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Chanell Autry ([cautry@dccouncil.us](mailto:cautry@dccouncil.us)) or by calling 202-724-8053.

**COMMITTEE ON EDUCATION**

**Chairperson David Grosso**

<b>TUESDAY, APRIL 24, 2018; Room 412</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Office of the State Superintendent

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 GOVERNMENT OPERATIONS**

**Chairperson Brandon Todd**

<b>TUESDAY, APRIL 24, 2018; Room 123</b>	
<b>Time</b>	<b>Agency</b>
11:00 a.m. - End	Office of the Chief Technology Officer
	Office of Veterans' Affairs
	Office of Lesbian, Gay, Bisexual, Transgender & Questioning Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may email: [governmentoperations@dccouncil.us](mailto:governmentoperations@dccouncil.us) or by calling 202-724-6663.

**COMMITTEE ON HOUSING & NEIGHBORHOOD REVITALIZATION**

**Chairperson Anita Bonds**

<b>WEDNESDAY, APRIL 25, 2018; Room 412</b>	
<b>Time</b>	<b>Agency</b>
11:00 a.m. - End	District of Columbia Office on Aging
	Office of the Tenant Advocate

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

**COMMITTEE ON GOVERNMENT OPERATIONS**

**Chairman Brandon Todd**

<b>THURSDAY, APRIL 26, 2018; COUNCIL CHAMBER (Room 500)</b>	
<b>Time</b>	<b>Agency</b>
11:00 a.m. - End	Executive Office of the Mayor
	Office of the City Administrator
	Office of the Senior Advisor
	Mayor's Office of Legal Counsel
	Secretary of the District of Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may email: [governmentoperations@dccouncil.us](mailto:governmentoperations@dccouncil.us) or by calling 202-724-6663.

**COMMITTEE ON HEALTH**

**Chairperson Vincent Gray**

<b>THURSDAY, APRIL 26, 2018; Room 412</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Department of Behavioral Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact: Malcolm Cameron ([mcameron@dccouncil.us](mailto:mcameron@dccouncil.us)) or by calling 202-654-6179.

**COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT**

**Chairperson Elissa Silverman**

<b>THURSDAY, APRIL 26, 2018; Room 123</b>	
<b>Time</b>	<b>Agency</b>
10:00 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: [labor@dccouncil.us](mailto:labor@dccouncil.us) or by calling 202-724-7772.

**COMMITTEE OF THE WHOLE**

**Chairman Phil Mendelson**

<b>FRIDAY, APRIL 27, 2018; COUNCIL CHAMBER (Room 500)</b>	
<b>Time</b>	<b>Agency</b>
10:00 a.m. - End	Committee of the Whole Hearing on the "Fiscal Year 2019 Local Budget Act of 2018," "Fiscal Year 2019 Federal Portion Budget Request Act of 2018" and the "Fiscal Year 2019 Budget Support Act of 2018"

**COMMITTEE MARK-UP SCHEDULE**

**WEDNESDAY, MAY 2, 2018; COUNCIL CHAMBER (Room 500)**

Time	Committee
2:00 p.m. - 4:00 p.m.	Committee on Labor and Workforce Development
4:00 p.m. - 6:00 p.m.	Committee on Housing and Neighborhood Revitalization

**THURSDAY, MAY 3, 2018; COUNCIL CHAMBER (Room 500)**

Time	Committee
10:00 a.m. - 11:00 a.m.	Committee on Government Operations
11:00 a.m. - 12:00 pm.	Committee on Finance and Revenue
12:00 p.m. - 2:00 p.m.	Committee on Business and Economic Development
2:00 p.m. - 4:00 p.m.	Committee on Human Services
4:00 p.m. - 6:00 p.m.	Committee on Health

**FRIDAY, MAY 4, 2018; COUNCIL CHAMBER (Room 500)**

Time	Committee
10:00 a.m. - 12:00 p.m.	Committee on Transportation and the Environment
12:00 p.m. - 2:00 p.m.	Committee on Education
2:00 p.m. - 4:00 p.m.	Committee on the Judiciary
4:00 p.m. - 6:00 p.m.	Committee of the Whole

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE & COMMITTEE ON  
EDUCATION

NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
&  
COUNCILMEMBER DAVID GROSSO, CHAIRPERSON  
COMMITTEE ON EDUCATION

ANNOUNCE A PUBLIC OVERSIGHT ROUNDTABLE

on

**Improving School Attendance: Truancy, Chronic Absenteeism, and the Implementation of Reform Initiatives**

on

**Thursday, May 10, 2018  
10:30 a.m., Hearing Room 412, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember David Grosso announce a public oversight roundtable of the Committee of the Whole and the Committee on Education on Improving School Attendance: Truancy, Chronic Absenteeism, and the Implementation of Reform Initiatives in the District. The oversight roundtable will be held at 10:30 a.m. on Thursday, May 10, 2018 in Hearing Room 412 of the John A. Wilson Building.

The stated purpose of this oversight roundtable is to receive testimony from government witnesses, including the Office of the Deputy Mayor for Education, the Office of the State Superintendent of Education, the Child and Family Services Agency, the District of Columbia Public Schools, the Public Charter School Board, and the Office of Victim Services and Justice Grants, regarding the District's efforts to improve school attendance and to reduce truancy and chronic absenteeism. Additionally, the roundtable will consider continued implementation of initiatives required by D.C. Law 18-242, the "Safe Children and Safe Neighborhoods Educational Neglect Mandatory Reporting Amendment Act of 2010," D.C. Law 19-141, the "South Capitol Street Memorial Amendment Act of 2012," D.C. Law 20-17, the "Attendance Accountability Amendment Act of 2013," and D.C. Law 21-140, the "School Attendance Clarification Amendment Act of 2016." Improving school attendance improves educational outcomes. Targeting truancy is also a strategy for identifying children at risk of interacting with the juvenile justice system. **This roundtable is limited to government witnesses only.**

While this roundtable is limited to oral testimony from invited witnesses, written statements from the public will be made a part of the official record. Copies of 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. Questions about this roundtable should be directed to Christina Setlow, Deputy Committee Director, at (202) 724-4865. The record will close at 5:00 p.m. on May 24, 2018.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**The Wilson Building**

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**NOTICE OF CONTRACT DISAPPROVAL RESOLUTION**

The Council of the District of Columbia gives notice that the resolution listed below to disapprove CA 22-443, proposed contract to exercise option period three (3) with SB & Company, LLC in the amount of \$1,936,481.56 to audit the District's FY 2018 financial statements for the inclusion within the District's Comprehensive Annual Financial Report was filed in the Office of the Secretary on April 9, 2018.

A copy of the approval resolution or the proposed contract is available in the Council's Legislative Services, Room 10, John A. Wilson Building. Telephone: 724-8050. Comments on the proposed contract can be addressed to the Secretary to the Council, Room 5.

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PR 22-840: SB & Company, LLC Disapproval Resolution of 2018

COUNCIL OF THE DISTRICT OF COLUMBIA  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

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ABBREVIATED NOTICE OF INTENT TO CONSIDER LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to take action in less than fifteen days on PR 22-0833, the “Local Rent Supplement Program Contract No. 2014-LRSP-09A Approval Resolution of 2018”, to allow for the proposed resolution to be considered at a regular legislative meeting on May 1, 2018.



**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

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**Reprog. 22-120** Request to reprogram \$1,000,000 of Fiscal Year 2018 Local funds budget authority within the Office of the Deputy Mayor for Planning and Economic Development (DMPED) was filed in the Office of the Secretary on April 18, 2018. This reprogramming ensures that DMPED will be able to provide grants to the Washington DC Economic Partnership to promote and brand the District as an ideal location to live, work, and play.

RECEIVED: 14 day review begins April 19, 2018

**Reprog. 22-121** Request to reprogram \$686,095 of Fiscal Year 2018 Local funds budget authority within the Office of the Deputy Mayor for Greater Economic Opportunity (DMGEO) was filed in the Office of the Secretary on April 20, 2018. This reprogramming ensures that DMGEO can procure contractual services to support workforce intermediary training programs.

RECEIVED: 14 day review begins April 23, 2018

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

Placard Posting Date: April 27, 2018  
Protest Petition Deadline: June 11, 2018  
Roll Call Hearing Date: June 25, 2018  
Protest Hearing Date: August 15, 2018

License No.: ABRA-109717  
Licensee: Green & Co., Inc.  
Trade Name: Coconut Club  
License Class: Retail Class "C" Restaurant  
Address: 540 Penn Street N.E.  
Contact: Sidon Yohannes: (202) 686- 7600

WARD 5

ANC 5D

SMD 5D01

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 April 27, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. **The Protest Hearing date is scheduled on August 25, 2018 at 4:30 p.m.**

**NATURE OF OPERATION**

New Class "C" Restaurant that will serve tropical small plates and tropical themed cocktails, with 80 seats and a Total Occupancy Load of 100. The licensee is requested an Entertainment Endorsement to include occasional Live Entertainment, with Cover Charge, and Dancing, and a Sidewalk Café with 20 seats.

**PROPOSED HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION (PREMISES AND SIDEWALK CAFÉ)**

Sunday 10am- 12am, Monday- Thursday 11am- 2am, Friday-Saturday 10am-3am

**PROPOSED HOURS OF LIVE ENTERTAINMENT**

Sunday 6pm- 12 am, Monday- Thursday 6pm-2am, Friday- Saturday 6pm- 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON

**\*\*CORRECTION** 4/20/2018

Notice is hereby given that:

License Number: ABRA-089730 License Class/Type: \*\* A Internet

Applicant: Federal Spirits LLC (1420 U Street NW, Unit #146)

Trade Name: Ezra

ANC: 2B05

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

1629 K ST NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
BEFORE:  
6/4/2018

A HEARING WILL BE HELD ON:  
6/18/2018

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

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

FOR FURTHER INFORMATION CALL: (202) 442-4423

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Placard Posting Date: April 27, 2018  
Protest Petition Deadline: June 11, 2018  
Roll Call Hearing Date: June 25, 2018

License No.: ABRA-106551  
Licensee: Pako, LLC  
Trade Name: Kovaks Liquors  
License Class: Retailer’s Class “A” Liquor Store  
Address: 1237 Mount Olivet Road, N.E.  
Contact: Wayne Johnson: (703) 474-7250

WARD 5

ANC 5D

SMD 5D02

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 June 25, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date.

**NATURE OF SUBSTANTIAL CHANGE**

Applicant requests to change the Hours of Operation and Alcoholic Beverage Sales, Service and Consumption.

**CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES**

Monday through Thursday 9am – 9pm, Friday and Saturday 9am – 10pm, Closed Sundays

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES**

Sunday 11am – 7pm, Monday through Saturday 9am – 11pm

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Placard Posting Date: April 27, 2018  
Protest Petition Deadline: June 11, 2018  
Roll Call Hearing Date: June 25, 2018  
Protest Hearing Date: August 15, 2018

License No.: ABRA-109491  
Licensee: Sidamo Coffee and Tea, Inc.  
Trade Name: Sidamo Coffee and Tea, Inc.  
License Class: Retailer’s Class “C” Restaurant  
Address: 417 H Street, N.E.  
Contact: Costa Pappas: (202) 536-7961

WARD 6

ANC 6C

SMD 6C04

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 June 25, 2018 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The **Protest Hearing date** is scheduled on **August 15, 2018 at 1:30 p.m.**

**NATURE OF OPERATION**

A new restaurant serving American styled cuisine. Seating capacity of 100, and a Total Occupancy Load of 100.

**HOURS OF OPERATION**

Sunday CLOSED, Monday through Saturday 7am – 7pm

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION**

Sunday CLOSED, Monday through Saturday 12pm – 7pm

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**

**NOTICE OF PUBLIC HEARING AND CHANGES TO THE DISTRICT'S STANDARD  
OPERATING PROCEDURES FOR SPECIAL EDUCATION DUE  
PROCESS HEARINGS**

The Office of the State Superintendent of Education (OSSE) is hereby providing notice of proposed changes to the Standard Operation Procedures Manual (SOP) for the Office of Dispute Resolution (ODR). The ODR SOP serves as a practical guide for implementation of federal and local statutes and regulations governing special education dispute resolution in the District of Columbia.

To ensure an opportunity for the public to provide input, the proposed changes will be posted on OSSE's website, at [www.osse.dc.gov](http://www.osse.dc.gov), for sixty (60) calendar days beginning April 27, 2018 and will be posted until June 26, 2018. Members of the public who wish to comment on the proposed changes may submit written comments or attend one of the two public hearings, which will take place as detailed and under conditions set forth below:

<b>Date and Time of Public Hearing</b>	<b>Location of Public Hearing</b>	<b>Topic of Hearing</b>
Friday May 11, 2018 5:00 p.m. to 7:00 p.m.	OSSE 1050 1 <sup>st</sup> Street NE, Washington, D.C. 20002 Eleanor Holmes Norton (First Floor)	ODR's Standard Operating Procedures – open to general public
Friday June 1, 2018 1:00 p.m. to 3:00 p.m.	OSSE 1050 1 <sup>st</sup> Street NE, Washington, D.C. 20002 Eleanor Holmes Norton I and II (First Floor )	ODR's Standard Operating Procedures– open to general public

Individuals wishing to testify at either of the public hearings listed above should contact Steven Carter, Management Analyst, at 202-481-3458 or by e-mail at [Steven.Carter@dc.gov](mailto:Steven.Carter@dc.gov).

Individuals representing themselves and presenting testimony will be limited to three (3) minutes; individuals representing an organization will be limited to a total presentation time of five (5) minutes at each public hearing. Persons who testify are encouraged to bring a copy of the written testimony for the record.

Persons may also file comments in writing by email [ossecomments.proposedregulations@dc.gov](mailto:ossecomments.proposedregulations@dc.gov) with the subject "ODR Standard Operating Procedures" or by postal mail or hand delivery to the Office of the State Superintendent of Education, Attn.: Tracey Langley re: ODR Standard Operating Procedures, 1050 First Street, N 3<sup>rd</sup> E Floor Washington, DC 20002, not later than sixty (60) days after the date of publication of this notice in the *D.C. Register*.

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

## NOTICE OF PUBLIC HEARING AND COMMUNITY FORUMS

## FY2019-2021 CHILD CARE AND DEVELOPMENT FUND DRAFT STATE PLAN

The Office of the State Superintendent of Education (OSSE) announces that the Division of Early Learning (DEL) will conduct one public hearing and three community forums to solicit verbal and written comments from the public on the District's Child Care and Development Fund (CCDF) Draft State Plan for the period of October 1, 2018 through September 30, 2021, which will be available beginning Tuesday, May 1, 2018 on the OSSE website at: <https://osse.dc.gov/>.

The CCDF is the primary federal funding source for states to assist and support low-income working parents and those engaged in education and job training activities with securing subsidized child care. The CCDF emphasizes the importance of quality child care for all children and sets parameters for how federal funds should be invested for these efforts. Every three years, OSSE develops a CCDF State Plan which illustrates how the District will invest the federal CCDF dollars and what policies and programs will further the federal goals of promoting stable financial assistance and expanding high quality child care.

The public hearing and community forums on the Draft CCDF FY 2019-2021 State Plan for the District of Columbia will take place as follows:

<i>Type of Meeting</i>	<i>Date and Time</i>	<i>Location</i>
<i>Public Hearing:</i> CCDF FY2019-2021 Draft State Plan for the District of Columbia	<b>Monday, May 21, 2018</b> 10 a.m. – 12 p.m.	OSSE 1050 First Street, N.E., Eleanor Holmes Norton Room III, First Floor <a href="https://bit.ly/2HaBfPY">https://bit.ly/2HaBfPY</a>
<i>Community Forum:</i> CCDF FY2019-2021 Draft State Plan for the District of Columbia	<b>Monday, May 14, 2018</b> 6 p.m. - 7:30 p.m.	National Children's Centers 3400 Martin Luther King Jr. Ave., SE <a href="https://bit.ly/2HaIhnQ">https://bit.ly/2HaIhnQ</a>
<i>Community Forum:</i> CCDF FY2019-2021 Draft State Plan for the District of Columbia	<b>Wednesday, May 16, 2018</b> 6 p.m. - 7:30 p.m.	Shaw [Watha T. Daniel] Library 1630 Seventh Street, NW <a href="https://bit.ly/2HwO5HC">https://bit.ly/2HwO5HC</a>
<i>Community Forum:</i> CCDF FY2019-2021 Draft State Plan for the District of Columbia	<b>Wednesday, May 23, 2018</b> 6 p.m. – 7:30 p.m.	Tenley-Friendship Library 4450 Wisconsin Avenue, N.W. <a href="https://bit.ly/2HCc6Nw">https://bit.ly/2HCc6Nw</a>

Parents and caregivers, providers and early childhood professionals, neighborhood and community leaders, advocates partners and other residents of the District of Columbia who attend can provide comments and testimony. *If you would like to attend one of the sessions, please use the registration links under the meeting date to register. If you would like to testify at one of the sessions, please indicate this during your registration.* Persons representing themselves will be scheduled for a 3-minute period to testify. Individuals representing organizations will be scheduled for a 5-minute period to testify. Persons who testify are encouraged to bring a copy of the written testimony for the record. Amharic, Chinese, French, Spanish, Vietnamese, Korean and Sign Language interpreters will be available if the services are requested by **Friday, May 4, 2018**, to ensure availability. Requests for interpretation can be made using the registration links above.

Written comments on the draft CCDF Plan may be submitted at the hearing or throughout the comment period. All written comments must be received by **5 p.m. on Friday, June 1, 2018**. Written comments may be submitted by e-mail to: [ossecomments.proposedregulations@dc.gov](mailto:ossecomments.proposedregulations@dc.gov) with the subject "Draft CCDF State Plan."

For more information, contact Christina Crayton, Early Childhood Education Policy Officer at [christina.crayton@dc.gov](mailto:christina.crayton@dc.gov).



## DISTRICT OF COLUMBIA OFFICE OF PUBLIC-PRIVATE PARTNERSHIPS

## NOTICE OF PUBLIC HEARINGS

Delivery of Smart Street Lighting Project

The District of Columbia Office of Public-Private Partnerships (“DC OP3”), in coordination with the District Department of Transportation (“DDOT”) and the Office of the Chief Technology Officer (“OCTO”), hereby gives notice of several upcoming public hearings regarding the District’s Smart Lighting Project (“Project”) pursuant to Section 110 of the Public-Private Partnerships Act of 2014, effective March 11, 2015 (D.C. Law 20-228; D.C. Official Code § 2-271.01 et seq.) as implemented through regulations contained in Chapter 48 (Public-Private Partnerships), of Title 27 (Contracts and Procurement) of the D.C. Municipal Regulations (27 DCMR 4802) (“P3 Act”). Details for the time and location of these hearings as well as how to register to participate are provided below.

The Project is proposed modernize the District’s more than 75,000 streetlights by converting them to LED technology with remote monitoring and control capabilities and deploy Smart City technology, including expansion of the District broadband Wi-Fi network and a platform for future uses and applications. It is also anticipated that the selected developer will obtain private financing for the Project and operate and maintain the existing and improved lighting systems under a long-term, performance-based contract.

Under Section 107 of the P3 Act, Request for Qualifications (“RFQ”) was released for the Project on June 21, 2017. The District received responses from 11 teams and announced on March 26, 2018 the teams who were determined to be the most highly qualified (“Shortlisted Proposers”). Only those Shortlisted Proposers will be allowed to submit proposals in response to the Request for Proposals (RFP). Following this public comment period, the District will incorporate feedback in a revised draft RFP that will be submitted to the DC Council for review. If approved by the DC Council, the District will issue the final RFP to the Shortlisted Proposers and select a Preferred Proposer. The following hearings will be held to discuss the Project:

No.	Location	Date
1	<b>Palisades Library</b> 4901 V St NW Washington, DC 20007	Saturday, May 19, 2018 1:00 – 3:00 PM
2	<b>Lamond-Riggs Library</b> 5401 South Dakota Ave NE Washington, DC 20011	Wednesday, May 23, 2018 6:00 – 8:00 PM

The hearing will be held in town hall style format, with a public presentation from government representatives followed by 3 minutes of speaking time for each individual who registers. Those interested in speaking at the public hearing must register at <https://www.op3.eventbrite.com/>. If you cannot attend one of the public forums, please send written comments to [StreetlightP3@dc.gov](mailto:StreetlightP3@dc.gov) by Wednesday, May 30, 2018. For those interested in learning more about the Project, please visit <http://op3.dc.gov/streetlights>.

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
WEDNESDAY, JUNE 6, 2018  
441 4<sup>TH</sup> STREET, N.W.  
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH  
WASHINGTON, D.C. 20001**

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

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

**WARD ONE**

19755            **Application of Dale Denton and Morgan Washburn**, pursuant to 11 DCMR  
ANC 1B           Subtitle X, Chapter 9, for special exceptions under Subtitle C § 1504 from the  
                         penthouse setback requirements of Subtitle C § 1502.1(b) and (c), under Subtitle  
                         E §§ 5007 and 5201 from the accessory structure rear setback requirements of  
                         Subtitle E § 5004.3, and under Subtitle E § 5201 from the rear yard requirements  
                         of Subtitle E § 306.1, and pursuant to Subtitle X, Chapter 10, for a variance from  
                         the lot occupancy requirements of Subtitle E § 304.1 to construct a rear deck and  
                         a rear roof deck addition and convert the existing residential care facility to a flat  
                         in the RF-1 Zone at premises 1208 T Street N.W. (Square 275, Lot 47).

**WARD FIVE**

19756            **Application of Kathryn Bristow**, pursuant to 11 DCMR Subtitle X, Chapter 10,  
ANC 5B           for a variance from the lot occupancy requirements of Subtitle D § 304.1, to  
                         construct a rear deck addition to an existing attached principal dwelling unit in the  
                         R-2 Zone at premises 2632 10th Street N.E. (Square 3843, Lot 25).

**WARD FIVE**

19757            **Application of 1201 Staples, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9,  
ANC 5D           for a special exception under Subtitle E § 5203 from the upper floor addition  
                         requirements of Subtitle E § 206.1, to convert an existing non-residential building  
                         to a three-unit apartment house in the RF-1 Zone at premises 1201 Staples Street  
                         N.E. (Square 4067, Lot 2).

**WARD FOUR**

19762            **Application of AMT-Varnum LLC**, pursuant to 11 DCMR Subtitle X, Chapter  
ANC 4C           9, for a special exception under the residential conversion requirements of  
                         Subtitle U § 320.2, to construct a three-story rear addition and convert the existing  
                         principal dwelling unit to a three-unit apartment house in the RF-1 Zone at  
                         premises 1521 Varnum Street N.W. (Square 2698, Lot 47).

BZA PUBLIC HEARING NOTICE

JUNE 6, 2018

PAGE NO. 2

**PLEASE NOTE:**

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

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

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

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

**Do you need assistance to participate?**

Amharic

ለመሳተፍ ዕርዳታ ያስፈልግዎታል?

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

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

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

Chinese

您需要有人帮助参加活动吗?

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

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

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

French

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

## BZA PUBLIC HEARING NOTICE

JUNE 6, 2018

PAGE NO. 3

*Korean*

참여하시는데 도움이 필요하세요?

특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

*Spanish*

¿Necesita ayuda para participar?

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

*Vietnamese*

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

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

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

**FREDERICK L. HILL, CHAIRPERSON  
LESYLLEÉ M. WHITE, MEMBER  
LORNA L. JOHN, MEMBER  
CARLTON HART, VICE-CHAIRPERSON,  
NATIONAL CAPITAL PLANNING COMMISSION  
A PARTICIPATING MEMBER OF THE ZONING COMMISSION  
CLIFFORD W. MOY, SECRETARY TO THE BZA  
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
REVISED<sup>1</sup> NOTICE OF PUBLIC HEARING**

**TIME AND PLACE:** Monday, June 4, 2018, @ 6:30 p.m.  
Jerrily R. Kress Memorial Hearing Room  
441 4<sup>th</sup> Street, N.W., Suite 220-South  
Washington, D.C. 20001

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 12-01A (The Catholic University of America – Amendment to the 2012-2027 Catholic University Campus Plan and Further Processing of the Catholic University Campus Plan @ Square 3671, Lot 3; Square 3821, Lot 44)**

**THIS CASE IS OF INTEREST TO ANC 5A, 5B, AND 5E**

On March 28, 2018, the Office of Zoning received an application from Catholic University (“Applicant”). The Applicant is requesting special exception approval for an amendment to the approved 2012-2027 Catholic University Campus Plan and a further processing application to permit the construction of a new surface parking lot and service building on its North Campus and a dining facility on its Main Campus.

More specifically, the Applicant is proposing to establish a surface parking lot with approximately 144 parking spaces and a service building on its North Campus. The parking lot will be accessed by Bates Road and will serve the athletic fields on the North Campus. The 2012-2027 Campus Plan anticipated the area would be used as a field; however, the Applicant seeks to amend the Campus Plan to allow for the parking area. The Applicant also seeks to amend the Campus Plan to allow for the new location of the proposed service building. The building was initially proposed in the center of the North Campus, however, its location is shifted to the north and will be adjacent to the proposed parking area. The service building will consist primarily of restrooms to serve the athletic fields. It will be one story in height and consist of approximately 1,500 square feet of gross floor area. The Applicant simultaneously seeks further processing approval for both the parking area and the service building.

Additionally, the Applicant seeks further processing approval for the construction of a dining facility on its Main Campus. The dining facility is proposed to be located where Magner House is currently located. Magner House will be razed and replaced with the dining facility. The location of the dining facility is the same as what was approved during the Campus Plan. The dining facility will be approximately 50 feet in height and consist of approximately 33,000 square feet of gross floor area.

The property that is the subject of this application is located in the RA-1 Zone District.

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<sup>1</sup> This notice was revised to correct the ANCs in which the case is of interest to. No other changes were made.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Commission's Rules of Practice and Procedure, 11 DCMR Subtitle Z, Chapter 4.

**How to participate as a witness.**

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

**How to participate as a party.**

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Commission's Rules of Practice and Procedure. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at [dcoz@dc.gov](mailto:dcoz@dc.gov) or at (202) 727-6311.

Except for an 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 Commission, not less than 14 days prior to the date set for the hearing, or 14 days prior to a scheduled public meeting if seeking advanced party status consideration, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning's website at: <https://app.dcoz.dc.gov/Help/Forms.html>.** This form may also be obtained from the Office of Zoning at the address stated below.

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail ([donna.hanousek@dc.gov](mailto:donna.hanousek@dc.gov)), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- |    |                                  |                         |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition            | 60 minutes collectively |
| 3. | Organizations                    | 5 minutes each          |
| 4. | Individuals                      | 3 minutes each          |

Pursuant to Subtitle Z § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov); or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**ANTHONY J. HOOD, ROBERT E. MILLER, PETER G. MAY, PETER A. SHAPIRO, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.**

**Do you need assistance to participate?** If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) five days in advance of the meeting. These services will be provided free of charge.

**¿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](mailto:Zelalem.Hill@dc.gov) cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

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**您需要有人帮助参加活动吗?**如果您需要特殊便利设施或语言协助服务(翻译或口译),请在见面之前提前五天与 Zee Hill 联系·电话号码 (202) 727-0312, 电子邮件 [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) 这些是免费提供的服务。

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

**ለመሰተፍ ዕርዳታ ያስፈልግዎታል?** የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF PUBLIC HEARING**

**TIME AND PLACE:**                      **Thursday, June 14, 2018, @ 6:30 p.m.**  
**Office of Zoning Hearing Room**  
**441 4<sup>th</sup> Street, N.W., Suite 220**  
**Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 17-14 (UM 500 Penn Street NE, LLC and UDR, Inc. – Consolidated Planned Unit Development and Related Zoning Map Amendment @ Square 3594, Lot 5)**

**THIS CASE IS OF INTEREST TO ANC 5D & 5C**

On June 22, 2017, the Office of Zoning received an application from UM 500 Penn Street NE, LLC and UDR, Inc. (together, the “Applicant”). Pursuant to Subtitle X, Chapters 3 and 5 and Subtitle Z, Chapter 3 of the Zoning Regulations of 2016 (Title 11 DCMR), the Applicant is requesting review and approval of a consolidated planned unit development (“PUD”) and a related Zoning Map amendment to allow the construction of a new mixed-use building at 500 Penn Street, N.E. (Square 3594, Lot 5).

The property that is the subject of this application consists of approximately 37,450 square feet of land area. The subject property is primarily bounded by an eight-story hotel to the north; Penn Street, N.E. to the south; part of a two-story former showroom building to the east; a 20-foot-wide public alley to the west; and the intersection of Penn Street, N.E. and 4<sup>th</sup> Street, N.E. to the southwest. The subject property is currently zoned PDR-1. The Applicant requests a PUD-related Zoning Map amendment to the MU-9 zone. The Future Land Use Map (FLUM) indicates that the site is appropriate for a mix of high-density residential/commercial/production, distribution, and repair uses.

This application proposes to redevelop the subject property as a 12-story residential building with ground-floor retail and underground parking. The building will have a maximum height of approximately 130 feet. The total gross floor area included in the building will be approximately 314,724 square feet, for a floor area ratio of approximately 8.4. The building will include approximately 299 residential units, approximately 22,714 square feet of ground-floor retail, and approximately 203 underground parking spaces.

On February 16, 2018, the Office of Planning filed a report recommending that the Zoning Commission set the application down for public hearing. On February 26, 2018 at a regular public meeting, the Zoning Commission voted to set the application down for public hearing. The Applicant filed a pre-hearing statement on April 6, 2018.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Commission’s Rules of Practice and Procedure, 11 DCMR Subtitle Z, Chapter 4.

**How to participate as a witness.**

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

**How to participate as a party.**

Any person who desires to participate as a party in this case must so request and must comply with the provisions of Subtitle Z § 404.1.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at [dcoz@dc.gov](mailto:dcoz@dc.gov) or at (202) 727-6311.

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Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, if an ANC wishes to participate in the hearing, it must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail ([donna.hanousek@dc.gov](mailto:donna.hanousek@dc.gov)), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

1. Applicant and parties in support 60 minutes collectively

- 2. Parties in opposition 60 minutes collectively
- 3. Organizations 5 minutes each
- 4. Individuals 3 minutes each

Pursuant to Subtitle Z § 408.4, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

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**ለሚሳተፍ ዕርዳታ ያስፈልግዎታል?** የተለየ እርዳታ ከስፈለግዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ከስፈለግዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኢሜል [Zelalem.Hill@dc.gov](mailto:Zelalem.Hill@dc.gov) ይገናኙ። እነኚህ አገልግሎቶች የሚሰጡት በነጻ ነው።

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF PUBLIC HEARING**

**TIME AND PLACE:** **Thursday, June 28, 2018, @ 6:30 p.m.**  
**Jerrily R. Kress Memorial Hearing Room**  
**441 4<sup>th</sup> Street, N.W., Suite 220-South**  
**Washington, D.C. 20001**

**FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:**

**CASE NO. 18-04 (Office of Planning – Text Amendment to Subtitle A §§ 209.2 & 301.3 re: Construction of Playing Fields & Accessory Structures @ RFK)**

**THIS CASE IS OF INTEREST TO ALL ANCs**

On April 2, 2018, the Office of Zoning received a report that served as a petition from the District of Columbia Office of Planning (“OP”) proposing a text amendment to the Zoning Regulations of 2016 (11 DCMR) to Subtitle A § 209 of the Zoning Regulations, specifically the restrictions on unzoned land and § 301, building permit requirements. The proposed amendments would permit the construction of three athletic playing fields and associated accessory structures on unzoned land. The amendments would also provide for Zoning Commission design review of an unenclosed pavilion structure adjacent to the fields. On April 9, 2018, the Commission voted to set down the petition for a public hearing. The OP set down report served as a pre-hearing filing.

The following amendments to Title 11 DCMR, Subtitle A, Authority and Applicability, are proposed (additions are shown in **bold and underlined text** and deleted text is shown ~~striketrough~~ text).

Amend the text in Subtitle A § 209, Restrictions on Unzoned Land, by adding a new § 209.2(c) as follows:

- 209.2 Nothing in this chapter shall prevent the following:
- (a) Minor repairs and alterations to buildings and structures for which no building permit is required under the D.C. Construction Code Supplements; ~~or~~
  - (b) A caretaker from residing on property formerly owned by the Government of the United States, or property in the Central Area formerly owned by the government of the District of Columbia, for which zoning has not been designated, for the purpose of maintaining and preventing the deterioration of the premises.; **or**
  - (c) **Installation and use of playing fields and associated accessory structures to support such fields on the unzoned property**

comprising and abutting the Robert F. Kennedy Memorial Stadium, more specifically known as Parcel 149 Lots 65 and 66 subject to the following:

- (1) Permitted accessory structures shall not exceed a maximum height of twenty feet (20 ft.) and one (1) story, a maximum gross floor area of one thousand square feet (1,000 ft.) and shall be limited to the following three (3) structures: a visitor building, a storage building, and restroom facilities; and
- (2) In addition to the accessory structures listed in § 209.2(c)(i), an unenclosed pavilion no greater than six thousand square feet (6,000 sq. ft.) in gross floor area and thirty feet (30 ft.) in height may be installed and used provided the Zoning Commission finds that said structure, as designed, meets the standards of Subtitle X, Chapter 6 other than § 604.8.

Amend the text in Subtitle A § 301, Building Permits, by adding a new § 301.3(g) as follows:

301.3 Except as provided in the building lot control regulations for Residence Districts in Subtitle C and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled “An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities,” and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Official Code § 9-101.05, a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except a building permit may be issued for:

...

- (e) A structure in the USN zone to be constructed on an air rights lot that is not a lot of record; ~~and~~
- (f) Buildings and structures approved as part of a campus or private school plan or medical campus plan; and
- (g) Playing fields and associated accessory structures to support such fields and, if permitted by the Zoning Commission, an unenclosed pavilion on the unzoned property comprising and abutting the Robert F. Kennedy Memorial Stadium, subject to 11-A DCMR § 209.2(c).

...

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended, D.C. Official Code § 6-641.01, *et seq.*

This public hearing will be conducted in accordance with the rulemaking case provisions of the Zoning Regulations, 11 DCMR Subtitle Z, Chapter 5.

**How to participate as a witness.**

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail ([donna.hanousek@dc.gov](mailto:donna.hanousek@dc.gov)), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- |    |               |                |
|----|---------------|----------------|
| 1. | Organizations | 5 minutes each |
| 2. | Individuals   | 3 minutes each |

The Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

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

**NOTICE OF FINAL RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211(b) (2012 Repl. & 2017 Supp.)), hereby gives notice of the adoption of final rules that amend § 718.2 and § 718.3 of Chapter 7 (General Operating Requirements) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The final rulemaking amends 23 DCMR § 718.2 and 718.3 by reducing the percentage of distribution of subsidies paid by the Alcoholic Beverage Regulation Administration (ABRA) to the Metropolitan Police Department (MPD) from seventy percent (70%) to sixty percent (60%) when covering the costs incurred by Alcoholic Beverage Control (ABC) licensees from MPD officers working reimbursable details under the Reimbursable Detail Subsidy Program (“RDO Program” or “Program”). The rulemaking also amends 23 DCMR § 718.2 by including pub crawls among the types of events which may participate in the RDO Program.

**I. BACKGROUND**

The RDO Program assists licensed establishments to defray the costs of retaining off-duty MPD officers to patrol the surrounding area of an establishment or an outdoor Special Event or Pub Crawl Event for the purpose of maintaining public safety, including the remediation of traffic congestion and the safety of public patrons, during their arrival and departure from the establishment or Special Event or Pub Crawl Event. Over the past several years, the Board has revised the reimbursable detail coverage percentages on an as needed basis. For example, previous Program revisions have included modifying the percentage of the reimbursed subsidy amount, the number of hours worked by MPD, the number of nights of the week worked by MPD, and the addition of federal and District holidays, and certain holiday weekends.

The Board last amended the rules on February 19, 2016. *See* <https://dcregs.dc.gov/Common/DCMR/RuleDetail.aspx?RuleId=R0018361>. At that time, the Board increased the number of days covered by the RDO Program from two (2) days to seven (7) days a week, and to increase the reimbursement percentage from fifty percent (50%) to seventy percent (70%).

The Board has observed an increase in the number of pub crawl events taking place in the District of Columbia. In Fiscal Year 2016, the Board approved twenty-four (24) pub crawl applications. This is a significant increase in comparison to previous years. Although a source of entertainment, pub crawls pose safety risks to the public. It is for this reason that the Mayor and the Council for the District of Columbia included a provision in the Fiscal Year 2017 Budget which allows for the expansion of the RDO Program to include pub crawls. In order to ensure ABRA’s regulations comport with current law, the Board deems it necessary to amend 23



DCMR § 718.2 to include pub crawl events among the events which may participate in the RDO Program.

Notwithstanding the expansion of the RDO Program to include pub crawls, the overall funding levels for the Program will remain the same in Fiscal Year 2017. This, in turn, will place a strain on ABRA's ability to reimburse MPD for its RDO associated costs. Recognizing the public safety benefits of the RDO Program, the Board desires to continue to reimburse MPD for a percentage of the costs incurred by licensees for MPD officers working reimbursable details, but it will have to do so at a lower percentage rate. Therefore, the Board finds it necessary to reduce the Program's reimbursement percentage from seventy percent (70%) to sixty percent (60%). Given the importance of this Program to public safety, the Board will continue to regularly monitor the Program's funding and make any necessary adjustments to the distribution of subsidies to cover the costs incurred by licensees.

On January 25, 2017, the Board adopted the MPD RDO Program Notice of Emergency and Proposed Rulemaking, six (6) to zero (0), with an effective date of March 1, 2017. On February 15, 2017, the Board held a Public Hearing in which it allowed members of the public and the industry to comment on the proposed rules. The Board received written and oral testimony from the D.C. Nightlife Hospitality Association (DCNHA).

Mark Lee, Executive Director of the DCNHA, testified on behalf of the association. Mr. Lee praised the Board's efforts to expand the RDO Program to other events, including pub crawls. Mr. Lee, however, expressed the organization's concerns of how the rules will adversely affect its members.

Specifically, DCNHA is concerned that the reduction in the reimbursement percentage from seventy percent (70%) to sixty percent (60%) would increase the financial burden on its members, including smaller establishments. DCHNA anticipates establishments which hire two (2) RDO officers for four (4) hours twice a week will see an annual increase of six thousand (\$6,000), and that establishments that hire four (4) RDO officers for the same amount of hours and days per week can see their annual expenditure increase to one hundred thousand dollars (\$100,000).

It is DCHNA's position that when facing this financial dilemma, some of its members may cease participating in the RDO Program or reduce the number of officers they retain as well the number or hours and days per week sought. DCHNA encourages the Board to return to the previous reimbursement percentage of seventy percent (70%) and craft a formula which will allow it to maintain the funding levels into perpetuity and alleviate the need for future emergency and proposed rulemakings.

The MPD RDO Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on April 14, 2017, at 64 DCR 3546, for a thirty (30)-day comment period. See <http://dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=23-718>. The Board did not receive any comments from the public during the comment period which ended on May 14, 2017.

After the publication of the Notice of Emergency and Proposed Rulemaking, but prior to the rules being submitted to the Council for review, the Board adopted the Notice of Emergency Rulemaking on May 24, 2017, by a vote of six (6) to zero (0). The emergency rules were published in the *D.C. Register* on August 4, 2017, at 64 DCR 7520 [EXPIRED]. The Board, once again, adopted emergency rules on September 27, 2017, by a vote of five (5) to zero (0), to ensure the emergency rules were in effect while the rules were undergoing Council review. These emergency rules were published at 64 DCR 11640 (November 3, 2017) [EXPIRED]. Once again, the Board voted, seven (7) to zero (0), to adopt emergency rules on January 24, 2018, to ensure that the current spending levels remained in place pending enactment of the final rulemaking. These emergency rules were published in the *D.C. Register* on April 20, 2018, at 65 DCR 4464.

The emergency rules that the Board adopted since the adoption of the original emergency and proposed rules were identical, as no substantive changes were made to the rules since they were originally published in the *D.C. Register* or as they were submitted to the Council for review.

On January 9, 2018, the Council approved the MPD RDO Subsidy Notice of Emergency and Proposed Rulemaking. See Reimbursable Detail Subsidy Program Resolution of 2017 (PR22-527), at <http://lims.dccouncil.us/Legislation/PR22-0527?FromSearchResults=true>. Therefore, these rules are now ripe for the Board to approve as final.

By a vote of seven (7) to zero (0), the Board voted to adopt the MPD RDO Subsidy Program Notice of Final Rulemaking. No substantive changes have been made to the rulemaking since it was published as proposed. In accordance with D.C. Official Code § 25-211(d), these final rules will take effect five (5) days after they are published in the *D.C. Register* and will supersede any previously adopted emergency rules.

**Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:**

**Section 718, REIMBURSABLE DETAIL SUBSIDY PROGRAM, is amended by replacing Subsections 718.2 and 718.3 to read as follows, and renumbering the following subsections:**

718.2 ABRA will reimburse MPD sixty percent (60%) of the total cost of invoices submitted by MPD to cover the costs incurred by licensees for MPD officers working reimbursable details on Sunday through Saturday nights. The hours eligible for reimbursement for on-premises retailer licensees shall be 11:30 p.m. to 5:00 a.m. ABRA will also reimburse MPD sixty percent (60%) of the total costs of invoices submitted by MPD to cover the costs incurred for Pub Crawl Events and for outdoor Special Events where the Licensee has been approved for a One Day Substantial Change License or a Temporary License. The hours eligible for an outdoor Special Event operating under a One Day Substantial Change License or a Temporary License or a Pub Crawl Event operating under a Pub Crawl License shall be twenty-four (24) hours a day.

718.3 MPD shall submit to ABRA on a monthly basis invoices documenting the sixty percent (60%) amount owed by each licensee. Invoices will be paid by ABRA to MPD within thirty (30) days of receipt in the order that they are received until the subsidy program's funds are depleted.



**Section 9203, ELIGIBILITY REQUIREMENTS, is amended as follows**  
**Subsections 9203.1 and 9203.2(c) are amended to read as follows:**

**9203 ELIGIBILITY REQUIREMENTS**

9203.1 As a minimum threshold for participation in the HOAP, a head of household shall either already be a participant under lease in the federal Housing Choice Voucher Program with tenant-based voucher or be eligible for issuance of a federal tenant-based voucher for the sole purpose of homeownership purchase as described in 9204.1

9203.2 A Family that meets the threshold determination shall then meet the following eligibility requirements:

(c) Minimum Income.

- (1) The household shall demonstrate that the gross annual income of the adult family members who will own the home at commencement of homeownership assistance meets the higher of \$25,000 or the required District of Columbia Housing and Community Development Home Purchase Assistance (HPAP) Program minimum income requirement, as that requirement changes from time to time.
- (2) Except in the case of an elderly or disabled family, income from a welfare assistance program shall not be counted toward the initial minimum income determination.
- (3) Alternatively, the Family will be found to meet minimum income requirements if the adult family members who will own the home at commencement of homeownership assistance have gross annual income equal to at least 2,000 full-time work hours at the Federal Minimum Wage (FMW) or, for Disabled Families, equal to the monthly federal Supplemental Security Income Program benefit for an individual living alone multiplied by 12; and
  - (i) The Family demonstrates that it has been pre-qualified or pre-approved for financing;
  - (ii) The pre-qualified or pre-approved financing meets the financing requirements outlined in §§ 9210, 9211 and 9212; and
  - (iii) The pre-qualified or pre-approved financing amount is sufficient to purchasing housing that meets Housing Quality Standards in the District of Columbia.

**Section 9204, PARTICIPANT SELECTION PROCESS, is amended as follows:**

**Subsection 9204.1 is amended to read as follows:**

**9204 PARTICIPATION SELECTION PROCESS**

9204.1 Families shall only be selected for the HOAP based on one of the following:

- (a) Families who have completed the DCHA Housing Choice Voucher Family Self-Sufficiency (FSS) Programs with homeownership as the stated goal;
- (b) Families in public housing that complete the DCHA Achieving Your Best Life (AYBL) Program that require and qualify for a Housing Choice Voucher to be able to purchase a home; OR
- (c) Families who are under a lease using a federal tenant-based or project-based housing choice voucher that has met HOAP requirements and need a tenant-based voucher to purchase.

**Section 9205, PROGRAM PARTICIPATION REQUIREMENTS, is amended as follows:**

**Subsections 9205.3, 9205.4, 9205.6(c), 9205.7, and 9205.8(a) are amended to read as follows:**

**9205 PROGRAM PARTICIPATION REQUIREMENTS**

9205.3 Homeownership Counseling. The Family shall satisfactorily complete homeownership and housing counseling training, before the Family can proceed to the home buying process. This training for homebuyers shall be provided by the HOAP or its designee and include the following but is not limited to:

- (a) Credit Counseling, including credit repair;
- (b) The Home Purchase Process, including the selecting of a real estate agent and home inspection professional;
- (c) Homeownership Financing, including selection among the program's Participating Lenders;
- (d) Mortgage delinquency/default prevention;
- (e) Consumer (Homebuyer) Protection;
- (f) Home Maintenance and Repair; and
- (g) Choosing a good location.

- 9205.4 The applicant Family shall supply a copy of the Certificate of Completion upon receipt from District of Columbia Housing and Community Development Home Purchase Assistance Program.
- 9205.6 Mortgage Pre-approval.
- (c) The mortgage pre-approval letter shall reflect the maximum purchase price, first trust mortgage loan amount, interest rate, and term of loan.
- 9205.7 Home Search Authorization.
- (a) Upon receipt of their Initial Certificate of Assistance the Family shall select a Lender and present their Initial Certificate of Assistance to apply for their mortgage pre-approval.
- (b) The Family shall be responsible for selecting a lender, independent professional housing inspector and a real estate agent.
- 9205.8 Home Search Time Limits and Extensions.
- (a) From the date of issuance of a Home Search Authorization, the Family shall be allowed a total time period of one hundred and eighty (180) days to:
- (1) Search for and find a home;
  - (2) Execute a contract of sale, including the HOAP contract addendum as required under Section 9209;
  - (3) Submit the sales contract to HOAP for review;
  - (4) Obtain a firm loan commitment;
  - (5) Obtain a HQS inspection from HCV;
  - (6) Submit a Professional Inspection Report to HOAP, as provided under Section 9209;
  - (7) Obtain HOAP Notice of Inspection Approval, as provided under Section 9208;
  - (8) Obtain a Final Certificate of Assistance from HOAP;
  - (9) Sign all required HOAP forms and attachments, including:
    - (i) Statement of Homeownership Obligations, required under Section 9215 hereof;

- (ii) A Recapture Agreement and Subordinate Mortgage, as required under Section 9214 hereof;
- (10) Close on the purchase of the property and the mortgage loan;
- (11) Notify HOAP that the Loan has closed and provide to the DCHA HOAP Coordinator or designee a copy of the executed settlement statement and First Mortgage Payment Letter within five (5) business days of closing.

**Section 9208, REVIEW OF PURCHASE CONTRACT AND ISSUANCE OF FINAL CERTIFICATE OF ASSISTANCE, is amended to read as follows:**

- 9208.1 Once the Applicant Family has found a home and executed a purchase agreement, the Family shall provide the HCVP HOAP Homeownership Coordinator or designee with the following required documents for review and/or approval:
- (a) Verification of funds for the initial down-payment;
  - (b) The executed purchase agreement or contract of sale;
  - (c) The professional home inspection report.
- 9208.2 If the Family is a graduate from a DCHA Family Self-Sufficiency (FSS) Program and DCHA has provided the Family with an escrow payment, the Family must put down no less than 40% of the total amount of their escrow payment towards down-payment and closing costs and must disclose the full amount of escrow funds to the lender. The Family may choose to use their FSS escrow payment towards the minimum percentage down-payment and closing cost, OR seek other financial resources the meet the equivalent to the minimum required out of pocket cost.
- 9208.3 If the Family is a graduate from the DCHA AYBL Program and the graduating family has earned an escrow payment, the family must put down the amount required by the AYBL program towards down-payment and closing costs if they choose to purchase a home using federal housing choice voucher assistance,.
- 9208.4 Based on the purchase amount identified in the purchase agreement and the loan terms of the mortgage pre-approval submitted by the Applicant Family, the HOAP shall determine the amount of the HOAP Subsidy and the Total Tenant Payment, taking into account:
- (a) The family composition;
  - (b) The bedroom size of the home;



- (c) The applicable Payment Standard;
  - (d) The Family Income as determined on the last annual recertification;
  - (e) The estimated homeownership expenses, taking into account the projected mortgage payment, insurance and taxes, and homeownership expenses, calculated in accordance with Subsection 9212.2.
- 9208.5 HOAP shall review the seller against the debarment and suspension lists provided by HUD and disapprove the contract if the seller appears on such lists.
- 9208.6 HOAP shall issue a Notice of Approval or Disapproval of Inspection under the provisions in Subsection 9209, below.
- 9208.7 Unless the purchase contract is disapproved or the Inspection is for Disapproval, the HOAP shall issue a Final Certificate of Assistance, which the Applicant Family shall submit to their Participating Lender in applying for a mortgage loan.

**Section 9209, HOME INSPECTION, is amended as follows:**

**Subsection 9209.1 is amended to read as follows, and adds Subsection 9209.1(a)(3)-(4). Subsection 9209.1(b) will be unchanged:**

**9209 HOME INSPECTION**

- 9209.1 Before issuance of a Final Certificate of Assistance, the Applicant Family shall schedule two kinds of physical inspections required in the HOAP as follows:
- (a) A HUD Housing Quality Standard (HQS) inspection conducted by DCHA.
    - (1) The HQS inspection does not include an assessment of the adequacy and life span of the major building components, building systems, appliances or other structural components.
    - (2) However, the HQS inspection shall indicate the current physical condition of the home and repairs necessary to ensure that the home is safe and otherwise habitable.
    - (3) If the home fails the initial inspection, DCHA shall schedule a second inspection. DCHA may require the family to pay for a third (3<sup>rd</sup>) and final inspection, if needed.
    - (4) If the home fails a third inspection, DCHA shall not approve the home purchase.

**Section 9212, HOME OWNERSHIP SUBSIDY TERMS AND CONDITIONS, is amended as follows:**

**Subsections 9212.3, 9212.4, 9212.5 are amended to read as follows. Subsections 9212.3(b) and 9212.4(b)-(e) will be unchanged:**

**9212 HOME OWNERSHIP SUBSIDY TERMS AND CONDITIONS**

9212.3 Determination of Homeownership Expenses. The amount of HOAP assistance shall be determined by a HOAP Coordinator after taking into consideration the following costs to the Family:

- (a) For a homeownership loan, the following costs shall be considered:
  - (1) Principal and interest on the initial mortgage debt or any refinanced debt;
  - (2) Any mortgage insurance premium;
  - (3) Real estate taxes on the home;
  - (4) Homeowners insurance;
  - (5) An allowance for maintenance expenses, including major repairs and replacement;
  - (6) Utility allowance, and
  - (7) If the home is a condominium unit or part of a homeowner association, the operating charges, condominium fees and/or maintenance fees assessed by the condominium association or homeowner association.

9212.4 Distribution of Monthly HOAP Payments

- (a) The monthly HOAP payment shall be made to an account with a credit union or bank designated by the Family.

9212.5 Determination of Total Tenant Payment

- (a) The Total Tenant Payment shall be determined in accordance with 24 C.F.R. § 5.628.
- (b) For the HOAP Program, the minimum rent shall be \$50 per month. Pursuant to 24 C.F.R. § 5.628, that amount will be the minimum Total Tenant Payment.

(c) A Family that cannot afford the minimum monthly payment of \$50 because of a financial hardship may request an exemption, pursuant to the rules of 24 C.F.R. § 5.630.

(1) Exemption requests must be submitted in writing by the Head of Household.

(2) DCHA will verify whether a qualifying financial hardship exists and whether it is temporary or long-term and respond in writing within ten (10) days of receipt of the verifying information.

(3) Examples of a financial hardship include:

- i. Loss of eligibility for a federal, state, or local assistance program;
- ii. Decrease in income because of changed circumstances, including loss of employment;
- iii. A death in the family; and
- iv. When the family would be evicted for inability to pay the minimum mortgage.

**Section 9213, MAINTENANCE RESERVE, is amended to read as follows:**

**9213 MAINTENANCE RESERVE**

9213.1 The Family shall establish and maintain a maintenance reserve after the family has purchased a home for as long as they receive voucher subsidy assistance to assist in them in making monthly mortgage payments or for home maintenance and repairs. This reserve is to be kept in a bank or credit union of the Family’s choice.

9213.2 The required maintenance reserve shall be \$50. Participants can elect to put more than the established initial reserve amount in their account at their discretion. The family must provide evidence of this minimum monthly reserve to the HOAP Coordinator as part of their HOAP family obligations at periodic recertification or interim.

9213.3 Purchasers who fail to establish a maintenance reserve account, which shall be verified periodically, by the HOAP Coordinator, shall be required to attend individual counseling sessions.

**Section 9215, HOME OWNER OBLIGATIONS AND CONTINUED ASSISTANCE REQUIREMENTS, is amended as follows:**

**Subsections 9215.2, 9215.3, 9215.5, 9215.7(c), and 9215.8 are amended to read as follows:**

- 9215.2 The Participating Family shall execute a Statement of Home Ownership Obligation whereby they contractually agree to comply on a continuing basis with the obligations, rules and requirements of the HOAP which cover the following areas:
- (a) Pre and Post-purchase Homeownership Counseling.
  - (b) Compliance with mortgage terms and conditions.
  - (c) Prohibition against conveyance or transfer of home.
  - (d) Supplying Required Information.
  - (e) Notice of move-out.
  - (f) Notice of mortgage default.
  - (g) Prohibition of an ownership interest on second residence.
  - (h) Notice of additional grounds for termination of assistance.
- 9215.3 Post Closing Housing Counseling. The Family shall continue to follow through with participation in Post Settlement home ownership and housing counseling program sessions until the Family is no longer receiving voucher subsidy assistance.
- 9215.5 Pre-approval for any change in financing. The Family shall obtain written approval from HOAP or its designee before securing any refinancing on the primary loan, subordinate equity loan or line of credit.
- 9215.7 Sale or Other Conveyance.
- (c) Upon death of a household member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home:
    - (1) The remaining member(s) are required to inform DCHA of the decedent's death within thirty (30) days of its occurrence.

- (2) HOAP may continue mortgage subsidy assistance payments up to one year, pending settlement of the decedent's estate, notwithstanding transfer of the title by operation of the law to the decedent's executor or legal representative, provided the home is solely occupied by the remaining household members on the Family composition.
  - (i) The remaining mortgage-holder(s) may submit income and other necessary information about the remaining family members for DCHA to make a continuing eligibility determination. If the Family remains eligible, they will be allowed to stay in the HOAP program under the terms of their original agreements.
  - (ii) If the remaining household members include at least one disabled adult, elderly adult, or minor, the Family may request to transfer to the Housing Choice Voucher Program.

9215.8 Required Notices to HOAP. Participating Families are required to inform HOAP of certain types of information on a regular or interim basis as follows:

- (a) Change in Expenses. The Family shall inform the HOAP of any change in the household ownership expenses or ability to pay household expenses that shall affect the household's ability to financially handle the change in expense and the monthly mortgage obligations within the time frame set forth in 14 DCMR § 5310.1(a).
- (b) Annual Recertification. The household shall participate fully in the annual recertification process by providing all required documentation, including verification that the mortgage, insurance, utility payments and other home ownership expenses are current.
- (c) Notice of move - with or without resale of home.
  - (1) The household shall notify the HOAP of their intent to move out of the home by supplying a written ninety (90)-day notice.
  - (2) The household shall notify the HOAP in advance if any household member who owns, in whole or in part, any ownership interest in the home moves out.
- (d) Notice of Mortgage Default. The household shall notify the HOAP if the household defaults on the mortgage securing any debt incurred to purchase the home after receiving the notice of delinquency within the time frame set forth in § 5310.1(a).

- (e) Change in Income or Family Composition. The Family shall inform the HOAP of any change in the source and/or amount of household income and change in the household composition at their annual recertification. A change in household composition shall not result in a reduction in the Payment Standard, but may be used to increase the Payment Standard.
- (f) Pursuant to Chapter 56 of this Title, any monies that HOAP overpays for a Family due to untimely reporting of a change in family composition or income may result in termination of assistance or any of the collection methods referenced in §§ 5600 *et. seq.*

**Section 9217, LEASE-PURCHASE AGREEMENTS, will be removed entirely and its title changed to RESERVED.**

**Section 9219, TRANSFERS FROM HOMEOWNERSHIP TO RENTAL ASSISTANCE, is amended to read as follows:**

**9219 TRANSFERS FROM HOMEOWNERSHIP TO RENTAL ASSISTANCE**

9219.1 Criteria for a Transfer. DCHA shall allow a reversion from HOAP assistance to federal tenant-based assistance for the following reasons:

- (a) The elderly only family fails to maintain their portion of the mortgage payment and is in default jeopardy of foreclosure;
- (b) The disabled only family fails to maintain their portion of the mortgage payment and is in default jeopardy of foreclosure;
- (c) A family in good standing has a substantial loss of household income that cannot be recovered within 12 months of the loss that will cause the family to pay zero towards their portion of mortgage payment;
- (d) At DCHA's discretion, a Family that has met all of its obligations while participating in the HOAP, may be allowed a reversion from HOAP assistance to federal tenant-based assistance;
- (e) At DCHA's discretion a family that is in default only because of an inability to inform DCHA of a change in income or family circumstance by reason of documented participation in a witness protection program or activity that would put the family under the protection of the Violence Against Women Act, may be allowed a reversion from HOAP assistance to federal tenant-based assistance; or
- (f) If the family conveys the title to the home to HUD, an approved designee

or representative of the lender, or to DCHA. The Family shall sign a Conveyance Acknowledgment Notice, indicating the requirement to completely transfer and convey the property, and such notice shall be acceptable to the mortgage lender. Reversion during the subsidy period requires that HOAP will receive sales proceeds from the home in order of the interest held.

- 9219.2 Approval of Rental Voucher. If the Family is approved for transfer from the HOAP, the Housing Choice Voucher Program shall issue the Family a rental voucher and the Family shall complete the normal voucher rental unit search process. During the period the Family is searching for a rental unit, if no mortgage default has occurred and all other program requirements have been satisfied, the HOAP shall continue to provide the Family with home ownership subsidy.
- 9219.3 Termination of all Assistance. If the family fails to transfer or convey the property as provided hereinabove, resulting in foreclosure of the property, the HOAP payment will be terminated and the HCVP will not provide the family with rental assistance. If a rental assistance lease has commenced, the Housing Choice Voucher Program will terminate both the family Housing Choice Voucher and the rental assistance payment.
- 9219.4 No concurrent assistance. A Family member who owns an interest in the home cannot receive both HOAP and rental assistance concurrently, except as provided in 9219.2 above.

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

1. Submission of comments by mail: Comments may be submitted by mail to the Office of the General Counsel, Attn: Edward Kane, Deputy General Counsel, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599.
2. Electronic Submission of comments: Comments may be submitted electronically by submitting comments to DCHA at: [PublicationComments@dchousing.org](mailto:PublicationComments@dchousing.org).
3. No facsimile will be accepted.

Comments are due: May 28, 2018

## DEPARTMENT OF HUMAN SERVICES

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the District of Columbia (“District”) Department of Human Services (“Department”), pursuant to the authority set forth in Section 31 of the Homeless Services Reform Act of 2005 (“HSRA” or “Act”), effective October 22, 2005, D.C. Law 16-35, D.C. Official Code § 4-756.02 (2012 Repl.), and Mayor’s Order 2006-20, dated February 13, 2006, hereby gives notice of the adoption, on an emergency basis, of the following new Chapter 79, entitled “Flexible Rent Subsidy Pilot Program”, of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations, to become effective immediately.

These emergency rules establish standards to administer the District’s Flexible Rent Subsidy Pilot Program and conditions of participation for enrolled households.

The Flexible Rent Subsidy Pilot Program, which subsequently shall be referred to as the DC Flex Program (and “Program” throughout this rule), is a four (4) year pilot program that provides financial assistance to households to support their ability to pay monthly rental expenses, especially during periods of income volatility, in order to promote long-term housing stability. Training on budgeting and money management will be offered to households enrolled in the Program.

Emergency action is necessary to promote the immediate preservation of the health, safety, and welfare of District residents who are at risk of experiencing homelessness, by permitting the Department to provide the financial and training support needed to keep households in permanent housing during the instances where there is a variance between total monthly rent expenses and the household’s funds available for rent. The Program aligns with the Department’s work to ensure that the experience of homelessness with the District is rare, brief, and non-recurring.

These emergency rules shall remain in effect for not longer than one hundred and twenty (120) days from the adoption date or until May 24, 2018, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. If approved, the Department shall publish the effective date with the Notice of Final Rulemaking. The Department Director also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*. The emergency rules were adopted on January 24, 2018, and went into effect at that time. The emergency rules shall expire on May 24, 2018, which is one hundred twenty (120) days after the effective date of these emergency rules, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.



**A new Chapter 79, FLEXIBLE RENT SUBSIDY PILOT PROGRAM, has been added to Title 29 DCMR, PUBLIC WELFARE, to read as follows:**

**CHAPTER 79 FLEXIBLE RENT SUBSIDY PILOT PROGRAM**

**7900 SCOPE**

- 7900.1 The purpose of the Flexible Rent Subsidy Pilot Program, which subsequently shall be referred to as the DC Flex Program (and “Program” throughout this rule), is to support households that are at risk of experiencing homelessness to achieve stability in permanent housing. The Program provides financial assistance to each enrolled head of household in the instances where there is a gap between the total monthly rent expenses and the household’s funds available for rent. The financial assistance is payable only to the households, with the exception noted in § 7905.11(b).
- 7900.2 The Department shall be responsible for the implementation of this chapter, which shall apply to all financial assistance provided through the Department pursuant to the Program.
- 7900.3 The Program shall operate for four years, beginning in Fiscal Year 2018.
- 7900.4 One person per household is eligible to enroll his or her household in the Program. This person shall be considered the head of household.
- 7900.5 The provisions of this chapter describe eligibility criteria; the application process; assistance determination; description of assistance provided and how it is administered; recertification requirements; and appeal procedures for the Program.
- 7900.6 Nothing in these rules shall be interpreted to mean that Program assistance is an entitlement. This Program shall be subject to annual appropriations and the availability of funds.
- 7900.7 The Department may execute contracts, grants, and other agreements as necessary to carry out the Program.

**7901 ELIGIBILITY CRITERIA**

- 7901.1 Only one person who is twenty-one (21) years old or older at the time of application per household is eligible to enroll his or her household in the Program. This person shall be considered the head of household.

- 7901.2 A household is composed of individuals who live in the same physical housing unit as the applying head of household, and shall include:
- (a) Persons related by blood or legal adoption with legal responsibility for minor children in the household;
  - (b) Persons related by marriage or domestic partnership (as defined by section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4))), including stepchildren and unmarried parents of a common child who live together;
  - (c) Persons with a legal responsibility for an unrelated minor child or an unrelated adult with a disability; and
  - (d) Any person not included by § 7901.2(a)-(c), regardless of blood relationship, age, or marriage, whose history and statements reasonably demonstrate that the individuals intend to remain together in the same household and whose income contributes to total household expenses.
- 7901.3 An otherwise eligible person temporarily away from the housing unit due to employment, school, hospitalization, incarceration, legal proceedings or vacation shall be considered to be living in the household. A minor child who is away at school is considered to be living in the household if he or she returns to the housing unit on occasional weekends, holidays, school breaks, or during summer vacations.
- 7901.4 To establish initial eligibility for the Program, a household must:
- (a) Reside in the District of Columbia, as defined by Section 2(32) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01(32)), at the time of application;
  - (b) Demonstrate risk of homelessness as evidenced by:
    - i. Previous application for at least one emergency or temporary government-funded housing or rental assistance program administered by the District, including, but not limited to, the Emergency Rental Assistance Program, the Homelessness Prevention Program, or the Family Re-Housing and Stabilization Program, within the last 48 months; and
    - ii. Having a total annual income less than or equal to 30 percent of the Median Family Income for the District, which is a periodic calculation provided by the United States Department of Housing and Urban Development; and

- (c) Be headed by a person that is twenty-one (21) years old or older at the time of application, and who meets the following requirements:
- i. Has physical custody of one or more minor children;
  - ii. Is currently employed or has recent history of employment; and
  - iii. Is the lease holder for a rental unit.

7901.5 The applicant may be enrolled in a government-funded rental assistance program administered by the District at the time of application. However, if selected for the Program, no household member may be enrolled in both the Program and another District or federal government-funded rental assistance program at the same time. Enrollment in the Program shall not preclude receipt of shelter or rental assistance after participation in the Program has ended.

## **7902 HOUSEHOLD OUTREACH**

7902.1 The Department will conduct outreach to households with an estimated high likelihood of meeting the eligibility criteria listed in § 7901, to inform these households about the Program and to determine potentially eligible households' interest in Program enrollment.

7902.2 Households that receive information about the Program shall be identified by the Department through administrative data contained in applications completed by households seeking or enrolled in government-funded housing or emergency rental assistance programs administered by the District.

7902.3 The Department will conduct outreach via the US Postal Service, telephone, email, SMS text messages, or other communication means determined by the Department.

7902.4 Outreach communications will invite households interested in Program enrollment to submit an application as described in § 7903 to the Department via a web-based portal, US Postal Service, or in person at a physical site determined by the Department.

7902.5 Outreach communication shall contain or provide a hyperlink to a description of the Program, the application and enrollment process, responsibilities of the Department and the Administrative Agent used to manage the Program, and

Program participation requirements, including each applicant's involvement in budget and financial management activities.

**7903 APPLICATION AND SELECTION PROCESS**

- 7903.1 Each household interested in enrolling in the Program shall complete an application form provided by the Department that is signed by the head of household. An authorized representative may apply on behalf of the applying household if the applying head of household provides a written and signed statement stating why he or she cannot personally complete the form and the name and address of the person authorized to act on his or her behalf.
- 7903.2 If the applicant has a disability or the authorized representative of the applicant with a disability requests assistance to complete the application, the Department shall assist such applicant or authorized representative with the application process to ensure that the applicant has an equal opportunity to submit an application.
- 7903.3 The Director of the Department will determine the number of applications that will be accepted for the Program, which is contingent on available funding. If at any point the Department receives additional funding for the program, the Department may reopen the application process at that time for new applications.
- 7903.4 Household enrollment shall follow a two-step process. The first step shall require the applying person to complete and submit a web-based or paper application to the Department as notification of his or her household's enrollment interest and self-reported eligibility in order to be selected. The second step shall require selected households to submit documentation to the Department that enables the Department or its designee to verify information on the household's application and Program eligibility criteria included in § 7901 of this chapter.
- 7903.5 The application will include questions that require the applicant to attest to the Program eligibility criteria listed in § 7901, and may also request the applicant to provide the following:
- (a) Identifying information;
  - (b) Contact information;
  - (c) Household composition;
  - (d) Current income;
  - (e) Current monthly rent expense;

- (f) Address of current rental unit;
- (g) Consent to release information; and
- (h) Any additional information deemed necessary by the Department.

- 7903.6 Due to limited Program availability during the pilot period, the Department will administer one or more assignment lotteries to determine which applying households are offered one of the available Program slots using the method described in § 7903.5, § 7903.7, and § 7903.8.
- 7903.7 The results of the Program's pilot period will be evaluated to understand its effectiveness in supporting households' long term housing stability. To increase the probability that the Program will be successful if expanded to enroll more households, the lottery will be structured so that the characteristics identified on the applications of the group of households offered a Program slot are similar to the characteristics identified on the application of all households that applied for the Program.
- 7903.8 After the lottery is completed, the Department will offer available Program slots to households selected by the lottery. The Department will notify selected households via the US Postal Service, telephone, email or another communication mode determined by the Department. These Program slots are conditional, and are only official after the household responds to the Department's notice of the conditional offer and successfully completes the Program eligibility process described in § 7904. If a household fails to respond within the given timeframe, or after verification the household does not meet eligibility requirements for the Program, an additional household will be selected based on the method described in § 7903.10, until all slots have been filled.
- 7903.9 Each household selected for the Program will have thirty (30) calendar days from the date of notice to respond to the Department.
- 7903.10 Any household that declines the offer for the Program slot, fails to provide a response to the Department within thirty (30) calendar days of Program selection notice, or fails to meet the Program eligibility process described § 7904, will lose their spot on the lottery result list, and the next household on the list will be offered the slot, until all slots have been filled.
- 7903.11 Any household that submits an application for Program enrollment will receive one or more of the following notices, as applicable:
- (a) DC Flex Program: Notice of Ineligibility to Enter Lottery;

- (b) DC Flex Program Lottery Results: Conditional Offer for Enrollment;
- (c) DC Flex Program Lottery Results: Household Not Selected;
- (d) DC Flex Program: Final Offer for Enrollment;
- (e) DC Flex Program Enrollment: Unable to Verify Eligibility; and
- (f) DC Flex Program Enrollment: Notice of Termination.

7903.12 Any household that submits an application for Program enrollment, but is not enrolled as a result of the processes described in § 7903.5 – 7903.10 will receive oral and written notice via US Postal Service. Written notice shall be one or more of the notices listed in § 7903.11, as applicable, which shall include:

- (a) A clear statement of the client’s application status, eligibility status, or termination from the Program;
- (b) A clear and detailed statement of the factual basis for the action described in the notice, including the date or dates on which the basis or bases for the denial occurred;
- (c) A reference to the statute, regulation, policy, or Program Rule pursuant to which the denial is being implemented;
- (d) A clear and complete statement of the client’s right to appeal the action through fair hearing and administrative review proceedings pursuant to § 7910, or the client’s right to reconsideration pursuant to rules established by the Administrative Agent in accordance with Section 18 of the HSRA (D.C. Official Code § 4-754.32), including the appropriate deadlines for instituting the appeal or reconsideration; and
- (e) A statement of the client’s right, if any, to continuation of benefits pending the outcome of any appeal, pursuant to § 7910.3.

7903.13 Any household that submits an application for Program enrollment and successfully completes the application and eligibility verification processes described in § 7903.5 – 7903.10 and § 7904, shall receive the type of written notice from the Department listed at §7903.11(d). This notice shall include the information listed in § 7904.9.

7903.14 Any household that submits an application for Program enrollment, is enrolled in the Program, but is terminated from Program enrollment, as described in §7908.2,

shall receive the type of written notice from the Department listed at §7903.11(f). This notice shall include the information listed in §7908.3.

**7904 ELIGIBILITY VERIFICATION AND PROGRAM ENROLLMENT**

7904.1 From each household offered a Program slot, the Department shall request documentation that will enable the Department to verify eligibility for the Program. The Department will contact each household through the US Postal Service, email, telephone or other means determined by the Department.

7904.2 Documentation that the Department shall use to verify eligibility for the Program may include, but is not limited to:

- (a) Birth certificates;
- (b) District identification;
- (c) Child custody reports;
- (d) Copy of a current, valid lease agreement specifying the landlord's name and contact information, and the head of household's name;
- (e) Pay stubs for the most immediate past two (2) months prior to Program application; and
- (f) Earned Income Tax Credit filing for most immediate tax-year prior to Program application.

7904.3 In addition to documents listed in § 7904.2, the Department may use in-person interviews and third party information to verify Program eligibility.

7904.4 Each head of household offered a Program slot shall also sign and submit to the Department a release form, either personally or through an authorized representative, which authorizes the Department to obtain or verify information necessary to confirm Program eligibility.

7904.5 If further information is needed from the household to verify Program eligibility, the Department shall request additional information by telephone, email or US Postal Service. This request shall specify the information needed to complete the household's eligibility verification and the timeframe in which the additional documentation must be provided to the Department.

7904.6 The Department will notify the household once all requested documentation needed to verify eligibility has been received.

- 7904.7 If a household has not obtained and provided to the Department the requested information needed to verify eligibility for the Program within thirty (30) calendar days of the date of the Department's offer of a Program slot, the household will lose its spot on the list and a new household will be offered the subsidy, as described in Section § 7903.10.
- 7904.8 The Department shall determine the eligibility in as short a time as feasible, but not later than ten (10) business days after receipt of all requested information by the Department.
- 7904.9 If a household successfully completes the application and eligibility verification processes described in § 7903 and this section, the Department shall give to the applicant, directly or through an authorized representative, a written Notice of Enrollment in the Program, as listed in § 7903.11(d), which shall state:
- (a) That the applicant is determined eligible and is enrolled in the Program;
  - (b) That receipt of Program assistance is conditioned upon the head of household's participation in all required Program activities as may be described in the Program Rules established in accordance with section 18 of the HSRA (D.C. Official Code § 4-754.32);
  - (c) The length of time for which the Program's subsidy will be provided, per the applicant's successful compliance with the Program recertification criteria set forth in § 7906; and
  - (d) Name and contact information for the Administrative Agent that the Department will use to administer the Program.
- 7904.10 Upon a household's enrollment in the Program, the Department will facilitate the household's transition from any other District or federal government rent assistance program to ensure the household's compliance with the eligibility requirement set forth in § 7901.5.

**7905 PROGRAM ADMINISTRATION**

- 7905.1 The Department shall issue a competitive grant solicitation to select an Administrative Agent for the Program.
- 7905.2 The Department will determine what percentage of the annual allotment shall be dedicated to the Administrative Agent's allowable administrative fees, as described in § 7905.3, and the remaining total that shall be used for household financial assistance.



- 7905.3 The percentage of the annual allotment dedicated for the Administrative Agent's allowable administrative fees shall be used to pay for costs that are associated with the general operation of the Program and that cannot be attributed to any one enrolled household. These administrative fees may include:
- (a) Staff salaries and fringe benefits;
  - (b) Overhead expenses, which may include, but are not limited to, supplies and IT equipment;
  - (c) Local travel for duties associated with program administration/oversight; and
  - (d) Other expenses agreed upon by the Department and Administrative Agent, consistent with District and federal law.
- 7905.4 The Department will refer households enrolled in the Program to the Administrative Agent.
- 7905.5 The Administrative Agent shall make available at least one in-person budgeting or financial management training for enrolled households within the first three (3) months of each household's enrollment into the Program, and monitor the enrolled households' participation in this training and others, if provided. If the Administrative Agent does not administer its own such training, the Administrative Agent may secure this type of training from another entity and coordinate the enrolled household's participation in this training. The Administrative Agent shall also make financial coaching or consultation opportunities available to clients in a manner approved by the Department.
- 7905.6 The Administrative Agent shall use the available granted funds to set up an escrow account and checking account for each enrolled household. The escrow account shall be solely administered by the Administrative Agent on behalf of the head of household. The checking account shall be a joint account administered by the Administrative agent and head of household.
- 7905.7 The Administrative Agent shall assist the head of household to secure checks or a debit card linked to the checking account in the name of the head of household.
- 7905.8 The Administrative Agent will receive seven thousand two hundred dollars (\$7,200) per year for each household enrolled in the Program. A year shall be defined as a twelve (12) month cycle, with the first month of the year dependent on the household's enrollment in the program. Based on the availability of funds,

the Department reserves the right to adjust, by rule, the amount of funding provided to each enrolled household.

- 7905.9 Upon a household's enrollment into the Program, the Administrative Agent shall transfer seven thousand two hundred dollars (\$7,200), or a different amount established by rule pursuant to § 7905.8, into an escrow account it has established and will solely administer on behalf of that head of household. The Administrative Agent shall then transfer funds from the escrow account into the household's checking account each month so that funds available to the household equal the total cost for one month's rent amount, per terms of the household's lease.
- 7905.10 Each month, the head of household can access the full amount available in the checking account (if needed), or a lesser amount needed to bridge any gap between their monthly income available for rent and their actual monthly rent expenses. A head of household may choose not to use any of the available funds. Any amount not used in one month rolls over and is available for future use throughout the year.
- 7905.11 If a household meets the Program Recertification requirements described in §7906, does not owe rental arrears on their unit, and has Program funds remaining at the end of the Program year, the household may:
- (a) Apply all of the remaining funds for use in the next annual Program year cycle, or
  - (b) Withdraw up to five hundred dollars (\$500) of the remaining funds for other household expenses and apply the remaining funds for use in the next annual Program year cycle.
- 7905.12 If the household has funds remaining at the end of the Program pilot period and does not owe rental arrears on their unit, the household may determine how the funds are used. The Department will not regulate how these funds are spent or saved.
- 7905.13 Table 1 below provides an example of the process described in § 7905.9 – 7905.12.

At the beginning of the Program, Year 1, an annual total lump sum of seven thousand two hundred dollars (\$7,200) is deposited into the escrow account for Household X. The monthly rent total for Household X is \$1,600. Over the twelve (12) month year, the Administrative Agent transfers funds from the escrow account as necessary to maintain a balance of \$1,600 in the joint checking account held with Household X. Household X's monthly income fluctuates, and in some

months there is not enough money to pay the total rent amount. In the months when Household X’s available income is less than the total rent amount of \$1,600, the Household uses funds available in its checking account. At the end of Year 1, Household X has a remaining balance of four hundred dollars (\$400).

**Table 1: Year 1- Monthly Rent Amount = \$1,600**

	Savings (Escrow) Balance	Amount of Program Subsidy Transferred to Checking Account	Amount Accessible by Household via Checking Account	Amount of Program Subsidy Used by Household	Amount Paid by Household	Amount Remaining in Checking Account at End of Month
Month 1	\$7,200	\$1,600	\$1,600	\$1,000	\$600	\$600
Month 2	\$5,600	\$1,000	\$1,600	\$1,000	\$600	\$600
Month 3	\$4,600	\$1,000	\$1,600	\$500	\$1,100	\$1,100
Month 4	\$3,600	\$500	\$1,600	\$300	\$1,300	\$1,300
Month 5	\$3,100	\$300	\$1,600	\$0	\$1,600	\$1,600
Month 6	\$2,800	\$0	\$1,600	\$0	\$1,600	\$1,600
Month 7	\$2,800	\$0	\$1,600	\$600	\$1,000	\$1,000
Month 8	\$2,800	\$600	\$1,600	\$400	\$1,200	\$1,200
Month 9	\$2,200	\$400	\$1,600	\$400	\$1,200	\$1,200
Month 10	\$1,800	\$400	\$1,600	\$800	\$800	\$800
Month 11	\$1,400	\$800	\$1,600	\$1,600	\$0	\$0
Month 12	\$600	\$600	\$600	\$200	\$1,400	\$400

7905.14

Table 2 below provides a continuance of the example shown in Table 1. Household X does not owe rental arrears on their unit and decides to add the remaining four hundred dollars (\$400) from Year 1 to the total amount deposited into Household X’s escrow account for the following year, Year 2. The addition of the four hundred dollars (\$400) from Year 1 is reflected in the escrow balance of Year 2, Month 1. The Year 2 starting balance equals the seven thousand two hundred dollars (\$7,200) of the annual Program assistance, plus the four hundred dollars (\$400) carried over from Year 1.

**Table 2: Year 2- Monthly Rent Amount = \$1,600**

	Savings (Escrow) Balance	Amount of Program Subsidy Transferred to Checking Account	Amount Accessible by Household via Checking Account	Amount of Program Subsidy Used by Household	Amount Paid by Household	Amount Remaining in Checking Account at End of Month
Month 1	\$7,600*	\$1,600	\$1,600	\$400	\$1,200	\$1,200
Month 2	\$6,000	\$400	\$1,600	\$400	\$1,200	\$1,200
Month 3	\$5,600	\$400	\$1,600	\$400	\$1,200	\$1,200
Month 4	\$5,200	\$400	\$1,600	\$0	\$1,600	\$1,600
Month 5	\$4,800	\$0	\$1,600	\$0	\$1,600	\$1,600
Month 6	\$4,800	\$0	\$1,600	\$1,600	\$0	\$0
Month 7	\$4,800	\$1,600	\$1,600	\$1,600	\$0	\$0
Month 8	\$3,200	\$1,600	\$1,600	\$1,200	\$400	\$400
Month 9	\$1,600	\$1,200	\$1,600	\$600	\$1,000	\$1,000
Month 10	\$400	\$400	\$1,400	\$400	\$1,200	\$1,000
Month 11	\$0	\$0	\$1,000	\$800	\$800	\$200
Month 12	\$0	\$0	\$200	\$200	\$1,400	\$0

7905.15 With the exception of end of year funds, the only eligible payee on the account will be the landlord of the unit the household lives in. The Administrative Agent will be responsible for monitoring account activity to ensure the head of household is using checking account funds to pay the landlord on record.

7905.16 The landlord must have a business license and a Certificate of Occupancy for the household’s unit that is in good standing.

7905.17 The household’s rental unit may be subject to required inspections as part of the requirement to be legally licensed and registered in the jurisdiction. The Department may offer or require additional inspections as part of the Program.

**7906 RECERTIFICATION REQUIREMENTS**

7906.1 To remain eligible for the Program, each enrolled household shall complete a recertification process annually.

7906.2 A household shall remain eligible for the Program if the household continues to meet requirements set forth in sections § 7901.1- 7901.3 and continues to be eligible for services under the Continuum of Care.

7906.3 Additionally, the household shall meet the following to remain eligible for the Program:

- (a) Has a total annual income less than or equal to the recertification income limit, based on the United States Department of Housing and Urban

Development's Median Family Income Limits for the Washington DC Metropolitan Region, to be published by DHS not less than annually. The recertification limit shall not be less than 30% of Family Median Income, but may be higher, as allowable by local statute;

- (b) Is headed by a person that is twenty-one (21) years old or older, and who meets the following requirements:
  - i. Has physical custody of one or more minor children, and / or one or more youth that continues to reside in the household;
  - ii. Is currently employed or has recent history of employment; and
  - iii. Is the lease holder for a rental unit; and as the lease holder, is in good standing with all of the explicit obligations of their rental agreement, and is not subject to any form of sanction, suspension and disciplinary action by their landlord.
- (c) Has not accessed any other forms of emergency, temporary, or permanent government-funded rental assistance during the Program assistance period, including, but not limited to, Emergency Rental Assistance Program, Homelessness Prevention Program, Family Re-Housing and Stabilization Program assistance, or DCHA subsidies.

7906.4 The Administrative Agent shall conduct a recertification assessment of each household to confirm the household meets the Program's recertification standards.

7906.5 If a household does not meet the recertification requirements set forth in this section, the Department will provide written notice described in § 7903.11(f) to the household via email or US Postal Service, which will specify the recertification requirements the household did not meet during its recertification assessment.

## **7907 RELOCATION**

At any point during the Program, a household may choose to relocate to a new unit that better meets the household's needs. The household shall be responsible for updating the Administrative Agent and providing appropriate documentation of the new lease agreement. The Administrative shall not approve the payment of funds to a new landlord until it has received appropriate documentation of the new lease.

**7908            TERMINATION FROM PROGRAM**

- 7908.1            Termination pursuant to this section refers to a termination of Program assistance only and does not provide the Administrative Agent or the Department with any authority to interfere with a household's tenancy rights under the lease agreement as governed by Title 14 of the District of Columbia Municipal Regulations.
- 7908.2            The Administrative Agent shall adopt Program Rules to provide additional guidance on the DC Flex Program. In accordance with these Program Rules, which shall be signed by households at the time of Program enrollment, the Department or Administrative Agent may terminate Program assistance to a household when the household:
- (a) Provides false or fraudulent information to the Department or Administrative Agent to support their eligibility determination;
  - (b) Uses Program funds for any purpose other than rent payment to the landlord listed on the lease agreement provided to the Administrative Agent;
  - (c) Makes payments from their Program checking account in an amount in excess of their monthly rent amount, thereby overdrawing their account;
  - (d) Ceases to be a leaseholder on an eligible housing unit;
  - (e) Ceases to be a leaseholder in good standing; or
  - (f) Fails to meet recertification criteria, as outlined at § 7906.
- 7908.3            If a household is terminated from the Program, the Administrative Agent shall give to the household, personally or through an authorized representative, a written Notice of Termination at least 15 days before the effective date of the termination, which shall state:
- (a) The household is being terminated;
  - (b) The effective date of the termination;
  - (c) The reason or reasons for the termination, including the date or dates on which the basis or bases for the termination occurred;

- (d) The statute, regulation, or program rule under which the termination is being made;
- (e) That the household has a right to appeal the termination through a fair hearing and administrative review, including deadlines for requesting an appeal; and
- (f) That the household has a right to continuation of Program assistance pending the outcome of any fair hearing requested within fifteen (15) days of receipt of written notice of a termination, as described in § 7910.

**7909****SUMMARY OF ADMINISTRATIVE AGENT RESPONSIBILITIES**

## 7909.1

The Administrative Agent is responsible for the following:

- (a) Establishing an escrow and checking account for each household enrolled in the Program;
- (b) Delivering directly, or coordinating with another entity to offer periodic budgeting or financial literacy training to each household and monitor the household's participation in these trainings;
- (c) Monitoring each household's monthly payment activity;
- (d) Providing each household with general referrals and reminders about resources available within the community;
- (e) Reviewing the eligibility of each household to ensure that the household remains eligible per the recertification standards outlined in § 7906;
- (f) If applicable, updating the name of each household's landlord in the instance where a household moves to a new housing unit, or the landlord on a lease changes;
- (g) Assisting the Department with program evaluation activities, including reasonable data collection, providing administrative records, and making staff available for interviews;
- (h) Submitting to the Department quarterly reports, at the individual household level and aggregate level, that include information listed in § 7908.2 and §7908.3; and
- (i) Other tasks agreed upon by the Department and Administrative Agent.

- 7909.2 The Administrative Agent shall submit to the Department a formal quarterly report that may include, but is not limited to, the following for each enrolled household:
- (a) Frequency in which each household accessed the full monthly rent limit;
  - (b) Average amount of funds accessed from each household's checking account each month; and
  - (c) Participation in budget or financial planning classes.
- 7909.3 The Administrative Agent shall submit to the Department a formal quarterly report that shall include, but is not limited to, the following for the cohort of enrolled households:
- (a) Payment activity of the households for the current quarter;
  - (b) Trend analysis that shows the payment activities of the households over the previous quarter(s), where applicable;
  - (c) Average and median amounts of the Program subsidy used by the households monthly;
  - (d) Addresses of participating households and other descriptive statistics identified or requested by the Department; and
  - (e) Household attrition from the Program.
- 7909.4 The Administrative Agent shall submit reports to the Department via a method determined by the Department.

**7910 FAIR HEARING AND ADMINISTRATIVE REVIEW**

- 7910.1 An applying household or participating Program household shall have ninety (90) calendar days following the receipt of a written notice described in § 7903.11(a), (c), (e), or (f) to request a fair hearing, in accordance with the hearing provisions in Section 26 of the HSRA (D.C. Official Code § 4-754.41), for the action that is the subject of the written notice.
- 7910.2 Upon receipt of a fair hearing request, the Department shall offer the petitioner household or its authorized representative an opportunity for an administrative review in accordance with Section 27 of the HSRA (D.C. Official Code § 4-754.42), except that if an eviction is imminent, the Department shall take all



reasonable steps to provide an expedited administrative review to maximize resolution of the appeal.

- 7910.3 In accordance with Section 9(a) of the HSRA (D.C. Official Code § 4-754.11(a)(18)), any household that requests a fair hearing within fifteen (15) days of receipt of written notice of a termination pursuant to § 7908 shall have the right to the continuation of Program benefits pending a final decision from the fair hearing proceedings.

## 7911 DEFINITIONS

- 7911.1 The terms and definitions in 29 DCMR § 2599 are incorporated by reference in this chapter.

- 7911.2 For the purposes of this chapter, the following additional terms shall have the meanings ascribed:

**Administrative Agent** – an organization that receives Flexible Rent Subsidy Pilot Program funds and is authorized to administer the Program’s services.

**Authorized representative** – an individual who is at least eighteen (18) years of age, who is acting responsibly on behalf of the applicant, and has sufficient knowledge of the applicant’s circumstances to provide or obtain necessary information about the applicant, or a person who has legal authorization to act on behalf of the applicant.

**District or federal government rent assistance** – assistance paid to the tenant or the housing provider during the Program assistance period for the purpose of reducing the tenant’s rent or assisting with back rent.

**Good Standing** – rental status achieved by a household when the household has complied with all of the explicit obligations of their rental agreement, and is not subject to any form of sanction, suspension and disciplinary action.

**Median Family Income** - the periodic calculation provided by the United States Department of Housing and Urban Development, adjusted for family size without regard to any further adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers. This calculation is used to determine a household’s eligibility for the Program.

**Minor** – a child under eighteen (18) years of age.

**Youth** – a person who is under twenty-five (25) years of age.

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

**DC MAYOR'S OFFICE ON AFRICAN AFFAIRS****COMMISSION ON AFRICAN AFFAIRS****Notice of Commissioners Meeting**

The Commission of African Affairs will be holding a meeting on Wednesday, May 2, 2018 from 6pm to 8pm.

The meeting will be held at Franklin D. Reeves Center of Municipal Affairs, 2000 14<sup>th</sup> Street, NW, 6<sup>th</sup> floor, Washington, DC 20001.

The Location is closest to the U Street / African –American Civil war Memorial / Cardozo Metro station on the green and yellow line of the Metro.

All Commission meetings are open to the public.

Below is a draft agenda for this meeting. A final agenda will be posted on The Office of African Affairs website at [oaa.dc.gov](http://oaa.dc.gov).

If you have any questions about the commission or its meetings, please contact [oaa@dc.gov](mailto:oaa@dc.gov).  
Phone: (202) 727-5634

**DRAFT AGENDA**

- I. Opening – Call to Order
- II. MOAA Updates and Announcements
- III. Chair Announcements
- IV. Public Comments
- V. Adjournment (8:00pm).

**DISTRICT OF COLUMBIA  
OFFICE ON AGING**

**PUBLIC NOTICE**

**NOTICE OF FUNDING AVAILABILITY**

**Fiscal Year 2019 Wards 4 and 5 Senior Wellness Center  
Program Operations Grants**

The Government of the District of Columbia Office on Aging (DCOA) is soliciting applications from qualified applicants to operate two new District Senior Wellness Centers (SWC). SWCs promote healthy lifestyles, good nutrition, exercise, and general wellness among the District's elderly population, aged 60 and above.

A total of \$373,747 is available for funding in Ward 4 SWC and up to \$426,241 available for the Ward 5 SWC in the District of Columbia. Funding has been provided to DCOA from both Federal and District appropriated funds.

DCOA seeks applicant organizations that will bring extensive experience to operate senior wellness centers in the following ward locations.

**Ward 4** – Hattie Holmes Senior Wellness Center  
324 Kennedy Street, NW  
Washington D.C. 20011

**Ward 5** – Model Cities Senior Wellness Center  
1901 Evarts Street, NE  
Washington, D.C. 20018

The successful organization(s) will be responsible for providing services and activities designed to enhance physical, social and emotional well-being through activities that promote good health habits among the target population.

Services for this population should include:

- Wellness/Health Promotion;
- Disease Prevention;
- Medication Management; and
- Other services and information which promote healthy lifestyles for seniors.

In addition, the operator of the senior wellness center has the following responsibilities:

1. Develop and implement a needs assessment to identify the needs of the target community;
2. Work in cooperation with DCOA lead agencies to provide an evidence-based, comprehensive, integrative approach to senior health and wellness;
3. Develop and implement a structured community outreach program;
4. Network with other community-based senior service organizations, public and private agencies, universities and allied health associations to carry out an effective and efficient service delivery system;
5. Establish a Members Advisory Council to serve as advisors to help develop a coordinated service delivery system;
6. Provide opportunities for customers to engage in forums trained in achieving budget priorities and program development; and
7. Develop an Emergency Preparedness Plan for the wellness center.

Applicants responding to this Request for Application (RFA) must design services to meet the complex and ever-changing needs of the city's diverse senior population. The target population includes underserved populations including, but not limited to, English as a second language speaker, LGBTQ, low-income, isolated seniors, and adults with disabilities and caregivers. In addition, an applicant may apply for multiple grants in separate applications under this RFA.

Eligible applicants include organizations with places of business within the physical boundaries of the District of Columbia. Organizations may not include profit-making from grant funds that accrue back to the organization in the application, and income generated from grant-funded programs must be used to expand the program.

The RFA will be released on Monday, April 23, 2018, and the deadline for submission is Friday, June 1, 2018, at 2:30 PM EDT. A Pre-Application Conference will be held on Monday, May 7, 2018, 10:00 AM EDT at D.C. Office on Aging, 500 K Street, NE, Washington, DC 20002, Conference Room 114. Applications can be obtained from the D.C. Office on Aging Office and website, [www.dcoa.dc.gov](http://www.dcoa.dc.gov) and on the Office of Partnerships and Grants Development's website, [www.opgd.dc.gov](http://www.opgd.dc.gov).

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, MAY 2, 2018  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson  
Members: Nick Alberti, Mike Silverstein,  
James Short, Donald Isaac, Sr., Bobby Cato, Rema Wahabzadah,

- Show Cause Hearing (Status) 9:30 AM**  
**Case # 17-CMP-00693;** DC Irish, LLC, t/a Sign of the Whale, 1825 M Street NW, License #85120, Retailer CT, ANC 2B  
**No ABC Manager on Duty, Trade Name Change Without Board Approval, Failed to Post License Conspicuously in the Establishment**
- Show Cause Hearing (Status) 9:30 AM**  
**Case # 17-CMP-00721;** DC Irish, LLC, t/a Sign of the Whale, 1825 M Street NW, License #85120, Retailer CT, ANC 2B  
**No ABC Manager on Duty, Trade Name Change Without Board Approval**
- Show Cause Hearing (Status) 9:30 AM**  
**Case # 17-CIT-00066;** Barracks Row Entertainment, LLC, t/a Ophelia's Fish House, 501 8th Street SE, License #83029, Retailer CR, ANC 6B  
**Failed to File Quarterly Statement**
- Show Cause Hearing (Status) 9:30 AM**  
**Case # 17-251-00250;** Romyo, LLC, t/a Ambassador Restaurant, 1907 9th Street NW, License #90422, Retailer CR, ANC 1B  
**Operating after Hours, Failed to Follow Security Plan**
- Show Cause Hearing (Status) 9:30 AM**  
**Case # 17-CMP-00679;** Venus 2, Inc., t/a 9 & P St. Liquor, 1428 9th Street NW License #101095, Retailer A, ANC 2F  
**Permitted the Sale or Delivery of Alcohol to Intoxicated Person, Interfered with an Investigation, Failed to Post License Conspicuously in the Establishment**

Board's Calendar

May 2, 2018

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 17-CC-00118;** Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven & Hell, 2327 18th Street NW, License #74503, Retailer CT ANC 1C

**Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age, Failed to Follow Security Plan**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 17-CIT-00044;** Betty's Gojo Restaurant and Lounge, LLC, t/a Betty's Gojo, 7616 Georgia Ave NW, License #102500, Retailer CR, ANC 4A

**Failed to File Quarterly Statement**

**Show Cause Hearing (Status)**

**9:30 AM**

**Case # 17-CC-00144;** YDK, Inc., t/a Guilford Liquor, 446 Rhode Island Ave NW, License #76393, Retailer A, ANC 6E

**Sale to Minor Violation**

**Fact Finding Hearing\***

**10:00 AM**

**Case # 18-CMP-00073;** Historic Restaurants, Inc., t/a Old Engine 12, 1626 North Capitol Street NW, License #92685, Retailer CT, ANC 5E

**Sick Person to the Hospital**

**Fact Finding Hearing\***

**11:00 AM**

**Case # 17-251-00136;** Brixton Pub, LLC, t/a The Brixton, 901 U Street NW License #82871, Retailer CT, ANC 1B

**Person Injured Outside of the Establishment**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA**

**1:00 PM**

**Fact Finding Hearing\***

**1:30 PM**

**Dancing Crab, LLC, t/a Dancing Crab; 4615 41st Street NW, License #90297 Retailer CR, ANC 3E**

**Request to Extend Safekeeping**

**Show Cause Hearing\***

**2:00 PM**

**Case # 17-CMP-00635;** Biergarten Haus, Inc., t/a Biergarten Haus, 1355 H Street NE, License #83695, Retailer CT, ANC 6A

**Failed to Take Steps Necessary to Ensure Property is Free of Litter**

Board's Calendar

May 2, 2018

**Fact Finding Hearing\***

**3:00 PM**

**Case # 18-251-00036;** Yfe, Inc., t/a 18th Street Lounge, 1212 18th Street NW

License #21211, Retailer CT, ANC 2B

**Assault with a Dangerous Weapon**

**Protest Hearing\***

**4:30 PM**

**Case # 17-PRO-00064;** Albo Corp, t/a Eleven Market, 1936 11th Street NW

License #60236, Retailer B, ANC 1B

**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, MAY 2, 2018 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review Application for Safekeeping of License – Original Request. ANC 2C. SMD 2C01. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No Settlement Agreement. **10 Tavern & Grill**, 707 G Street NW, Retailer CR, License No. 104739.

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2. Review Site Plan Submission. ANC 6D. SMD 6D07. **Dacha Beer Garden**, 79 Potomac Avenue SE, Retailer CT, License No. 106040.

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3. Review Application for Sidewalk Café with seating for 24 patrons. **Proposed Hours of Operation:** Sunday-Thursday 6am to 2am, Friday-Saturday 6am to 3am. **Alcoholic Beverage Sales and Consumption for Sidewalk Café:** Sunday-Thursday 10am to 2am, Friday-Saturday 10am to 3am. ANC 4C. SMD 4C03. No outstanding fines/citations. No outstanding violations. No pending enforcement matters. No conflict with Settlement Agreement. **Catrachitos Restaurant**, 4608 14<sup>th</sup> Street NW, Retailer CR, License No. 095465.

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**\*In accordance with D.C. Official Code §2-547(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.**

**APPLETREE EARLY LEARNING PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****School Playground and Surface SY18**

AppleTree Early Learning PCS is seeking an organization to provide installation of new playground surface and playground equipment at one of its locations. Please contact Dwight Crawford, Chief Operating Officer, for details on the RFPs. The deadline for responding to the RFPs is May 11, 2018 at 5pm. Contact Dwight Crawford, Chief Operating Officer, 1801 Mississippi Avenue SE, Washington, DC 20020, or e-mail him at [Dwight.crawford@appletreeinstitute.org](mailto:Dwight.crawford@appletreeinstitute.org).

**DC MAYOR'S OFFICE ON ASIAN AND PACIFIC ISLANDER AFFAIRS****DC MAYOR'S COMMISSION ON ASIAN AND  
PACIFIC ISLANDER AFFAIRS****NOTICE OF REGULAR MEETING**

The DC Mayor's Commission on Asian and Pacific Islander Affairs will be holding its regular meeting on April 18, 2018 at 6:30 pm.

The meeting will be held at the MOAPIA office at One Judiciary Square, 441 4<sup>th</sup> Street NW, Suite 721N, Washington, DC 20001. The location is closest to the Judiciary Square metro station on the red line of the Metro. All commission meetings are open to the public. If you have any questions about the commission or its meetings, please contact [oapia@dc.gov](mailto:oapia@dc.gov).

The DC Commission on Asian and Pacific Islander Affairs convenes meetings to discuss current issues affecting the DC Asian American and Pacific Islander (AAPI) community.

**MEETING AGENDA****DC Commission on Asian and Pacific Islander Affairs Monthly Meeting  
Wednesday, April 18, 2018 from 6:30 – 7:30 pm****Meeting Location: 441 4<sup>th</sup> St NW, Room 721 North Washington, DC**

Call to Order

Introduction of Commissioners

Quorum

Approval of Agenda

Approval of March 2018 Meeting Minutes

**Brief Community Announcements and Presentations**

1. Ben De Guzman, Mayor's Office of Lesbian, Gay, Bisexual, Transgender and Questioning Affairs: [Ben.Deguzman@dc.gov](mailto:Ben.Deguzman@dc.gov) or 202.727.9493

**Executive Reports and Business Items**

1. Director's Report presented by MOAPIA Director David Do
2. Staff Report and Chinatown Park by Phuong Nguyen, MOAPIA.
3. Ideas for new events or projects that the Commission would like MOAPIA to consider (All)

**State of Chinatown**

1. Pat Handy Center, Women's Shelter, 810 5th Street
2. Judiciary House, Elderly and Disabled Retirement Home, 461 H St NW
3. Department of Youth Rehabilitation Services, 450 H Street NW
4. Yard House, 812 7th St NW (formerly Goethe Institut)
5. Boqueria, 777 9th St NW (formerly Oya)
6. Taco Bamba, 777 I St NW (formerly Del Campo)

**Meeting Adjournment**

Next Meeting:

Wednesday, May 16, 2018 at 6:30pm

441 4<sup>th</sup> Street NW, Room 721 North

Washington, DC 20001

Questions:

John Tinpe Chairman, [John.Tinpe@dcbc.dc.gov](mailto:John.Tinpe@dcbc.dc.gov)Ben Takai, Vice Chair & Secretary, [BenTakai@dcbc.dc.gov](mailto:BenTakai@dcbc.dc.gov)

## DEPARTMENT OF BEHAVIORAL HEALTH

## NOTICE OF PUBLIC MEETING

Members of the Coordinating Council on School Mental Health will meet on Wednesday, May 9, 2018 9:30 am – 11:30 am. The meeting will be held at the DC Department of Behavioral Health, 64 New York Avenue NE, Room 284, Washington, DC 20002. Below is the agenda for this meeting. Information about the Coordinating Council can also be found on the Department of Behavioral Health website at <https://dbh.dc.gov> . Please RSVP to Charneta C. Scott, [charneta.scott@dc.gov](mailto:charneta.scott@dc.gov) and for additional information call (202) 654-6175 or e-mail [charneta.scott@dc.gov](mailto:charneta.scott@dc.gov).

## AGENDA

1. Welcome and Introductions
2. Review Agenda
3. Presentations
4. Discussion
5. Next Steps
6. Adjourn

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

**SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS**

**May 2018**

<b>CONTACT PERSON</b>	<b>BOARDS AND COMMISSIONS</b>	<b>DATE</b>	<b>TIME/ LOCATION</b>
Grace Yeboah Ofori	Board of Accountancy	4	8:30 am-12:00pm
Patrice Richardson	Board of Appraisers	16	8:30 am-4:00 pm
Patrice Richardson	Board Architects and Interior Designers	RECESS	8:30 am-1:00 pm
Andrew Jackson	Board of Barber and Cosmetology	7	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	17	7:00-pm-8:30 pm
Brittani Strozier	Board of Funeral Directors	3	12:00pm-4:00 pm
Avis Pearson	Board of Professional Engineering	RECESS	9:00 am-1:30 pm
Patrice Richardson	Real Estate Commission	8	8:30 am-1:00 pm
Jennifer Champagne	Board of Industrial Trades	15	1:00pm-3:30 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

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

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

**NOTICE OF PUBLIC MEETING**

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

**MEETING AGENDA**

**May 16, 2018  
10:00 AM**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, December 16, 2015
7. Executive Session (Closed to the Public) pursuant to the authority of D.C. Official Code Section 2-575(b)(4)(A) to seek the advice of counsel, D.C. Official Code Section 2-575(b)(9) to discuss disciplinary matters, and D.C. Official Code Section 2-775(b)(13) to deliberate upon a decision in an adjudication action or proceeding)
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – June 20, 2018 at 10:00 a.m.

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

**NOTICE OF PUBLIC MEETING**

**DC Board of Accountancy  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**Friday, May 4, 2018  
9:00 AM**

1. Call to Order – 9:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Accept Meeting Minutes,
7. Executive Session - Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session to receive advice from counsel, review application(s) for licensure and discuss disciplinary matters.
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – June 1, 2018 - Recess



DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OCCUPATIONAL AND PROFESSIONAL LICENSING DIVISION

NOTICE OF PUBLIC MEETING

District of Columbia - Board of Barber and Cosmetology  
1100 4<sup>th</sup> Street SW, Room E-300, Washington DC 20024  
*Monday, May 7, 2018*

1. **AGENDA CALL to ORDER-** *10:00 a.m. (Public Session)*
2. **ATTENDANCE**
3. **COMMENTS** from the Public
4. **DRAFT MINUTES** – *March 5, 2018*
5. **CORRESPONDENCE**
  - A. TheCut, Inc. Presentation – Obi Omile
6. **OLD BUSINESS**
  - A. Owner vs. Manager License Discussion Continued
  - B. Budget Autonomy/Budget Review
  - C. Barber and Cosmetology Board Member Practical Review – Date for review
  - D. 12<sup>th</sup> Annual Barber and Cosmetology Practitioners Forum
    - a. Award Recipients – Bios and Photos
    - b. Postcard Notice – Email distribution & Mail-out date
    - c. Updates
7. **NEW BUSINESS**
  - A. Establish Examination Committee
  - B. Micropigmentation Board Member Examination Review
  - C. Instructor Requirements and Clarification
  - D. The 7<sup>th</sup> International Conference on Cosmetology & Aesthetic Practices – July 13<sup>th</sup>-14<sup>th</sup> Toronto, CA
  - E. License Renewals
8. **BOARD COMMITTEES**
  - A. FY18 Committees
9. **EXECUTIVE SESSION - (CLOSED TO PUBLIC)**

Pursuant to § 2-575(4) (a), (9) and (13) the Board will enter executive session to receive advice from counsel, review application(s) for licensure and discuss disciplinary matters.
10. **FINAL RECOMMENDATIONS/ACTIONS**
11. **ADJOURN**

Next Scheduled Regular Meeting is **Monday June 4, 2018 at 10am.**  
1100 4<sup>th</sup> Street, SW, Room 300B, Washington, DC 20024

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

**NOTICE OF PUBLIC MEETING**

**D.C. Board of Funeral Directors  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**Thursday, May 03, 2018  
1:00 PM.**

1. Call to Order – 1:00 p.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Minutes, April 5, 2018
6. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) (13) (14) to discuss complaints/legal matters, applications and legal counsel report.
  - A. Applications
  - B. Complaints/Investigation
7. Old Business
8. New Business
9. Adjourn
10. Next Scheduled Board Meeting –June 7, 2018 at 1:00 p.m.

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

**NOTICE OF PUBLIC MEETING**

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

**AGENDA  
May 15, 2018**

1. Call to Order – 1:00 p.m.
2. Minutes - Draft, April 17, 2018
3. Comments from the Public
4. Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code §2-575(b)(4)(A); D.C. Official Code 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
5. Recommendations
6. Old Business
7. New Business
8. Adjourn

Next Scheduled Regular Board Meeting, June 19, 2018  
1100 4<sup>th</sup> Street, SW, Room 300B, Washington, DC 20024

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

**NOTICE OF PUBLIC MEETING**

**D.C. Boxing and Wrestling Commission  
1100 4<sup>th</sup> Street SW, Room E200  
Washington, DC 20024**

**MEETING AGENDA**

**May 17, 2018  
7:00 PM.**

1. Motion - Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications and legal counsel report.
2. Call to Order – 7:00 p.m.
3. Members Present
4. Staff Present
5. Comments from the Public
6. Review of Correspondence
7. Approval of Minutes
8. Old Business
9. New Business
10. Adjourn
11. Next Scheduled Board Meeting – June 21, 2018 at 7:00 p.m.

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

**NOTICE OF PUBLIC MEETING**

**Real Estate Commission  
1100 4<sup>th</sup> Street SW, Room E300  
Washington, DC 20024**

**MEETING AGENDA**

**May 8, 2018  
9:30 AM**

1. Call to Order – 10:00 a.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Review of Correspondence
6. Draft Minutes, March 13, 2018
7. Executive Session (Closed to the Public) pursuant to the authority of D.C. Official Code Section 2-575(b)(4)(A) to seek the advice of counsel, D.C. Official Code Section 2-575(b)(9) to discuss disciplinary matters, and D.C. Official Code Section 2-775(b)(13) to deliberate upon a decision in an adjudication action or proceeding
  - A. Legal Committee Recommendations
  - B. Review – Applications for Licensure
8. Old Business
9. New Business
10. Adjourn

Next Scheduled Board Meeting – June 12, 2018 at 10:00 a.m.

**CREATIVE MINDS INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****General Building Contractor**

Creative Minds International Public Charter School (CMIPCS) is soliciting proposals from qualified general building contracting vendors for several small-scale facilities repairs and projects at their AFRH Campus. Repairs/projects will take place during summer recess of 2018. To attend the scheduled walkthrough and obtain copies of the full RFP please contact James Lafferty-Furphy at [james.lafferty-furphy@creativemindspcs.org](mailto:james.lafferty-furphy@creativemindspcs.org). The full RFP contains guidelines for submission by 5pm, May 7th, applicable qualifications and deadlines.

Contact person:  
James Lafferty-Furphy  
Director of Operations & Compliance  
202-588-0370 x112

**DC SCHOLARS PUBLIC CHARTER SCHOOL*****REVISED* NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT****Interim Head of School**

DC Scholars Public Charter School intends to enter into a sole source contract with Nicole Bryan for contracted school leadership and management of principals for approximately \$175,000 in school year 2018-19. In addition to management of DC Scholars Elementary and Middle School principals, Nicole Bryan will oversee school-wide culture strategies, academic curriculum and vertical alignment between Elementary and Middle School instruction and culture. The decision to sole source is due to the fact that DC Scholars Public Charter School previously partnered with Nicole Bryan for school leadership development services in school year 2017-18 through its charter management organization DC Scholars Community Schools. It would be most effective to continue and increase school leadership development services through Nicole Bryan in SY 2018-19. Nicole Bryan has a proven history in supervising, coaching, and empowering school leaders to appropriately plan for school priorities as well as action plan from student and staff data.

The Sole Source Contract will be awarded at the close of business on May 7, 2018. If you have questions or concerns regarding this notice, contact **Emily Stone** at [202-559-6138](tel:202-559-6138) or [estone@dcscholars.org](mailto:estone@dcscholars.org) no later than **4:00 pm on May 7, 2018**.

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION****NOTICE OF FUNDING AVAILABILITY****Scholarships for Opportunity and Results (SOAR) Act Grants****Request for Applications Release Date: May 11, 2018 at 4:30pm**

The Office of the State Superintendent of Education (OSSE) will issue Requests for Applications (RFAs) for Scholarships for Opportunity and Results (SOAR) Act grant funds. SOAR Act funds are available to District of Columbia (DC) charter local education agencies (LEAs) and third-party non-profit charter support organizations. The purpose of the funds is to increase the achievement and academic growth of DC public charter school students and to support the improvement and expansion of high-quality public charter schools. This notice provides information regarding two competitive opportunities.

At least \$6,000,000 is available through the following competitive funding opportunities:

**Grants to Non-Profit Third-Party Charter Support Organizations (Charter Support Grants)**

Eligible applicants are non-profit third-party charter school support organizations that have a demonstrated history of success working with DC charter schools on similar projects. Applicants must use funds to support projects designed to have a direct and rapid impact on academic achievement and outcomes for charter school students overall or on the achievement of historically underperforming subgroups. Applicants are required to submit a letter of recommendation from a DC charter school with direct experience working with the organization as well as a complete list of all schools and districts to which the organization has provided similar services. \$2,000,000 will be awarded.

**Facilities Grants**

Eligible applicants are high-quality DC public charter schools. Applicants must use funds to support the renovation of former District of Columbia Public School (or other District-owned) facilities leased from the District or facilities owned by charter schools. Eligible applicants must provide documentation of site control. \$4,000,000 will be awarded.

Determinations regarding the number of competitive grant awards will be based on the quality and number of applications received and available funding. Successful applicants may be awarded amounts less than requested.

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



To receive more information on these grants, please contact:

Ronda Kardash  
Office of the State Superintendent of Education  
1050 First Street, NE, Fifth Floor, Washington, D.C. 20002  
Email: [Ronda.Kardash@dc.gov](mailto:Ronda.Kardash@dc.gov)

The RFA for these competitive grant programs will be available on OSSE's website at [www.osse.dc.gov](http://www.osse.dc.gov). All applications will be submitted through the Enterprise Grants Management System (EGMS) at [grants.osse.dc.gov](http://grants.osse.dc.gov).

**BOARD OF ELECTIONS****CERTIFICATION OF ANC/SMD VACANCY**

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

**VACANT: 7F07**

Petition Circulation Period: Monday, April 30, 2018 thru Monday, May 21, 2018

Petition Challenge Period: Thursday, May 24, 2018 thru Thursday, May 31, 2018

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

**D.C. Board of Elections  
1015 Half Street, SE, Suite 750  
Washington, DC 20003**

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

**DEPARTMENT OF ENERGY AND ENVIRONMENT****NOTICE OF FILING OF A  
VOLUNTARY CLEANUP ACTION PLAN**

**5119-5131 Nannie Helen Burroughs Ave. NE and 612 Division Ave. NE  
Case No. VCP2017-054**

Pursuant to § 636.01(a) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code §§ 8-631 et seq., as amended April 8, 2011, DC Law 18-369 (herein referred to as the “Act”)), the Voluntary Cleanup Program in the Department of Energy and Environment (DOEE), Land Remediation and Development Branch, is informing the public that it has received a Voluntary Cleanup Action Plan (VCAP) to perform a remediation action. The applicant for real property located at 5119 – 5131 Nannie Helen Burroughs Ave NE and 612 Division Ave NE is Nannie Helen Owners LLC, c/o NHP Foundation, 1090 Vermont Ave. NW, Washington, DC 20005. The VCAP identifies the presence of Volatile Organic Compounds (VOC) in soil and groundwater. The applicant intends to redevelop the property into a six-story multi-use building.

Pursuant to § 636.01(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC-7C) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program  
Department of Energy and Environment (DOEE)  
1200 First Street, NE, 5<sup>th</sup> Floor  
Washington, DC 20002

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

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

Please refer to Case No. VCP2017-054 in any correspondence related to this application.

**DEPARTMENT OF ENERGY AND ENVIRONMENT****PUBLIC NOTICE**

Notice is hereby given that, pursuant to 20 DCMR §210, the Air Quality Division (AQD) of the Department of Energy and Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue two air quality permits (Nos. 6358-R1 and 7208) to Imperial Auto Body of DC to operate two automotive paint spray booths at the facility located at 6420 Chillum Place NW, Washington DC 20012. The contact person for the facility is Mr. Joseph Chamoun, President, at (202) 882-4171

**Emissions Estimate:**

AQD estimates that the potential to emit volatile organic compounds (VOC) from each of the automotive paint spray booth will not exceed 3.12 tons per year. This totals a maximum facility-wide potential to emit of 6.24 tons per year of VOCs.

**The proposed emission limits are as follows:**

- a. No chemical strippers containing methylene chloride (MeCl) shall be used for paint stripping at the facility. [20 DCMR 201.1]
- b. The Permittee shall not use or apply to a motor vehicle, mobile equipment, or associated parts and components, an automotive coating with a VOC regulatory content calculated in accordance with the methods specified in this permit that exceeds the VOC content requirements of Table I below. [20 DCMR 718.3]

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

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

Coating Category	VOC Regulatory Limit As Applied*	
	(Pounds per gallon)	(Grams per liter)
Uniform finish coating	4.5	540

\*VOC regulatory limit as applied = weight of VOC per volume of coating (prepared to manufacturer’s recommended maximum VOC content, minus water and non-VOC solvents)

- c. Each cleaning solvent present at the facility shall not exceed a VOC content of twenty-five (25) grams per liter (twenty-one one-hundredths (0.21) pound per gallon), calculated in accordance with the methods specified in this permit, except for [20 DCMR 718.4]:
  - 1. Cleaning solvent used as bug and tar remover if the VOC content of the cleaning solvent does not exceed three hundred fifty (350) grams per liter (two and nine-tenths (2.9) pounds per gallon), where usage of cleaning solvent used as bug and tar remover is limited as follows:
    - A. Twenty (20) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with four hundred (400) gallons or more of coating usage during the preceding twelve (12) calendar months;
    - B. Fifteen (15) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with one hundred fifty (150) gallons or more of coating usage during the preceding twelve (12) calendar months; or
    - C. Ten (10) gallons in any consecutive twelve-month (12) period for an automotive refinishing facility and operations with less than one hundred fifty (150) gallons of coating usage during the preceding twelve (12) calendar months;
  - 2. Cleaning solvents used to clean plastic parts just prior to coating or VOC-containing materials for the removal of wax and grease provided that non-aerosol, hand-held spray bottles are used with a maximum cleaning solvent VOC content of seven hundred eighty (780) grams per liter and the total volume of the cleaning solvent does not exceed twenty (20) gallons per consecutive twelve-month (12) period per automotive refinishing facility;
  - 3. Aerosol cleaning solvents if one hundred sixty (160) ounces or less are used per day per automotive refinishing facility; or
  - 4. Cleaning solvent with a VOC content no greater than three hundred fifty (350) grams per liter may be used at a volume equal to two-and-one-half percent (2.5%) of the preceding calendar year’s annual coating usage up to a maximum of fifteen (15) gallons per calendar year of cleaning solvent.
- d. The Permittee may not possess either of the following [20 DCMR 718.9]:
  - 1. An automotive coating that is not in compliance with Condition (b) (relating to coating VOC content limits); and

2. A cleaning solvent that does not meet the requirements of Condition (c) (relating to cleaning solvent VOC content limits).
- e. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited [20 DCMR 903.1]
- f. Visible emissions shall not be emitted into the outdoor atmosphere from the paint booths. [20 DCMR 201.1, 20 DCMR 606, and 20 DCMR 903.1]

The permit application and supporting documentation, along with the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permit and any request for a public hearing should be addressed to:

Stephen S. Ours, P.E.  
Chief, Permitting Branch  
Air Quality Division  
Department of Energy and Environment  
1200 First Street NE, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No comments or hearing requests submitted after May 28, 2018 will be accepted.**

For more information, please contact Stephen S. Ours at (202) 535-1747.

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

Friendship Public Charter School is seeking bids from prospective candidates to provide:

- Event support services to included but not limited to event space, catering, promotional items, décor, & furniture rental.
- Classroom instructional materials and supplies

The full scope of work will be posted in a competitive Request for Proposal that can be found on FPCS website at <http://www.friendshipschools.org/procurement/>. Proposals are due no later than 4:00 P.M., EST, **Tuesday, May 15th, 2018**. No proposals will be accepted after the deadline. Questions can be addressed to [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org)

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

Friendship Public Charter School is seeking bids from prospective candidates to provide:

General Contractor/Construction Company services to build an early childhood- Pre-K through 3<sup>rd</sup> grade multi-level, approximately 32,000 square foot facility at Friendship Public Charter School- Southeast Elementary site in ward 8- Anacostia DC. Friendship has engaged an Architect to develop construction documents and specifications to meet the programmatic needs. The selected contractors will be required to construct the approved designs no later than August 1, 2019 in time for the 2019/2020 school year.

The full scope of work will be posted in a competitive Request for Proposal that can be found on FPCS website at <http://www.friendshipschools.org/procurement/>. Proposals are due no later than 4:00 P.M., EST, **Tuesday, May 15th, 2018**. No proposals will be accepted after the deadline. Questions can be addressed to [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org)



**DEPARTMENT OF HEALTH CARE FINANCE  
NOTICE OF PUBLIC MEETING**

**Department of Health Care Finance Pharmacy and Therapeutics Committee**

The Department of Health Care Finance (DHCF) Pharmacy and Therapeutics Committee (P&T Committee), pursuant to the requirements of Mayor's Order 2007-46, dated January 23, 2007, hereby announces a public meeting of the P&T Committee to obtain input on the review and maintenance of a Preferred Drug List (PDL) for the District of Columbia. The meeting will be held **Thursday, June 7, 2018, at 2:30 PM** on the **10<sup>th</sup> Floor** in **Room 1028 Main Street (10<sup>th</sup> Floor Conference Room)** at **441 Fourth Street NW, Washington, DC 20001**. Please note that government issued ID is needed to access the building. Use the South Lobby elevators to access the 10<sup>th</sup> floor.

The P&T Committee will receive public comments from interested individuals on issues relating to the topics or class reviews to be discussed at this meeting. The clinical drug class review for this meeting will include:

Acne Agents, Topical	Ophthalmic Antibiotic-Steroid Combinations
Analgesics, Narcotics Long Acting & Tramadol Like agents	Ophthalmics For Allergic Conjunctivitis
Antibiotics, Inhaled	Ophthalmics, Anti-Inflammatories
Antihistamines, Minimally Sedating	Ophthalmics, Glaucoma Agents
Antimigraine Agents	Opiate Dependence Treatments
Bronchodilators, Beta Agonists	Otic Antibiotics
COPD Agents	PAH Agents, Oral And Inhaled
Epinephrine, Self-Injected	Skeletal Muscle Relaxants
Glucocorticoids, Inhaled	Smoking Cessation
Intranasal Rhinitis Agents	Steroids, Topical High
Leukotriene Modifiers	Steroids, Topical Low
NSAIDs	Steroids, Topical Medium
Ophthalmic Antibiotics	Steroids, Topical Very High
	Stimulants and Related Agents

Any person or organizations who wish to make a presentation to the DHCF P&T Committee should furnish his or her name, address, telephone number, and name of organization represented by calling (202) 442-9076 **no later than 4:45pm on Thursday, May 31, 2018**. The person or organization may also submit the aforementioned information via e-mail to Charlene Fairfax ([charlene.fairfax@dc.gov](mailto:charlene.fairfax@dc.gov)).

An individual wishing to make an oral presentation to the Committee will be limited to three (3) minutes. A person wishing to provide written information should supply twenty (20) copies of the written information to the Committee **no later than 4:45pm on May 31, 2018**. **Handouts are limited to no more than two standard 8-1/2 by 11 inch pages of "bulleted" points (or one page front and back)**. The ready-to-disseminate, written information can also be mailed to the following address **to arrive no later than May 31, 2018**.

Department of Health Care Finance  
Attention: Charlene Fairfax, RPh, CDE  
441 4<sup>th</sup> Street NW, Suite 900 South  
Washington, DC 20001

**DEPARTMENT OF HEALTH**  
**HEALTH REGULATION LICENSING ADMINISTRATION**  
**NOTICE OF MEETING**

Board of Chiropractic

May 08, 2018

On May 08, 2018 at 1:30 pm, the Board of Chiropractic will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed at 2:30 pm to consult with the attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements pursuant to 2-575(b)(4)(a); Preparation, administration, or grading of scholastic, licensing, or qualifying examinations pursuant to section 2-575(b)(6); To discuss disciplinary matters pursuant section 2-575(b)(9); To plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of the law or regulations, if disclosure to the public would harm the investigation pursuant to section 2-575(b)(14).

The meeting will be open to the public at 1:30 pm to discuss various agenda items and any comments and/or concerns from the public. After which the Board will reconvene in closed session to continue its deliberations at 2:30 pm.

The meeting location is 899 North Capitol Street NE, 2nd Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Chiropractic website [www.doh.dc.gov/boc](http://www.doh.dc.gov/boc) and select BOC Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board of Chiropractic – Frank Meyers, JD - (202) 724-8755.

**DEPARTMENT OF HEALTH**  
**HEALTH PROFESSIONAL LICENSING ADMINISTRATION**

**NOTICE OF MEETING**

Board of Medicine  
April 25, 2018

On APRIL 25, 2018 at 8:30 am, the Board of Medicine will hold a meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

The meeting will be open to the public from 8:30 am to 10:30 am to discuss various agenda items and any comments and/or concerns from the public.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will then move to Closed Session from 10:30 am until 4:45 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting location is 899 North Capitol Street NE, 2<sup>nd</sup> Floor, Washington, DC 20002.

Meeting times and/or locations are subject to change – please visit the Board of Medicine website [www.doh.dc.gov/bomed](http://www.doh.dc.gov/bomed) and select BoMed Calendars and Agendas to view the agenda and any changes that may have occurred.

Executive Director for the Board – Frank B. Meyers, JD

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF HUMAN SERVICES  
FAMILY SERVICES ADMINISTRATION (FSA)**

**NOTICE OF FUNDING AVAILABILITY (NOFA): JA-FSA-DS-001-18**

**FY2018 DAYTIME SERVICES FOR INDIVIDUALS EXPERIENCING  
HOMELESSNESS**

**Program Description**

The District of Columbia (District) Department of Human Services (DHS) Family Services Administration (FSA), hereinafter referred to as the “DHS/FSA” seeks eligible entities to operate permanent year-round daytime services including general operations and supportive services for unaccompanied adults experiencing homelessness (“Day Services”).

**Purpose/Description of the Project**

This Notice of Funding Availability seeks to identify potential applicants that can provide Day Services for at least 100 and up to 400 individuals, who are currently experiencing homelessness, per day during daytime hours. The Day Services provided by the applicant should primarily be focused on meaningfully engaging these individuals through creation of a dignified and safe environment, facilitation of a coordinated entry into the homeless services continuum, connecting people to supportive services through case management, and ensuring accessibility to peer-led, professionally-supported, therapeutic programming.

**Eligibility**

Non-profit community organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations, faith-based organizations, such as churches, synagogues, mosques, or religiously based social service affiliates of such organizations, and private enterprises located in the District that have demonstrated experience working with individuals receiving public benefits and people experiencing homelessness are encouraged to apply. Applications are also encouraged from collaborating community-based and faith-based organizations.

In addition to having the appropriate staff qualifications and experience performing services similar in size and scope to the requirements of this grant, eligible grantees must also demonstrate their intent and ability to:

- Expand daytime services, beyond what is currently offered, to serve more clients than are currently served by existing daytime service providers and into accessible business districts in underserved areas of the District, particularly Downtown (i.e. north of the National Mall and south of Massachusetts Avenue NW);<sup>1</sup>
- Provide the required services and deliverables while delivering high-value services to clients;
- Offer services at scale while maintaining safety, security, and neighborhood integration;
- Leverage non-governmental assets and coordinate with other organizations in the homeless services Continuum of Care; and
- Measure and achieve desired performance outcomes on behalf of clients served.

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<sup>1</sup> In other words, this grant cannot be used to fund existing daytime service programs in the District, unless those programs intend to expand their client caseloads and expand their geographic presence into the underserved areas targeted by this grant.

**Review Factors**

All applications will be objectively reviewed by an independent panel of reviewers and scored against the criteria specified in the Request for Applications (RFA).

**Length of Grant Award and Available Funding**

Grantee(s) will be awarded funding based on the capacity to meet the requirements of the program. The award period for the grant will be from September 1, 2018 through August 31, 2019. The amount available for the project is up to \$2,000,000 for one base year with four option years, subject to funding availability.

**RFA Release**

The RFA will be released on **May 4, 2018**. A copy of the RFA may be obtained by the following means:

**Download** from the Office of Partnerships and Grant Services website under the District Grants Clearinghouse (<http://opgs.dc.gov/page/opgs-district-grants-clearinghouse>).

**Email** a request to [carter.hewgley2@dc.gov](mailto:carter.hewgley2@dc.gov) with "Request copy of RFA #JA-FSA-DS-001-18" in the subject line.

**Pick up a copy in person** from the Department's reception desk, located at 64 New York Ave., 6<sup>th</sup> Fl., Washington, DC 20002. To make an appointment, call Carter Hewgley at 202-442-5924 and mention this RFA by name.

**Write** DHS at 64 New York Ave., 6th Fl., Washington, DC 20002, "Attn: Carter Hewgley RE: RFA #JA-FSA-DS-001-18" on the outside of the envelope.

**Deadline for Applications**

**The deadline for application submissions is June 4, 2018 at 4:00 PM.** Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to [carter.hewgley2@dc.gov](mailto:carter.hewgley2@dc.gov). Late or incomplete applications will not be forwarded to the review panel.

For additional information, write to: Carter Hewgley at [carter.hewgley2@dc.gov](mailto:carter.hewgley2@dc.gov).

**KIPP DC PUBLIC CHARTER SCHOOLS****REQUEST FOR PROPOSALS****Classroom & Hallway Painting**

KIPP DC is soliciting proposals from qualified vendors for Classroom & Hallway Painting. The RFP can be found on KIPP DC's website at <http://www.kippdc.org/procurement>. Proposals should be uploaded to the website no later than 5:00 P.M., EST, on May 14, 2018. Questions can be addressed to [denocencia.wade@kippdc.org](mailto:denocencia.wade@kippdc.org).

## DISTRICT OF COLUMBIA OFFICE OF PUBLIC-PRIVATE PARTNERSHIPS

## NOTICE OF STREETLIGHT ADVISORY PANEL

Call for Volunteers

The District of Columbia and Mayor Muriel Bowser hereby give notice of their intent to establish a Streetlight Advisory Panel (“SAP”) to provide feedback on the District’s Smart Lighting Project (“Project”), which is a joint effort of the Office of Public-Private Partnerships (“DC OP3”), the District Department of Transportation (“DDOT”) and the Office of the Chief Technology Officer (“OCTO”).

The Project is proposed to modernize the District’s more than 75,000 streetlights by converting them to LED technology with remote monitoring and control capabilities and deploy Smart City technology, including expansion of the District broadband Wi-Fi network and a platform for future uses and applications. It is also anticipated that the selected developer will obtain private financing for the Project and operate and maintain the existing and improved lighting systems under a long-term, performance-based contract. For those interested in learning more about the Project, please visit <http://op3.dc.gov/streetlights>.

The purpose of the SAP, which shall be a committee appointed by the Mayor, is to receive periodic updates during the procurement, design, construction and operations phases of the Project and to provide critical feedback that will improve the overall quality of the Project. Those interested in joining the SAP, should send an email to [StreetlightP3@dc.gov](mailto:StreetlightP3@dc.gov) that includes their name, address, phone number, email address, and a brief explanation of why they would like to join the SAP and which of the subject matters listed below in which they possess expertise.

The District expects the SAP to have approximately least 20 members, with experience in the following areas:

- Community Representatives (min. 8 ppl.)
- Streetlight Task Force Member (min. 1)
- Environmental (min. 1)
- Historic Preservation and Design (min. 1)
- Lighting Technology and Engineering (min. 1)
- Public Health (min. 1)
- Public Safety (min. 1)
- Smart City (min. 1)
- Economic Development (min. 1)
- Traffic Safety (min. 1)

The deadline for submitting an expression of interest in joining the SAP is **Monday, May 14, 2018**. The District will announce the composition of the SAP in May with the first meeting being held in June.

## DISTRICT DEPARTMENT OF TRANSPORTATION

## MEETING NOTICE

Major Crash Review Task Force

The Major Crash Review Task Force will be hold a meeting on Monday, April 30, 2018 from 3:00 pm to 5:30 pm. The meeting will take place at 441 4th St. NW, Washington, DC 2001, in room 1117 on the 11<sup>th</sup> floor. The location is nearest to the Judiciary Square Metro station on the red line of the Metro. The initial and concluding portions of the meeting are open to the public. Due to the sensitive nature of personal information discussed during the detailed review of major crashes, the crash review portion of the meeting is not open to the public. The draft agenda for the meeting is available below. If you have any questions about the task force or its meetings, please contact [vision.zero@dc.gov](mailto:vision.zero@dc.gov) via e-mail or (202) 741-5960 via phone.

Draft AgendaPublic Portion of Meeting

- I. Welcome and Introductions
- II. Confirm any new Voting Members or Alternate Members
  - a. Vote on any new non-voting members
  - b. Sign non-disclosure agreements
- III. Reading of minutes

Closed Portion of Meeting

- IV. Review of Major Crashes

Public Portion of Meeting

- V. New Business
- VI. Adjournment



## DISTRICT DEPARTMENT OF TRANSPORTATION

## MEETING NOTICE

**Permitting Process for Use of Public Right of Way for  
Small Cell Facilities in the District of Columbia**

The District Department of Transportation (DDOT) will hold a meeting at **1100 4th Street, SW, Washington, DC 20024 in Room E200 on May 14, 2018 at 9:30 a.m.** to describe the permitting process and discuss the Transportation Online Permitting System for installing small cell facilities in the District of Columbia. The location is nearest to the Waterfront Metro station on the green line of the Metro. The draft agenda for the meeting is available below. If you have any questions about the meeting, please contact Walter Graham at [walter.graham@dc.gov](mailto:walter.graham@dc.gov) or via phone at 202-535-2699.

Small Cell Facilities Permitting Process Meeting  
Draft Agenda

- I. Application Permit Process
  - A. Applicants
  - B. Reviewers
  - C. Timelines
  - D. Fees
  
- II. Questions

**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, May 9, 2018 at 9:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> 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](http://www.dcwater.com).

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

**DRAFT AGENDA**

- |  |                       |
|--|-----------------------|
| 1. Call to Order                         | Committee Chairperson |
| 2. Emerging Issues                       | Committee Chairperson |
| 3. Agenda for Upcoming Committee Meeting | Committee Chairperson |
| 4. Executive Session                     | Committee Chairperson |
| 5. Adjournment                           | Committee 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, May 9, 2018 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at [www.dewater.com](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dewater.com](mailto:لمانley@dewater.com).

**DRAFT AGENDA**

- |                      |                       |
|----------------------|-----------------------|
| 1. Call to Order     | Committee Chairperson |
| 2. Other Business    | Committee Chairperson |
| 3. Executive Session | Committee Chairperson |
| 4. Adjournment       | Committee Chairperson |

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

**Application No. 19386 of IREI 22<sup>nd</sup> Street, LLC**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 10, for a variance from the lot width and area requirements of Subtitle D § 302.1, and a variance from the side yard requirements of Subtitle D § 307.1, to construct a new one-family dwelling in the R-1-B Zone at premises 3702 22nd Street, N.E. (Square 4226, Lot 42).

**HEARING DATES:** December 14, 2016, January 11, 2017, February 22, 2017<sup>1</sup>  
**DECISION DATE:** March 1, 2017

**DECISION AND ORDER**

On October 5, 2016, IREI 22<sup>nd</sup> Street, LLC the property owner of the subject premises (the “Owner” or the “Applicant”) submitted an application for special exception relief to allow the construction of a new one-family dwelling located at premises 3702 22nd Street N.E. (Square 4226, Lot 42). (Exhibit 1.) However, the Applicant revised the application to request variances as noted in the caption above. (Exhibit 30.) For the reasons explained below, the Board of Zoning Adjustment (the “Board” or “BZA”) voted to approve the application on March 1, 2017, after the public hearing was completed on February 22, 2017 and based on additional materials submitted to the file on February 28, 2017.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Public Hearing. By memoranda dated October 18, 2016, the Office of Zoning sent notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 5; Advisory Neighborhood Commission (“ANC”) 5C, the ANC for the area within which the subject property is located; and the single-member district ANC 5C-01. Pursuant to 11-Y DCMR § 402.1, on August 31, 2017, the Office of Zoning mailed notice of the hearings to the Applicant, ANC 5C, and the owners of all property within 200 feet of the subject property. Notice was published in the *D.C. Register* on October 21, 2016 (63 DCR 44).

ANC Report. ANC 5C, an automatic party to this proceeding, submitted three reports regarding the application. The first report was submitted on November 15, 2016, by the Single Member District Commissioner, requesting a postponement of the hearing. The second report was an official report from the ANC, submitted on January 4, 2016. The second report indicated that, at a regularly scheduled monthly meeting with a quorum present, the ANC voted 6-0-1 to

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<sup>1</sup> The application was originally scheduled for public hearing on December 14, 2016. The hearing was postponed to January 11, 2017 and continued to February 22, 2017.

recommend denial. The third report also indicated that, at a regularly scheduled monthly meeting with a quorum present, the ANC voted 6-0-1 to recommend denial.

OP Report. In its memoranda dated December 2, 2016, OP recommended approval of the requested relief. The OP report states that the subject property is impacted by exceptional conditions in that the lots in this square were created prior to the adoption of the current zoning regulations and that requiring eight-foot setbacks would result in a seven-foot wide<sup>2</sup> house which would severely limit the available living space within the structure. The report also states that relief would not be a substantial detriment on the public good, nor would it be a substantial harm to the zoning regulations. At the hearing, OP testified that they would also support variance relief from the minimum lot width and lot area requirements.

DDOT Report. By memoranda dated December 2, 2016, DDOT indicated it had no objection to the approval of the application, noting that the proposal will have no adverse impacts on travel conditions of the District's transportation network.

Request for Party Status. There were no requests for party status.

Persons in Support/Opposition. The Board received a letter in opposition from Andrea Deadwyler, the adjacent neighbor at 3704 22<sup>nd</sup> Street, N.E. Ms. Deadwyler and her husband opposed the project because they did not believe that a side yard of three feet and five inches was enough space between the proposed dwelling and their dwelling. On December 20, 2016, the Board received a letter in opposition from Nicole Stevens, the adjacent neighbor at 3700 22<sup>nd</sup> Street, N.E. Both the Deadwylers and Ms. Stevens testified in opposition at the hearings on January 11, 2017 and February 22, 2017. The primary concerns of the adjacent neighbors were related to potential property damage from construction.

Robert Corletta and Councilmember Kenyan McDuffie submitted letters in opposition. At the hearing, Annette Scruggs, Valerie Boykin-Pair, and Enoch Thompson testified in opposition. The testimony in opposition focused primarily on concerns regarding the changing character of the neighborhood.

Sarah and Matthew Canzoneri and Jim Cronenburg submitted letters in support.

Applicant's Case. The Applicant provided evidence and testimony from Paul Deverger and Sam Cheng, Principals of IREI 22<sup>nd</sup> Street, LLC, the owner of the subject property. The Applicant also provided evidence and testimony from Charles Warren, a Principal of Teass/Warren Architects. The evidence and testimony described how the proposed project met the burden of proof for the requested variance relief.

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<sup>2</sup> This was a typographical error in the OP report. Such a requirement would result in a nine-foot wide dwelling.

## FINDINGS OF FACT

### The Subject Property and Nearby Properties

1. The subject property is located at 3702 22<sup>nd</sup> Street, N.E. (Square 4226, Lot 42).
2. The subject property is a rectangular parcel measuring 2,500 square feet in land area and 25 feet in width.
3. The subject property is located in the R-1-B Zone District.
4. The subject property is currently unimproved.
5. Abutting the subject property to the north and south are one-family dwellings.
6. Abutting the subject property to the east and west are 22<sup>nd</sup> Street, N.E. and a public alley, respectively.
7. The majority of the properties in the area have substandard side yard setbacks.
8. The subject property was created prior to the adoption of the 1958 Zoning Regulations.

### The BZA Application and Proceedings

9. The BZA Application was submitted on October 5, 2016 under the 2016 Zoning Regulations as an application for special exception relief from the side yard setback requirements of 11-D DCMR § 307.1.
10. On November 14, 2016, the Application was revised to seek variance relief (in lieu of the special exception) and to include relief from the minimum lot dimensions of 11-D DCMR § 302.1. The Office of the Attorney General informed the Applicant that it would be required to request relief from 11-D DCMR § 302.1, so out of an abundance of caution, the Applicant requested relief from that requirement, as well. OP found that this relief was not necessary as it only applies to new lots, not existing lots.
11. The original hearing was scheduled for December 14, 2016. Prior to the hearing, on November 15, 2016, the Single Member District Commissioner for ANC 5C-01, Gail Brevard, requested that the hearing be postponed.
12. On December 2, 2016, the Office of Planning submitted a report granting approval to the request of side yard setback relief.

13. On December 7, 2016, John and Andrea Deadwyler, the adjacent neighbors to the north at 3704 22<sup>nd</sup> Street, N.E., submitted a letter in opposition.
14. At the scheduled hearing on December 14, 2016, the Board postponed the hearing to January 11, 2017.
15. Nicole Stevens, the adjacent neighbor to the south at 3700 22<sup>nd</sup> Street, N.E., submitted a letter in opposition on December 20, 2016.
16. The ANC submitted its report on January 4, 2017.
17. The Applicant submitted photographs of the tree stumps on the property and the surrounding area on January 4, 2017.
18. The hearing took place on January 11, 2017. The Board continued the hearing to February 22, 2017 and requested that the Applicant provide additional materials to the record.
19. The Applicant submitted updated plans and elevations on January 12, 2017.
20. Bartlett Tree Experts submitted comments to the record on January 13, 2017.
21. On February 14, 2017, the Applicant submitted a draft Construction Management Agreement, a Tree Removal Permit, and a set of revised plans and elevations.
22. On February 16, 2017, Ms. Stevens and Mr. and Mrs. Deadwyler submitted a joint petition in opposition.
23. The ANC submitted a third report, recommending denial of the requested relief 6-0-1.
24. After the continued hearing on February 22, 2017 the Applicant submitted an updated Construction Management Agreement, Revised Architectural Plans, and a Revised Self-Certification. (Exhibits 61-64.) The revised plans reflected the Board's request that the Applicant provide four-foot side yards instead of the originally proposed three-and-a-half-foot side yards.

### **The Requested Zoning Relief**

25. The proposed project will provide two, four-foot side yards.<sup>3</sup> Pursuant to 11-D DCMR § 307.1, a detached structure in the R-1-B Zone is required to provide a side yard of eight feet.
26. Accordingly, the Applicant requested a variance from the minimum side yard requirements of 11-D DCMR § 307.1.

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<sup>3</sup> Originally requested relief for two, three and a half-foot side yards.

27. The subject property is impacted by an exceptional condition and situation because it is an existing lot measuring 25 feet in width and 2,500 square feet in land area, constructed prior to the adoption of the 1958 Zoning Regulations.
28. Because it is an existing lot, there is no opportunity to meet the zoning regulations pertaining to minimum lot area or lot width.
29. If the Zoning Regulations were strictly applied, the Applicant would face a practical difficulty, because it would be required to provide two, eight-foot side yards, which would result in a dwelling measuring nine feet in width.
30. A dwelling measuring nine feet in width is not feasible, as it would severely limit the available living space within the structure.
31. The building to the south, at 3700 22<sup>nd</sup> Street, N.E., is approximately six feet from the shared lot line.
32. The building to the north, at 3704 22<sup>nd</sup> Street, N.E. is approximately 12 feet from the shared lot line.
33. The new structure will not cause any undue shadow on the adjacent properties.
34. The new structure will not impact airflow to the adjacent properties.
35. The proposed project will be consistent with the District objectives to provide opportunities for infill housing where appropriate while maintaining neighborhood development patterns.
36. The Regulations are intended to make the city livable for households of various sizes, and the proposed project would allow a one-family dwelling similar to other dwellings in the neighborhood.

## CONCLUSIONS OF LAW AND OPINION

The Board is authorized to grant variances from the strict application of the Zoning Regulations where “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property. . . or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of any zoning regulation “would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.. .” D.C. Official Code 6-641.07(g)(3) (2008 Supp.); (11-X DCMR § 1002.)



A showing of “practical difficulties” must be made for an area variance, while the more difficult showing of “undue hardship” must be made for a use variance. *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972). The Applicant in this case is requesting area variances; therefore, it had to demonstrate an exceptional situation or condition of the property and that such exceptional condition results in a practical difficulty in complying with the Zoning Regulations. Lastly, the Applicant had to show 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.” (11-X DCMR § 1002.)

The “exceptional situation or condition” of a property can arise out of “events extraneous to the land,” including the zoning history of the property. See, e.g. *De Azcarate v. Board of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C. 1978), and see *Monaco v. Board of Zoning Adjustment*, 407 A.2d 1091, 1097, and 1098 (D.C. 1979). See also *BZA Order No. 17264* (2005). The “exceptional situation or condition” can also arise out of the structures existing on the property itself. See, e.g., *Clerics of St. Viator v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 293-294 (D.C. 1974).

In order to prove "practical difficulties," an applicant must demonstrate first that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. See *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 164, 170 (D.C. 1990).

### **Exceptional Situation Resulting in a Practical Difficulty**

As detailed in the Findings of Fact, the Board finds that the property faces an exceptional condition and situation in that the lot is only 25 feet wide, has only 2,500 square feet of land area, and it was created prior to the adoption of the 1958 Zoning Regulations. Due to the width of the lot, it would be practically difficult to provide a matter-of-right project, as providing two eight-foot side yards would result in a dwelling that is nine feet in width. A dwelling of that width is not feasible. Further, there is no opportunity to meet the minimum lot width and lot area requirements, as the lot was constructed prior to the adoption of the 1958 Zoning Regulations. Commissioner Rob Miller requested that the Applicant provide information on the difficulty of providing a building less than 17 feet wide. The Applicant testified that a 16-foot-wide dwelling would be out of context with the neighborhood, and a width of less than 17 feet would impact the layout of the dwelling, including the location of bathrooms and hallways. A width of less than 17 feet would force the building to extend back further than was originally proposed and would therefore impact the Applicant’s ability to provide a compliant rear yard setback.

### **No Substantial Detriment to the Public Good**

The Board concludes that the requested variance can be granted without substantial detriment to the public good. As detailed in the findings of fact, the new structure would not cause undue

shadow on the adjacent properties or greatly impact airflow. The property to the south has a six-foot side yard and the property to the north is approximately 12 feet from the shared property line. Further, the proposed project is consistent with District objectives to provide opportunities for infill housing where appropriate while maintaining neighborhood development patterns. The Applicant also agreed to work with the adjacent neighbors regarding window location on the north and south façades of the proposed building to mitigate any concerns regarding privacy. The Applicant also made significant efforts to satisfy concerns over the impacts of construction in Construction Management Agreements submitted to the record.

### **No Substantial Impairment to the Zoning Regulations**

The Board concludes that the requested variances can be granted without substantial impairment to the Zoning Regulations. As detailed in the findings of fact, the regulations are intended to make the city livable for households of various sizes. The requested relief would allow a single-family household similar to other houses in the neighborhood. The majority of the houses on this block do not meet the minimum side yard setback requirements of the R-1-B Zone.

### **ANC Great Weight**

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns raised in the written report of the affected ANC, which in this case is ANC 5C. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).

In submissions to the record and at the hearings, the ANC and the persons in opposition raised the following concerns: (1) the owner had not met its burden of proof; (2) the proposed project is not in character with the neighborhood; (3) the proposed relief infringes on the adjacent neighbor’s property rights; (4) construction and excavation; (5) increased noise; and (6) tree removal.

#### **1. Burden of Proof**

As discussed below and in the findings of fact, the Applicant has met its burden of proof to show that, due to an exceptional situation or condition of the property, a strict application of the zoning regulations would result in a practical difficulty to the Applicant. Ms. Stevens alleged that the hardship was self-imposed. However, the Board disagrees with that assertion, as the lot existed prior to the adoption of the zoning regulations. Any purchaser of the property would be in the same position as the Applicant.

## 2. Character of the Neighborhood

In her submission in Exhibit 41, Ms. Stevens alleges that the proposed project is “incompatible with the surrounding properties and will detract from the livability and character of the surrounding properties.” The Board finds that the proposed project is in character with the neighborhood, which has a mixture of semi-detached and detached dwellings, few - if any - of which meet the minimum required side yard setback of eight feet.

## 3. Adjacent Neighbor’s Property Rights

Ms. Stevens also states that “the potential cost to the neighborhood is an infringement of property rights for all surrounding properties, specifically my property to the south and the property of my neighbors to the north. If this exemption is granted, neither my neighbors nor I will be able to build any additions without also getting an exemption for ourselves as we remain subject to the eight-foot side yard requirement.” The Board finds that granting a variance request for the subject property will not impact the adjacent neighbors’ abilities to construct additions. The adjacent properties are subject to the side yard setback requirements of the R-1-B Zone regardless of whether the relief is granted for the subject property.

## 4. Construction and Excavation

Both neighbors and the ANC raised concerns over potential damage caused by construction and excavation. The majority of the testimony at the hearing focused on the potential impacts of construction. While it is not within the Board’s jurisdiction to review potential construction issues, the Applicant drafted and submitted several Construction Management Agreements (“CMAs”) in a show of good faith. (Exhibit 63.)

## 5. Noise

The adjacent neighbors had concerns regarding noise from potential residents of the proposed project, finding that three and a half feet was not enough of a buffer. The Board requested that the Applicant provide an additional six inches of side yard on either side of the proposed project. A four-foot side yard would provide at least 10 feet of distance between the proposed structure and the structure to the south, and 16 feet of distance between the proposed structure and the structure to the north. This distance is significantly more than the distances between other buildings in this area. The Board finds that the distance (four-foot side yards) was sufficient because this distance is significantly more than that distance between other buildings in this area.

## 6. Tree Removal

The parties in opposition also addressed concerns over tree removal, specifically, the fact that Applicant removed a large tree without a permit. The Applicant then received a permit after the

fact, and paid an \$8,500 fine to the City Tree Fund to remedy the premature removal of the tree. In any event, the Applicant's compliance with the requirement to obtain a tree removal permit is not in and of itself relevant to the Board. Only if the removal of the tree would have an adverse impact on adjacent properties would its removal be relevant, and that would be true whether or not a permit was obtained. The record reflects no potential for such an impact.

## CONCLUSION

Based on the case record, the testimony at the hearing, and the findings of fact and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for variance relief from the minimum lot area and lot width requirements of 11-D DCMR § 307.1 and the minimum side yard requirements of 11-D DCMR § 307.1, to allow for the construction of a new one-family dwelling on the property located at 3702 22<sup>nd</sup> Street, N.E. Accordingly, it is **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 51 – REVISED ARCHITECTURAL PLANS AND ELEVATIONS.**

**VOTE:** 3-1-1 (Frederick L. Hill, Carlton E. Hart, and Lesylleé M. White to APPROVE; Robert E. Miller to deny; one Board seat vacant).

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

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

**FINAL DATE OF ORDER:** April 18, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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. 19685 of Emma Sarah Davis**, as amended<sup>1</sup>, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions from the parking requirements of Subtitle C § 701.5 and under the accessory apartment regulations of Subtitle U § 253.4, to permit an accessory apartment in the R-20 and MU-4 Zones at premises 3238 Reservoir Road N.W. (Square 1280, Lots 114 and 835).

**HEARING DATES:** February 21, 2018; March 21, 2018; and April 17, 2018<sup>2</sup>  
**DECISION DATE:** April 17, 2018

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 3 (original), 15 (updated) and 33B (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") 2E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC submitted a timely report in support of the application. The ANC report indicated that at a duly noticed and scheduled public meeting on January 3, 2018, at which a quorum was present, the ANC voted 6-0-0 in support of the application. (Exhibit 31.)

The Office of Planning ("OP") submitted a timely report, recommending approval of the application, as amended. (Exhibit 36.)

The District Department of Transportation ("DDOT") submitted two reports indicating that it had no objection to the grant of the application with two conditions. In the second, supplemental report dated March 13, 2018, DDOT reiterated its recommendation from its initial report dated

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<sup>1</sup> The Applicant amended the application to add a request for special exception relief from the parking requirements of Subtitle C § 701.5. (Exhibit 33A.) The original request did not include parking relief. (Exhibit 1.) The caption has been revised accordingly.

<sup>2</sup> The case was initially heard on February 21, 2018 and continued to March 21, 2018. The hearing on March 21<sup>st</sup> was cancelled due to inclement weather and rescheduled to April 17, 2018 (Exhibit 42) when it was heard and decided.

February 9, 2018, recommending approval of the special exception under the condition the Applicant close its existing driveway curb cut and remove the existing impervious surface located in public space. In that supplemental report, DDOT also clarified that the Transportation Demand Management (“TDM”) plan required for parking relief has been satisfied. (Exhibits 35 (original) and 40 (supplemental).) At the hearing on April 17, 2018, the Applicant’s agent testified that the Applicant accepts those conditions.

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 from the parking requirements of Subtitle C § 701.5 and under the accessory apartment regulations of Subtitle U § 253.4, to permit an accessory apartment in the R-20 and MU-4 Zones. 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, Subtitle C § 701.5, and Subtitle U § 253.4, 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 EXHIBITS 14 (ARCHITECTURAL PLANS) AND 41 (TRAFFIC CONTROL PLAN) AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall close the existing curb cut and shall restore curb and gutter consistent with adjacent conditions.
2. The Applicant shall remove the existing impervious surface in public space.

**VOTE:**           **4-0-1** (Carlton E. Hart, Frederick L. Hill, Lorna L. John, and Peter G. May to APPROVE; Lesylleé M. White, not present.)

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

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

**BZA APPLICATION NO. 19685**

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**FINAL DATE OF ORDER:** April 18, 2018

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR

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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. 19687 of DC Jewish Community Center**, pursuant to 11 DCMR Subtitle X, Chapter 10, for an area variance from the floor area ratio requirements of Subtitle G § 602.1, to modernize and expand existing community center in the RA-8 and MU-15 zones at premises 1529 16th Street N.W. (Square 194, Lot 113).

**HEARING DATES:** February 14, February 28, March 21, and April 17, 2018<sup>1</sup>

**DECISION DATE:** April 17, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 (original) and 42A (corrected).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled, properly noticed public meeting on March 14, 2018, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 41.)

The Office of Planning ("OP") submitted a timely report recommending approval of the relief requested. (Exhibit 38.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application with three conditions. (Exhibit 39.) The Board adopted two of the conditions recommended by DDOT. Regarding the third condition not adopted by the Board, the Applicant testified that it has worked with DDOT on a plan to provide long-term bicycle parking spaces.

Four neighbors submitted a letter to the record raising concerns about traffic impacts. (Exhibit 27.)

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<sup>1</sup> The hearing for this case was originally scheduled for February 14, 2018 and postponed to February 28, 2018 and March 21, 2018 at the Applicant's request. (Exhibits 25, 29, 32, and 35.) The Board's hearing on March 21, 2018 was cancelled due to inclement weather and was rescheduled to April 17, 2018. (Exhibit 44.)

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 floor area ratio requirements of Subtitle G § 602.1, to modernize and expand an existing community center in the RA-8 and MU-15 zones. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle G § 602.1, 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 the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 37H AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall develop a pick-up and drop-off plan, subject to DDOT's approval, that details appropriate locations for pick-ups and drop-offs. The plan shall be posted on the Applicant's website and provided annually to all families participating in the Applicant's daycare program.
2. After one year of operation post-approval, the Applicant shall provide DDOT with a memorandum documenting the number of pick-up and drop-offs at the site and associated vehicle occupancy to assess whether adjustments should be made to the dedicated 15-minute parking zone on Q Street, N.W. and the Applicant's associated pick-up and drop-off plan.
3. The Applicant shall have minor flexibility to modify the design, as necessary for approval by the Historic Preservation Review Board.

**VOTE: 4-0-1** (Carlton E. Hart, Lorna L. John, Frederick L. Hill, and Peter G. May to Approve; Lesylleé M. White not present.)

**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:** April 19, 2018

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.

BZA APPLICATION NO. 19687  
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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**Application No. 19707 of District of Columbia**, as amended<sup>1</sup> pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle C § 1610.2 from the lot occupancy requirements of Subtitle C § 1603, under Subtitle C § 703 from the minimum vehicle parking requirements of Subtitle C § 701, under Subtitle C § 714.3 from the surface parking screening requirements of Subtitle C § 714.2, and relief from the bicycle parking space area requirements of Subtitle C §§ 805.8 and 805.9 to construct a new public library in the R-3 Zone at premises 900 Wesley Place, S.W. (Square 542, Lot 87).

**HEARING DATE:** March 21, 2018<sup>2</sup> and April 11, 2018  
**DECISION DATE:** April 11, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6 (Exhibit 3 (original); Exhibit 15 (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") 6D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6D, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report

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<sup>1</sup> The Applicant amended the application by removing from the original request special exception relief for long-term bicycle parking as required in Subtitle C § 802.1 under Subtitle C § 807.2, and adding a request for special exception relief from the bicycle parking space area requirements of Subtitle C §§ 805.8 and 805.9. (Exhibit 33.) Although the revised self-certification form (Exhibit 15) did not contain the final amended relief, the Applicant indicated in its Prehearing Statement at Exhibit 33 and revised plans at Exhibit 33A that it intended to withdraw the request for relief for long-term bicycle parking and add a request for relief for bicycle parking space area requirements and testified at the hearing to confirm this request for revised relief. The Board accepted the Applicant's testimony as its formal amendment to the application.

<sup>2</sup> Due to inclement weather, the public hearing for this application was administratively rescheduled from March 21, 2018 to April 11, 2018.

indicated that at a regularly scheduled, properly noticed public meeting on December 11, 2017, at which a quorum was present, the ANC voted 3-0-2 to support the application. (Exhibit 14.)

The Office of Planning (“OP”) submitted a timely report and testified and provided testimony at the hearing, recommending approval of the amended application. (Exhibit 36.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application as amended. (Exhibit 35.)

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 C § 1610.2 from the lot occupancy requirements of Subtitle C § 1603, under Subtitle C § 703 from the minimum vehicle parking requirements of Subtitle C § 701, under Subtitle C § 714.3 from the surface parking screening requirements of Subtitle C § 714.2, and relief from bicycle parking space area requirements of Subtitle C §§ 805.8 and 805.9, to construct a new public library in the R-3 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle C §§ 1610.2, 1603, 703, 701, 714.3, 714.2, 805.8, and 805.9, 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 33A – PREHEARING STATEMENT: TAB A (PLANS)**.

**VOTE: 5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Michael G. Turnbull to APPROVE.)

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

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

BZA APPLICATION NO. 19707

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**FINAL DATE OF ORDER:** April 13, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**Application No. 19710 of 404 Newcomb, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle D §§ 306.4 and 5201 from the rear addition requirements of Subtitle D § 306.3, and pursuant to Subtitle X, Chapter 10, for a use variance from the nonconforming use requirements of Subtitle C § 204.3, to convert an existing community residence facility into a four-unit apartment house in the R-3 Zone at premises 404 Newcomb Street S.E. (Square 5996, Lot 48).

**HEARING DATE:** April 4, 2018  
**DECISION DATE:** April 11, 2018

**SUMMARY ORDER**

**SELF-CERTIFIED<sup>1</sup>**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 14.) 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") 8C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8C, which is automatically a party to this application. The Chair of the ANC testified at the April 4, 2018 public hearing and requested that the full ANC have an opportunity to review the project. The Applicant indicated that it intended to present the application at the ANC's April 4<sup>th</sup> meeting. The Board completed its hearing procedures on April 4 and closed the record, aside from requesting the ANC report, and scheduled its decision meeting for April 11, 2018. The ANC submitted a timely report in support of the application. The ANC report indicated that at a duly noticed and scheduled public meeting on April 4, 2018, at which a quorum was present, the ANC voted 5-0-0 in support of the application. (Exhibit 39.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 36.)

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<sup>1</sup> A memo from the Zoning Administrator was submitted that included only the variance relief (Exhibit 8), but that was superseded by the Self-Certification form which also included the request for special exception relief. (Exhibit 14.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 35.)

#### 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 a use variance from the nonconforming use requirements of Subtitle C § 204.3, to convert an existing community residence facility into a four-unit apartment house in the R-3 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 OP and ANC reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle C § 204.3, 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 Subtitle D §§ 306.4 and 5201 from the rear addition requirements of Subtitle D § 306.3. 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 D §§ 306.3, 306.4, and 5201, 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 6.**

**VOTE:**       **4-0-1** (Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Anthony J. Hood (by absentee vote) to APPROVE; Frederick L. Hill, not participating or voting.)

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

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

**FINAL DATE OF ORDER:** April 12, 2018

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

**BZA APPLICATION NO. 19710**

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DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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

**Application No. 19724 of Trevor and Jennifer Selman**, as amended<sup>1</sup>, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle G § 1201.1 from the rear yard requirements of Subtitle G § 405.2, to construct a rear egress stair and dumbwaiter addition to an existing restaurant roof deck in the MU-4 Zone at premises 5409 Georgia Avenue, N.W. (Square 2996, Lot 52).

**HEARING DATE:** April 11, 2018  
**DECISION DATE:** April 11, 2018

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum, dated January 30, 2018 from the Zoning Administrator, certifying the required relief. (Exhibit 6.)

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 Commissions (“ANC”) 4D (affected ANC) and 4C (adjacent ANC), and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. The ANC 4D submitted a resolution, and presented testimony at the hearing, recommending approval of the application. The ANC’s resolution indicated that at a regularly scheduled, properly noticed public meeting on March 20, 2018, at which a quorum was present, the ANC 4D voted 6-0-0 to support the application. (Exhibit 33.) No report was received from ANC 4C.

The Office of Planning (“OP”) submitted a timely report recommending approval of the application. (Exhibit 35.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 32.)

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<sup>1</sup> The Zoning Administrator’s Memorandum submitted with the application indicated that, in addition to the relief referenced in the caption above, special exception relief was needed under Subtitle G § 1200 from the FAR requirements of Subtitle G § 402.1. However, based on consultations between the Office of Planning and the Zoning Administrator’s Office, it was ultimately determined that this relief was not required. (See OP’s report, Exhibit 35.) At the public hearing, the Applicant confirmed the relief before the Board, and Subtitle G § 402.1 was deemed withdrawn. The relief requested is as captioned above.

The record contained seven letters signed by neighbors in support of the application. (Exhibit 34.) A letter of support was submitted by Councilmember Brandon Todd. (Exhibit 31.)

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 G § 1201.1 from the rear yard requirements of Subtitle G § 405.2, to construct a rear egress stair and dumbwaiter addition to an existing restaurant roof deck 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 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 G §§ 1201.1 and 405.2, 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 4 – ARCHITECTURAL PLANS AND ELEVATIONS.**

**VOTE: 5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Michael G. Turnbull to APPROVE.)

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

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

**FINAL DATE OF ORDER:** April 13, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

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PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

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

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. 19729 of Tracey Turner**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 306.2, from the pervious surface requirements of Subtitle D § 308.3, and from the nonconforming structure requirements of Subtitle D § 202.2, and pursuant to Subtitle X, Chapter 10, for a variance from the lot occupancy requirements of Subtitle D §§ 304.1 and 5201.3(e) , to permit an existing rear addition to an existing attached principal dwelling unit in the R-3 zone at premises 2901 North Capitol Street N.E. (Square 3500, Lot 33).

**HEARING DATE:** April 11, 2018

**DECISION DATE:** April 11, 2018

**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") 5E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on February 20, 2018, at which a quorum was present, the ANC voted 8-0-0 to support the application. (Exhibits 35 and 36.) ANC Commissioner Dianne Barnes testified in support of the application at the hearing. The ANC Commissioner for Single Member District ("SMD") 5E03, Hannah Powell, submitted a letter stating her desire to withdraw her vote in support of the application, but noting that the ANC "has decided not to revisit the application due to the large number of neighbors who testified in support of the project." (Exhibit 42.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 61.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 60.)

Twenty-one letters of support were submitted to the record. (Exhibits 18, 19, 33, 38, 40, and 44 through 59.)



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 D §§ 304.1 and 5201.3(e) to permit an existing rear addition to an existing attached principal dwelling unit in the R-3 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 variances from 11 DCMR Subtitle D §§ 304.1 and 5201.3(e), 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 special exceptions under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 306.2, from the pervious surface requirements of Subtitle D § 308.3, and from the nonconforming structure requirements of Subtitle D § 202.2. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle D §§ 202.2, 306.2, 308.2, and 5201, 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 16A1-16A3.**

**VOTE:**       **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Michael G. Turnbull, to APPROVE)

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

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

**FINAL DATE OF ORDER:** April 17, 2018

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

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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. 19738 of PROPERTY FRAMEWORKS**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under from the nonconforming use requirements of Subtitle C § 204.9 to change a nonconforming use to another nonconforming use in the R-20 District at premises 1300 35th Street N.W. (Square 1227, Lot 813).

**HEARING DATE:** April 11, 2018

**DECISION DATE:** April 11, 2018

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 9.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. The ANC did not submit a written report for this application. The Chair of ANC 2E submitted a letter that indicated that at a regularly scheduled, properly noticed public meeting on April 2, 2018, at which a quorum was present, the ANC reviewed the application but took no action on the matter. (Exhibit 36.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (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 32.)

**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 from the nonconforming use requirements of Subtitle C § 204.9 to change a nonconforming use to another nonconforming use in the R-20 District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle C § 204.9, 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**.

**VOTE:**           **5-0-0** (Frederick L. Hill, Michael G. Turnbull, Lesylleé M. White, Lorna L. John, and Carlton E. Hart, to APPROVE)

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

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

**FINAL DATE OF ORDER:** April 18, 2018

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 § 702.2, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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Government of the District of Columbia  
Public Employee Relations Board

_____		)	
In the Matter of:		)	
		)	
Metropolitan Police Department		)	
		)	
	Petitioner	)	PERB Case No. 18-A-06
		)	
	v.	)	Opinion No. 1653
		)	
Fraternal Order of Police/Metropolitan Police		)	
Department Labor Committee (on behalf of		)	
Lawrence Bailey)		)	
		)	
	Respondent	)	
_____		)	

**DECISION AND ORDER**

On December 12, 2017, petitioner Metropolitan Police Department (“the Department”) filed the instant arbitration review request (“Request”). The Department appeals to the Board from two orders that an arbitrator issued after he issued his “Decision & Award.” The two orders from which the Department appeals are entitled Post-Award Order No. 02 and Post-Award Order No. 03. As we find the Request to be premature, we dismiss the Request without prejudice.

In Post-Award Order No. 02, the Arbitrator ordered the Department and respondent Fraternal Order of Police/Metropolitan Police Department Labor Committee to submit in writing their positions on the Arbitrator’s authority to impose sanctions on the Department for not reinstating the grievant in this arbitration as the Arbitrator had ordered in Post-Award Order No. 01. The Arbitrator instructed the Department to include in its submission its authority for not reinstating the grievant. After the parties submitted their positions, the Arbitrator issued Post-Award No. 03 in which he ordered the parties to make another written submission discussing the applicability to the sanctions question of a case<sup>1</sup> that the Arbitrator said was persuasive in nature.

The Department contends that the parties’ collective bargaining agreement “provides no authority for the Arbitrator to demand that the parties explain why they have not complied with the award, to order the parties to explain whether or not he has authority to issue sanctions, and to issue sanctions for non-compliance with the award.”<sup>2</sup>

<sup>1</sup> *Reliastar Life Ins. Co. v. EMC Nat’l Life Co.*, 564 F.3d 81 (2d Cir. 2009).

<sup>2</sup> Request 8.

Decision and Order  
PERB Case No. 18-A-06  
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In the orders at issue in this Request, the Arbitrator did not impose sanctions. He ordered written submissions on that subject. The Board's precedent establishes that the Department's appeal from the orders is premature. In *D.C. Department of Consumer and Regulatory Affairs v. AFGE, Local 2725*,<sup>3</sup> the Board held that the only act of an arbitrator that an aggrieved party may appeal to the Board is a final award, and it held that a briefing order is not a final award.<sup>4</sup> In that case, and in *University of the District of Columbia v. University of the District of Columbia Faculty Association/NEA*,<sup>5</sup> the Board dismissed the arbitration review request "without prejudice to its renewal when a final arbitration award is issued."

In the present matter, a final arbitration award incorporating Post-Award Order No. 02 and Post-Award Order No. 03 was issued a week after the Department filed its premature Request. The Department filed a petition for review of that award on January 9, 2018. That petition has been assigned Case No. 18-A-08.

In view of the foregoing, the instant 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 Chairperson Charles Murphy and Members Ann Hoffman, Barbara Somson, and Mary Anne Gibbons

Washington, D.C.  
February 21, 2018

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<sup>3</sup> 59 D.C. Reg. 15198, Slip Op. No. 1338, PERB Case No. 11-A-01 (2012).

<sup>4</sup> *Id.* at 2.

<sup>5</sup> 38 D.C. Reg. 845, Slip Op. No. 260 at 2, PERB Case No. 90-A-05 (1990).

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 18-A-06 is being transmitted via File & ServeXpress to the following parties on this the 22d day of February 2018.

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1432 K St. NW, 12<sup>th</sup> Floor  
Washington, DC 20005

/s/ Sheryl V. Harrington  
Administrative Assistant



Government of the District of Columbia  
Public Employee Relations Board

_____		)	
In the Matter of:		)	
		)	
Metropolitan Police Department		)	
		)	
	Petitioner	)	PERB Case No. 18-A-08
		)	
	v.	)	Opinion No. 1654
		)	
		)	Motion to Consolidate
		)	and Motion for Immediate Stay
		)	
Fraternal Order of Police/Metropolitan Police		)	
Department Labor Committee (on behalf of		)	
Lawrence Bailey)		)	
		)	
	Respondent	)	
_____		)	

**DECISION AND ORDER**

Before the Board are two motions that were filed with an arbitration review request appealing an arbitration award issued on December 18, 2017. The two pending motions are a motion for a stay of the arbitration award and a motion to consolidate this case with an earlier arbitration review request challenging orders the arbitrator previously issued. The motions are denied for the reasons set forth below.

**I. Statement of the Case**

On April 22, 2011, petitioner Metropolitan Police Department (“the Department”) discharged Lawrence Bailey (“the Grievant”) for disobeying orders. Respondent Fraternal Order of Police/Metropolitan Police Department Labor Committee (“Union”) filed a grievance contesting the Grievant’s dismissal. The Union invoked arbitration. The Union contended that the Grievant was not served with a notice of proposed adverse action and as a result was not able to request an adverse action hearing. The Union requested that the Arbitrator dismiss the discipline and reinstate the Grievant or alternatively that the Arbitrator conduct a hearing in the arbitration on the charges against the Grievant. The parties agreed to submit the following issues to the Arbitrator: “Whether this matter is arbitrable before this Arbitrator in this arbitration based on the alleged procedural irregularity and, if not arbitrable before this Arbitrator, what should the remedy be?”

Decision and Order  
PERB Case No. 18-A-08  
Page 2

On September 4, 2017, the Arbitrator, Homer C. LaRue, issued the first of two awards in the arbitration, which he entitled “Decision & Award” (“the First Award”). The First Award concluded in the following manner:

Having heard the evidence and the arguments of the parties, the Arbitrator awards as follows:

1. This matter is not arbitrable before this Arbitrator in this arbitration based on the found procedural defects.

#### **Order of Remedy**

2. The Department is ordered to provide Officer Bailey with a hearing before the Adverse Action Panel to determine whether Officer Bailey is to be disciplined and/or discharged.
3. The decision of the Adverse Action Panel shall be subject to review in arbitration by this Arbitrator pursuant to the Collective Bargaining Agreement and General Order 120.21.

#### **Retention of Jurisdiction**

4. This Arbitrator’s jurisdiction over this matter is continuing until the conclusion of the review of the Panel’s decision by this Arbitrator, if demanded, or unless the Panel dismisses the Proposed Adverse Action.

#### **Allocation of the Arbitrator’s Fees and Expenses**

5. The parties shall share equally the fees and expenses for the Arbitrator’s services in the instant matter[.]<sup>1</sup>

The Union asked the Arbitrator to clarify whether the Grievant must be reinstated and must receive back pay and other make-whole remedies. On September 12, 2017, the Arbitrator sent the parties an e-mail responding that the Grievant’s discharge is to be rescinded and the Grievant is to be placed in the status he would have been in on February 11, 2011, and made whole for any wages and lost benefits from the date of his discharge to the date of his return to work. The Arbitrator subsequently denominated this order as “Post-Award Order No. 01.”

On November 22, 2017, the Arbitrator issued “Post-Award Order No. 02,” which recited “the clarification of the Order of Remedy issued on September 12, 2017 (Post-Award Order No. 01)” and ordered the parties to make a written submission by November 28, 2017, on the authority of the Arbitrator to issue sanctions against the Department for failing to reinstate the

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<sup>1</sup> First Award 22.

Decision and Order  
PERB Case No. 18-A-08  
Page 3

Grievant with back pay. The Arbitrator instructed the Department to include in its submission its authority for not reinstating the Grievant.

The parties made their submissions on that date, whereupon the Arbitrator issued “Post-Award Order No. 03.” Post-Award Order No. 03 again recited Post-Award Order No. 01’s clarification requiring reinstatement of the Grievant, and it ordered the parties to make another written submission on the sanctions question by December 8, 2017, this time discussing a case<sup>2</sup> that the Arbitrator said was persuasive in nature. The parties complied with that briefing order.

On December 12, 2017, the Department filed with the Board an arbitration review request, Case No. 18-A-06, challenging the Arbitrator’s authority to issue Post-Award Order Nos. 02 and 03.

On December 19, 2017, the Arbitrator issued the second of the two awards in the arbitration, which he entitled “Final Partial Award” (“the Second Award”). The Second Award incorporated Post-Award Nos. 01 through 03. The Second Award found that the Department failed to fully implement the First Award, as clarified, and that this failure was bad faith conduct that caused the Union to incur expenses to seek compliance and warranted the imposition of sanctions. The Second Award issued the following orders to the Department:

### *Sanctions*

#### **a. Attorney’s Fees**

5. The District of Columbia Metropolitan Police Department (the “MPD”) is responsible for and shall pay all the attorney’s fees for the Fraternal Order of Police/Metropolitan Police Department Labor Committee (the “FOP”) dating from September 12, 2017, the date of Post-Hearing Order No. 01 up to and including the final resolution of the instant dispute.

#### **b. Arbitration Fees**

6. The “MPD” is responsible for and shall pay all the arbitration, dating from September 12, 2017, the date of Post-Hearing Order No. 01 up to and including the final resolution of the instant dispute.
  - a) The MPD shall reimburse the FOP for any arbitration fees which shall have been paid by the FOP following the issuance of the Award, dated September 4, 2017.
  - b) The FOP shall pay one-half of the arbitration fees associated with this Award, dated December 19, 2017.

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<sup>2</sup> *Reliastar Life Ins. Co. v. EMC Nat’l Life Co.*, 564 F.3d 81 (2d Cir. 2009).

Decision and Order  
PERB Case No. 18-A-08  
Page 4

- c) The MPD shall reimburse the FOP for the arbitration fees paid to the Arbitrator connected with this Award, dated December 19, 2017.
- d) The MPD shall reimburse the FOP for any future arbitration fees paid to the Arbitrator by the FOP up to and including the final resolution of the instant dispute.

**c. Punitive Damages**

7. The MPD shall pay directly to the FOP the cumulative penalty of one thousand dollars \$1000.00 per day dating from September 12, 2017, the date of Post-Hearing Order No. 01, up to and including the date that MPD fully complies with the Award, dated September 4, 2017 as clarified.

***Interest on Back-Pay***

8. The MPD shall pay Officer Bailey interest on the back-pay to which he is owed. Such interest shall be at the legal rate of interest permitted by D.C. Code § 28-3302.
- a) The interest shall be applied to the back-pay owed Officer Bailey beginning September 4, 2017;
  - b) Such interest shall continue to accrue on the principal until the MPD has paid Officer Bailey the total amount of his back-pay, including interest.<sup>3</sup>

The Arbitrator stated that all of the above portions of the Second Award were final except the amount to be paid by the Department. The Arbitrator retained jurisdiction to determine the amount owed.<sup>4</sup>

On January 9, 2018, the Department filed a pleading styled “Arbitration Review Request, Motion to Consolidate, and Motion for Immediate Stay of the Final Partial Award.” The Union filed an opposition to the motion to stay and an opposition to the arbitration review request.

## **II. Discussion**

The Department moves to consolidate the present case with its earlier arbitration review request, Case No. 18-A-06, which challenged the Arbitrator’s authority to issue Post-Award

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<sup>3</sup> Second Award 21-22.

<sup>4</sup> Second Award 22-23.

Decision and Order  
PERB Case No. 18-A-08  
Page 5

Order Nos. 02 and 03. The Board has today dismissed Case No. 18-A-06 on the basis of prematurity.<sup>5</sup> As a result, the motion to consolidate is moot and accordingly is denied.

The Department also requests the Board to issue “an immediate stay with regard to the sanctions imposed against MPD, as stated in the Final Partial Award.”<sup>6</sup> In support of its motion to stay, the Department argues,

[D]ue to the fact that the amount of damages continues to increase daily pursuant to the Final Partial Award, MPD requests that a stay of the Arbitrator’s Final Partial Award be issued immediately until this appeal is resolved. Otherwise, if it were to comply with the award, MPD would be forced to concede that the Arbitrator was within his jurisdiction to issue the Final Partial Award. As demonstrated in the instant pleading, that is not MPD’s position. To allow the amounts to accrue until the resolution of this appeal would result in prejudice and economic harm not only to MPD but to the general public of the District of Columbia, as the amount to be paid is ultimately derived from public funds. As the potential harm to the District of Columbia Government (potential bankruptcy) far outweighs any harm to Grievant, (not getting his job back), it is imperative that a stay be issued.<sup>7</sup>

In this passage, the Department raises an argument for refraining from paying the Union punitive damages but not for refraining from reinstating the Grievant and thereby allowing the amount of damages to continue to increase. The Department has not challenged the Arbitrator’s jurisdiction to order the reinstatement of the Grievant. The Union correctly responds that the Board does not have authority to grant the requested stay pending its resolution of the arbitration review request. The stay that the Department is seeking is one that would not only delay payment but also would not allow “the amounts to accrue until the resolution of this appeal.” A stay of that nature would be a modification of the Second Award.<sup>8</sup> The conditions under which the Board may modify an award are the same as those under which it may set aside or remand an award. The statute authorizing appeals to the Board from arbitration awards stipulates that “such awards may be modified or set aside or remanded, in whole or in part, only if the arbitrator was without, or exceeded, his or her jurisdiction; the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means.”<sup>9</sup> The Board cannot modify an award before it has made one of those determinations.

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<sup>5</sup> *MPD v. FOP/Metro. Police Dep’t Labor Comm. (on behalf of Bailey)*, Slip Op. No. 1653, PERB Case No. 18-A-06 (Feb. 21, 2018).

<sup>6</sup> Arbitration Review Req., Mot. to Consolidate, and Mot. for Immediate Stay of Final Partial Award 1.

<sup>7</sup> Arbitration Review Req., Mot. to Consolidate, and Mot. for Immediate Stay of Final Partial Award 13-14.

<sup>8</sup> *Cf. In re Winimo Realty Corp.*, Nos. 04 Civ. 7513, 04 Civ. 7549, 04 Civ. 9688, 04 Civ. 9689, 2004 WL 2997784 \*5 (S.D.N.Y. Dec. 22, 2004) (holding that a stay of an arbitration award pending judicial review that delayed payment but required segregation of funds into an escrow account was not a modification of the award).

<sup>9</sup> D.C. Official Code § 1-605.02(6).

Decision and Order  
PERB Case No. 18-A-08  
Page 6

Thus, the Board must deny the Department's motion for a stay. However, the Board will give the Department's arbitration review request expedited consideration.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The petitioner's motion to consolidate is denied.
2. The petitioner's motion for an immediate stay of the "Final Partial Award" is denied.

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

By unanimous vote of Board Chairperson Charles Murphy and Members Ann Hoffman, Barbara Somson, and Mary Anne Gibbons

Washington, D.C.  
February 21, 2018

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No.18-A-08 is being transmitted via File & ServeXpress to the following parties on this the 22d day of February 2018.

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Washington, DC 20005

/s/ Sheryl V. Harrington  
Administrative Assistant

Government of the District of Columbia  
Public Employee Relations Board

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In the Matter of:		)
		)
American Federation of Government		)
Employees, Local 383, AFL-CIO		)
		)
and		)
		)
Metropolitan District 1199 DC		)
NUHHCE, AFSCME, AFL-CIO		)
		)
	Petitioners	)
		)
		)
v.		)
		)
Department of Behavioral Health		)
		)
	Respondent	)
<hr/>		)

PERB Case No. 18-CU-01

Opinion No. 1655

**DECISION AND ORDER ON COMPENSATION UNIT DETERMINATION**

On October 29, 2015, the Board’s Decision and Order in Opinion No. 1464, certified the American Federation of Government Employees, Local 383 and the Metropolitan District 1119 DC NUHHCE, AFSCME (collectively “Petitioners”) as joint representatives for the following unit within the Department of Behavioral Health (“DBH”):

All non-professional, non-supervisory employees in the District of Columbia Department of Behavioral Health, excluding management executives, confidential employees, supervisors, non-professional employees of the Construction, Electrical, Mechanical, Preventive Maintenance, Garage and Fabric Care Sections, and any employees engaged in personnel work in other than a purely clerical capacity or employees engaged in administering the provisions of D.C. Law 2-139.<sup>1</sup>

On January 26, 2018, the Petitioners filed a Petition for Compensation Unit Determination (“Petition”), in which the Petitioners requested that the Board declare the

<sup>1</sup> *Metro. Dist. 1199 DC, NUHHCE, AFSCME, AFL-CIO, Chapter 2095 v. DBH*, 62 D.C. Reg. 16501, Slip Op. No. 1550, PERB Case 15-AC-01(2015).



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PERB Case No. 18-CU-01  
Page 2

bargaining unit is part of Compensation Units 1 and 2. On January 26, 2018, the Board issued a Notice to DBH with instructions to post the Notice “conspicuously on the bulletin boards at the Department of Behavioral Health where notices to employees are customarily posted.” The Board further instructed that the notices “are to be posted no later than February 3, 2018, and must remain posted for a period of fourteen (14) consecutive days.” The Notice solicited comments concerning the inclusion of the bargaining unit into Compensation Units 1 and 2. It also stated that: “Within fourteen (14) days after the posting of this Notice, any affected labor organization or person may file written comments. An affected labor organization that wishes to intervene in these proceedings may submit a written request to the Executive Director of the Board.” No comments or intervention petitions having been received, the Petition is now before the Board for disposition.

The Board authorizes compensation units pursuant to D.C. Official Code § 1-617.16(b), which provides:

In determining an appropriate bargaining unit for negotiations concerning compensation, the Board shall authorize broad units of occupation groups so as to minimize the number of different pay systems or schemes. The Board may authorize bargaining by multiple employers or employee groups as may be appropriate.

The Board recognizes a two-part test from this provision to determine an appropriate compensation unit: (1) the employees of the proposed unit comprise broad occupational groups; and (2) the proposed unit minimizes the number of different pay systems or schemes.<sup>2</sup>

The Petitioners contend that the bargaining unit is comprised of broad occupational groups. Within Compensation Units 1 and 2, there are numerous other employees of other governmental agencies who hold positions with the same or similar titles as those employees within the bargaining unit. These employees also perform comparable functions within their agencies.<sup>3</sup> These employees with comparable occupational groups at numerous other agencies are part of Compensation Units 1 and 2.<sup>4</sup>

The Petitioners further assert that all of the employees are paid in the Career Service (CS)/District Service scales applicable to Compensation Units 1 and 2.<sup>5</sup> All employees in the bargaining unit are now and have been historically covered by the same pay, benefits, and retirement systems applicable to all other members of Compensation Units 1 and 2.<sup>6</sup> The Petitioners are not aware of any separate pay scales applicable to the employees in the bargaining unit other than Compensation Units 1 and 2.<sup>7</sup>

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<sup>2</sup> *AFSCME, D.C. Council 20, Local 2401 v. D.C. Pub. Schs.*, D.C. Reg. 4954, Slip Op. No. 962 at p.3, PERB Case No. 08-CU-01 (2009).

<sup>3</sup> Petition at 7.

<sup>4</sup> Petition at 7.

<sup>5</sup> Petition at 4.

<sup>6</sup> Petition at 4.

<sup>7</sup> Petition at 4.

Decision and Order  
PERB Case No. 18-CU-01  
Page 3

For the foregoing reasons, the Board grants the Joint Petition for Compensation Unit Determination and places the above-referenced bargaining unit employees in Compensation Units 1 and 2.

**ORDER**

IT IS HEREBY ORDRED THAT:

1. The Petition for Compensation Unit Determination is granted.
2. The following employees are placed in Compensation Unit 1 and 2:

All non-professional, non-supervisory employees in the District of Columbia Department of Behavioral Health, excluding management executives, confidential employees, supervisors, non-professional employees of the Construction, Electrical, Mechanical, Preventive Maintenance, Garage and Fabric Care Sections, and any employees engaged in personnel work in other than a purely clerical capacity or employees engaged in administering the provisions of D.C. Law 2-139.

3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

By unanimous vote of Board Chairperson Charles Murphy, Members Mary Anne Gibbons, Ann Hoffman, and Barbara Somson.

February 21, 2018

Washington, D.C.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 18-CU-01, Op. No. 1655 was sent by File and ServeXpress to the following parties on this the 23<sup>rd</sup> day of February, 2018.

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/s/ Sheryl Harrington  
PERB

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

<hr/>		)	
In the Matter of:		)	
		)	
American Federation of Government Employees,		)	PERB Case No. 17-N-05
Local 3721		)	
		)	
	Petitioner	)	Opinion No. 1656
		)	
and		)	
		)	
District of Columbia Fire and Emergency		)	
Medical Services Department		)	
		)	
	Respondent	)	
<hr/>		)	

**DECISION AND ORDER**

**I. Statement of the Case**

On August 18, 2017, the American Federation of Government Employees, Local 3721 (“Union”) filed this Negotiability Appeal (“Appeal”). The Appeal concerns three proposals made by the Union and declared nonnegotiable by the District of Columbia Fire and Emergency Medical Services Department’s (“Department”). The Union and the Department are engaged in bargaining concerning noncompensation matters. The Department filed a timely Answer to the Appeal.

For the reasons stated below, the Board finds Article 31, Section A.2 to be improperly before the Board; Sections 3 and 4 of the Union’s “Performance Evaluation” Article nonnegotiable; and Article 29, Section 4.D.2 nonnegotiable.

**II. Standard of Review**

Under sections 1-605.02(5) and 1-617.02(b)(5) of the D.C. Official Code, the Board is authorized to make determinations concerning whether a matter is within the scope of bargaining. The Board’s jurisdiction to decide such questions is invoked by the party presenting a proposal that has been declared nonnegotiable by the party responding to the proposal.<sup>1</sup>

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<sup>1</sup> See PERB Rule 532.1.

Decision and Order  
PERB Case No. 17-N-05  
Page 2

The Board applies the U.S. Supreme Court's standard concerning subjects for bargaining established in *National Labor Relations Board v. Borg-Warner Corp.*<sup>2</sup> Under this standard, "the three categories of bargaining subjects are as follows: (1) mandatory subjects, over which the parties must bargain; (2) permissive subjects, over which the parties may bargain; and (3) illegal subjects, over which the parties may not legally bargain."<sup>3</sup>

Section 1-617.08(b) of the D.C. Official Code provides that "[a]ll matters shall be deemed negotiable, except those that are proscribed by this subchapter." The Board has held that this language creates a presumption of negotiability.<sup>4</sup> The subjects of a negotiability appeal and the context in which their negotiability is appealed are determined by the petitioner, not the party declaring the matters nonnegotiable.<sup>5</sup> The Board reviews the disputed proposals and addresses each in light of the statutory dictates and relevant case law.<sup>6</sup>

### III. Analysis of Proposals

#### Article 31, Section A.2 of Grievance Procedure

A grievance means a complaint by Management, the Union or an employee(s) that:

(2) There has been a violation, misapplication or misinterpretation of a Department rule, regulation, **or order, or applicable District law, rule or regulation** which affects a term(s) or condition(s) of employment, **permitted that grieving the matter is not prohibited by law.**

**Department:** This proposal is not properly before the Board because it is either untimely or premature.<sup>7</sup> PERB Rule 532.4 states that a negotiability appeal shall be filed within thirty-five (35) days after a written communication from the other party to the negotiation asserting a proposal is nonnegotiable or otherwise not within the scope of collective bargaining under the CMPA. The Union claims that the Department declared this proposal nonnegotiable on July 25, 2017. However the Department claims that on this date it did not make a statement of nonnegotiability, but simply reiterated to the Union its failure to file a negotiability appeal concerning an earlier declaration of nonnegotiability.<sup>8</sup> The appeal is untimely as it relies on the Department's statements regarding a nonnegotiability declaration made in February 2017.

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<sup>2</sup> 356 U.S. 3342 (1975).

<sup>3</sup> *Univ. of D.C. Faculty Ass'n/NEA v. Univ. of D.C.*, 29 D.C. Reg. 2975, Slip Op. No. 43 at p. 2, PERB Case No. 82-N-01 (1982).

<sup>4</sup> *See Int'l Ass'n of Firefighters, Local 36 v. D.C. Fire & Emergency Med. Servs. Dep't*, 51 D.C. Reg. 4185, Slip Op. No. 742, PERB Case No. 04-N-02 (2004).

<sup>5</sup> *Int'l Ass'n of Firefighters, Local 36 v. D.C. Fire and Emergency Med. Servs. Dep't*, 45 D.C. Reg. 4760, Slip Op. No. 515, PERB Case No. 97-N-01 (1997).

<sup>6</sup> *F.O.P./Protective Servs. Police Dep't Labor Comm. v. Dep't of Gen. Servs.*, 62 D.C. Reg. 16505, Slip Op. No. 1551 at p. 2, PERB Case No. 15-N-04 (2015).

<sup>7</sup> Answer at 7.

<sup>8</sup> Answer at 8.

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PERB Case No. 17-N-05  
Page 3

Alternatively the Department states that the appeal is premature to the extent that the Union cannot identify any writing on July 25, 2017 declaring the instant proposal as nonnegotiable.<sup>9</sup> The Department demands that the Union provide strict proof of such written communication and in its absence requests that PERB find the Appeal to be premature.

**Union:** The Department's declaration lacks merit because the proposal states that matters may be grieved "permitted that grieving the matter is not prohibited by law."<sup>10</sup> If exclusive jurisdiction is granted to an administrative agency, court or other authority by law, that exclusive grant of jurisdiction will be followed by the parties under this proposal.<sup>11</sup> The Department's declaration merely speculates about unidentified authorities, it does not cite any specific law, regulation or other authority that may be violated.

The Union also states that this proposal is appropriate for negotiations because it was not proposed to the Department when the Department declared an earlier proposal to be nonnegotiable.<sup>12</sup> The Union withdrew a previous version of the proposal and then submitted a subsequent proposal, which was timely appealed.

**Board:** The proposal is not properly before the Board. The Union conceded in an email dated August 1, 2017 (Exhibit B, p. 2) that the Department declared the Union's original proposal on this subject nonnegotiable in February. The Union did not file a negotiability appeal at that time. This appeal would be untimely if it related to the original proposal. The Union claimed to have submitted a new proposal. The Department did not declare this proposal nonnegotiable. In the same email from the Union to the Department on August 1, 2017 cited above, the Union asks the Department if it is "now declaring the Union's new proposal nonnegotiable?"<sup>13</sup> The Union has not presented any response given by the Department declaring the new proposal nonnegotiable. Assuming this is a new proposal, as the Union states, the Department has not declared the proposal nonnegotiable. Therefore it is not properly before the Board.

### **Section 3 and 4 of Union's Performance Evaluation Article**

#### Section 3

The Agency shall provide conferences at the beginning of the year to discuss goals and objectives to be met. This will occur at the beginning of the calendar year. The Agency shall provide mid-year reviews to all bargaining unit employees. The Agency shall also provide a rating of record within two (2) months after the conclusion of the performance year.

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<sup>9</sup> Answer at 8.

<sup>10</sup> Appeal at 4.

<sup>11</sup> Appeal at 4.

<sup>12</sup> Appeal at 4.

<sup>13</sup> Exhibit B at 2.

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Page 4

#### Section 4

In an event the performance falls below acceptable, the Agency shall notify the employee as soon as possible. The Agency shall provide a performance improvement plan for the employee. The performance plan will be evaluated every three months. Employees on a performance improvement plan shall be continually provided feedback to obtain goals.

**Department:** The Union's proposals are contrary to the implemented regulations set forth in 6-B DCMR 1400 *et seq.* and thus nonnegotiable.<sup>14</sup> The Mayor is statutorily authorized to issue performance evaluation regulations under section 1-613.53(a) of the D.C. Official Code and the implementation is a nonnegotiable subject for collective bargaining notwithstanding any provision of law.<sup>15</sup> In accordance with this statute, the Mayor implemented the performance evaluation regulation as 6-B DCMR 1400 *et seq.* The proposal alters the criteria for performance evaluation periods, conflicting with 6-B DCMR 1405.3 and 6-B DCMR 1407.5.<sup>16</sup> The regulations require conferences to be held at the beginning of the performance management period which will be established by the appropriate personnel authority. The Department is not a personnel authority and therefore cannot lawfully contract for a different performance management period. The proposal is also irreconcilable with both 6-B DCMR 1405.3 and 6-B DCMR 1407.5 which prescribe dates other than the beginning of the calendar year. As a result, the first two sentences of section 3 are nonnegotiable.

The Union's proposal also requires the Department to provide mid-year reviews to all bargaining unit employees, but 6-B DCMR 1409.2 only makes mid-year reviews mandatory for probationary employees. Therefore, the third sentence of section 3 is nonnegotiable as it requires management to conduct additional performance evaluation reviews not mandated by law.<sup>17</sup>

The final sentence of section 3 states that the Department shall provide a rating of record within two months after the conclusion of the performance year which would restrict management's rights under 6-B DCMR 1412.1. The regulation states that an annual performance evaluation shall be issued to each eligible employee within three months of the end of the performance management period, the exact date of which will be established by the appropriate personnel authority. The last sentence of section 3 is nonnegotiable as it contravenes 6-B DCMR 1412.1.<sup>18</sup>

Section 4 of the proposal alters criteria set forth in 6-B DCMR 1410. The proposal requires that a performance improvement plan (PIP) be evaluated every three months. 6-B DCMR 1410.3 provides that a PIP shall last for a period of thirty (30) days to ninety (90) days and that supervisor's evaluations must come within ten (10) calendar days of the end of the PIP

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<sup>14</sup> Answer at 4.

<sup>15</sup> Answer at 4.

<sup>16</sup> Answer at 4.

<sup>17</sup> Answer at 5.

<sup>18</sup> Answer at 5-6.

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period.<sup>19</sup> 6-B DCMR 1410.3 also provides that the last date on which a PIP may be issued is June 30 of each year. Section 4 is nonnegotiable as it contravenes 6-B DCMR 1410.3.

Section 4 also prohibits the Department from taking disciplinary action as authorized by section 1-617.08(a)(2) of the D.C. Official Code and 6-B DCMR 1605. The Union's proposal prevents the Department from discharging (or otherwise disciplining) an employee by requiring the Department to notify an employee and providing continual feedback and quarterly performance evaluations to obtain goals.<sup>20</sup>

**Union:** The Union's proposal in sections 3 and 4 are appropriate regarding the impact and effect of the Department's performance evaluation system. The Union's proposal in no way implements, executes, or attempts to establish the Department's performance evaluation system.<sup>21</sup> Section 1-613.53(b) of the D.C. Official Code limits bargaining over implementation of a Department performance evaluation system, but in this case the proposal is about mitigating the impact of the Department's performance evaluation system by ensuring that employees have pertinent information concerning how they will be evaluated and have a timely copy of their evaluation.<sup>22</sup> The proposal is negotiable because it does not concern the establishment of, or execution of the Department's performance evaluation system.<sup>23</sup>

Section 4 does not violate 6B DCMR section 1410. The regulation and the Union proposal provide that employees whose performance is not at an acceptable level be provided with the opportunity to improve consistent with applicable law, rule and regulation. Both the regulation and the proposal also provide that the Department will periodically review the PIP within three months. Both also provide for feedback for employees to achieve measurable goals. The Union's proposal is consistent with and in no way violates the regulation cited by the Department.<sup>24</sup>

**Board:** Sections 3 and 4 are nonnegotiable. Both sections outline actions to be taken by the Department regarding performance evaluations. Section 1-613.53(b) of the D.C. Official Code states, "Notwithstanding any other provision of law or of any collective bargaining agreement, the implementation of the performance management system established in this subchapter is a nonnegotiable subject for collective bargaining."<sup>25</sup> The Board has held that a proposal that sets forth the purpose of a performance evaluation system or that contains criteria for the agency to consider for performance evaluations is nonnegotiable under section 1-617.08(a) of the D.C. Official Code.<sup>26</sup> The Union argues that this proposal only concerns

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<sup>19</sup> Answer at 6.

<sup>20</sup> Answer at 7.

<sup>21</sup> Appeal at 6.

<sup>22</sup> Appeal at 6.

<sup>23</sup> Appeal at 7.

<sup>24</sup> Appeal at 7.

<sup>25</sup> See *AFGE, Local 631, and Dep't of Public Works*, 59 D.C. Reg. 15175, Slip Op. No. 1334, PERB Case No. 09-U-18 (2012).

<sup>26</sup> *AFGE, Local 1403 v. D.C. Office of the Corp. Counsel*, Slip Op. No. 709 at p. 6, PERB Case No. 03-N-02 (2003), *SEIU Local 500, v. Univ. of D.C.*, 2162 D.C. Reg. 14633, Slip Op. No. 1539 at p. 12-14, PERB Case No. 15-N-01 (2015).



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impacts and effects of the performance evaluation system. However the language in the proposal does not support this contention. The Board has also held that although the implementation of a performance evaluation system is a nonnegotiable subject of collective bargaining, agencies are still obligated to bargain in good faith over the adverse impact a performance evaluation may have on the terms and conditions of an employee's employment.<sup>27</sup> Although the Union has the right to impact and effects bargaining concerning a management rights decision, Sections 3 and 4 concern the execution of the performance evaluation system by specifying deadlines and actions that must be met by the Department, not its impacts and effects. Sections 3 and 4 are nonnegotiable.

#### **Article 29, Section 4.D.2 Transfers, Reassignments, Details and Staffing Guidelines**

An employee detailed or assigned to perform duties at a higher-graded position for more than ~~sixty (60)~~ fourteen (14) consecutive days shall receive the higher rate of pay beginning for the first full pay period following the ~~60-day~~ fourteen (14) day period retroactive to the start of the first full pay period after the first date of the detail assignment and continuing until the detail is terminated. The Department shall not terminate a detail which otherwise would have continued for ~~sixty (60)~~ fourteen (14) or more calendar days to avoid the obligation of paying the higher-ranked pay to the acting employee.

**Department:** This proposal is nonnegotiable because current negotiations between the Department and Union concern working conditions and this proposal concerns wages. Since the Board has ruled that attempting to mix compensation matters in noncompensation bargaining is prohibited, this proposal is nonnegotiable as a working condition and should be addressed in compensation negotiations.<sup>28</sup>

**Union:** The Union's proposal does not and is not an attempt to negotiate over wages, benefits or other compensation matters. It seeks to clarify the circumstances under which the Department must recognize and provide benefits flowing from an employee performing work at a higher grade. Furthermore, the only difference between the Union's proposal and the Department's proposal is that the Department proposed that it would recognize the higher graded work after sixty (60) days and fulfill any obligations thereafter. The Union proposed the same recognition after fourteen (14) days.

**Board:** This proposal is nonnegotiable in noncompensation bargaining. Section 1-617.17(b) of the D.C. Official Code dictates that management and labor organizations "negotiate in good faith with respect to salary, wages, health benefits, within-grade increases, overtime pay, education pay, shift differential, premium pay, hours and any other compensation matters." The

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<sup>27</sup> See *AFSCME, District Council 20 and Local 2091 v. Dep't of Public Works*, 62 D.C. Reg. 5925, Slip Op. No. 1514, PERB Case No. 14-U-03 (2015). See also *AFGE, Local 631, and Dep't of Public Works*, 59 D.C. Reg. 15175, Slip Op. No. 1334, PERB Case No. 09-U-18 (2012)

<sup>28</sup> Answer at 2.

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proposal concerns wages and should be addressed during compensation negotiation. The proposal is nonnegotiable as a working condition and should be addressed in compensation negotiation.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Union's proposal for Article 31, Section A.2 is not properly before the Board.
2. The Union's proposal for Section 3 and 4 of Union's Performance Evaluation Article is nonnegotiable.
3. The Union's proposal for Article 29, Section 4.D.2 is nonnegotiable in a working conditions agreement.
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, Members Mary Anne Gibbons, Ann Hoffman, and Barbara Somson.

Washington, D.C.

February 21, 2018

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 17-N-05, Op. No. 1656 was sent by File and ServeXpress to the following parties on this the 26<sup>th</sup> day of February, 2018.

Keisha Williams  
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/s/ Sheryl Harrington  
PERB

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